



BA-PHALABORWA LOCAL MUNICIPALITY

Supply Chain Management Policy

(Incorporated with Preferential Procurement Policy Framework Act)

2017/18

TABLE OF CONTENTS	PAGE
DEFINITIONS	4
POLICY STATEMENT	11
Introduction	11
Goal	11
Objectives.....	12
Oversight.....	12
Compliance with Ethical Standards.....	13
GENERAL PROVISIONS AND APPLICATION OF POLICY	14
Commencement and Review.....	14
Application of Policy.....	14
Delegations.....	15
Competency.....	20

Supply Chain Management Unit.....	20
Communication with the Municipality.....	21
Availability of Supply Chain Management Policy.....	21
DEMAND MANAGEMENT SYSTEMS	21
Introduction.....	21
Major Activities.....	22
ACQUISITION MANAGEMENT SYSTEM	23
Introduction	23
General.....	24
Specialised Forms of Procurement.....	28
Range of Procurement Processes.....	30
General Conditions Applicable to Bids and Quotations.....	32
Competitive Bids.....	33
Formal Written Price Quotations.....	58
Written Price Quotations.....	60
Petty Cash Purchases.....	61
Appointment of Consultants.....	61
Deviation from the Procurement Processes.....	63
LOGISTICS MANAGEMENT SYSTEM	67
Introduction.....	67
Setting of Inventory Levels.....	67
Placing of Orders.....	67
Receiving and Distribution of Goods.....	67
Stores and Warehouse Management.....	68
Expediting Orders.....	68
Transport Management.....	69
Vendor Performance.....	69
Contract Management.....	69
DISPOSAL MANAGEMENT SYSTEM	74
Goal.....	74
Disposal Management System.....	74
Transfer or Permanent Disposal of Assets and the Granting of Rights.....	75

RISK MANAGEMENT SYSTEM

General 76
The Risk Management Process..... 76
Key Principles..... 76

PERFORMANCE MANAGEMENT SYSTEM

CODE OF ETHICAL STANDARDS

General..... 78
Inducements, Rewards, Gifts and Favours..... 80
Sponsorships..... 80
Objections and Complaints..... 80
Resolution of Disputes, Objections, Complaints and Queries..... 80

PREFERENTIAL PROCUREMENT 82

Preferential Points System..... 83
B-BBEE Status Level certificates..... 83
Validity of B-BBEE Status Level Verification Certification..... 84
Verification Certificates in Respect of EMEs..... 86
Planning, Stipulation of Preference points system to be utilized and the determination for Designated sectors..... 87
Evaluation of bids based on functionality as a criterion..... 88
The preference points system..... 90
Evaluation of bids that scored equal points..... 91
Cancellation and Re – Invitation of Bids..... 92

DEFINITIONS

1. In this Supply Chain Management Policy, unless the context indicates otherwise;
 - 1.1 **“Adjudication points”**: means the points referred to in the Preferential Procurement Regulations, 2011 and the Preferential Procurement section of this policy, also referred to as “evaluation points”.
 - 1.2 **“Asset”**: means a tangible or intangible resource capable of ownership.
 - 1.3 **“Bidder”**: means any person submitting a competitive bid or a quotation pursuant to definition 1.26.
 - 1.4 **“Broad-Based Black Economic Empowerment (BBEE) Act”**: means the Broad-Based Black Economic Empowerment Act, 53 of 2003 and Codes of Good Practice pertaining thereto.
 - 1.5 **“Capital Asset”**: means:
 - 1.5.1 any immovable asset such as land, property or buildings; or
 - 1.5.2 any movable asset that can be used continuously or repeatedly for more than one year in the production or supply of goods or services, for rental to others or for administrative purposes, and from which future benefit can be derived, such as plant, machinery and equipment.
 - 1.6 **“Municipality”**: means the municipality of the Ba-Phalaborwa Local Municipality or any person(s) or committee delegated with the authority to act on its behalf.

- 1.7 **“Municipal Manager”**: means the Accounting Officer as defined in the Municipal Finance Management Act.
- 1.8 **“Closing Time”**: means the time and day specified in the bid documents for the receipt of bids.
- 1.9 **“Competitive Bidding Process”**: means a competitive bidding process referred to in Regulation 12 (1) (d) of the Supply Chain Management Regulations.
- 1.10 **“Competitive Bid”**: means a bid in terms of a competitive bidding process.
- 1.11 **“Community Based Vendor”**: means a supplier of goods, services and/or construction works who resides in a target area or community, who meets the criteria for community based vendors as determined by the Assistant Director: Supply Chain Management from time to time, and who is registered as such on the Municipality’s Supplier database.
- 1.12 **“Construction Industry Development Board (CIDB) Act”**: means the Construction Industry Development Board Act, 38 of 2000 and includes the regulations pertaining thereto
- 1.13 **“Construction Works”**: means any work in connection with:
- 1.13.1 the erection, maintenance, alteration, renovation, repair, demolition or dismantling of or addition to a building or any similar structure;
- 1.13.2 the installation, erection, dismantling or maintenance of a fixed plant;
- 1.13.3 the construction, maintenance, demolition or dismantling of any bridge, dam, canal, road, railway, sewer or water reticulation system or any similar civil engineering structure; or

- 1.13.4 the moving of earth, clearing of land, the making of an excavation, piling or any similar type of work.
- 1.14 **“Consultant”**: means a person or entity providing services requiring knowledge based expertise, and includes professional service providers.
- 1.15 **“Contract”**: means the agreement which is concluded when the Municipality accepts, in writing, a bid or quote submitted by a provider.
- 1.16 **“Contractor”**: means any person or entity whose bid or quote has been accepted by the Municipality.
- 1.17 **“Contract participation goal”**: means the amount equal to the sum of the value of work for which the prime contractor contracts to engage specific target groups in the performance of the contract, expressed as a percentage of the bid sum less provisional sums, contingencies and VAT.
- 1.18 **“Day(s)”**: means calendar days unless the context indicates otherwise.
- 1.19 **“Delegated Authority”**: means any person or committee delegated with authority by the Municipality in terms of the provisions of the Municipal Finance Management Act.
- 1.20 **“Bulletin Board”**: means an electronic method of obtaining bids or quotations.
- 1.22 **“Empowerment Indicator”**: means a measure of an enterprise/business’s contribution towards achieving the goals of government’s Reconstruction and Development Program. This indicator will relate only to certain specific goals for the purposes of this Policy.
- 1.23 **“Exempted Capital Asset”**: means a municipal capital asset which is exempted by section 14(6) or 90(6) of the MFMA from the other provisions of that section.

- 1.24 **“Evaluation Points”**: also referred to as “Adjudication Points” (see clause 1.1 above).
- 1.25 **“Final Award”**: in relation to bids or quotations submitted for a contract, means the final decision on which bid or quote to accept.
- 1.26 **“Formal Written Price Quotation”**, “Written Price Quotation”, “Quotation” or “Quote”: means a written or electronic offer to the Municipality in response to an invitation to submit a quotation.
- 1.27 **“Functionality”**: is the measure, according to predetermined criteria, of the suitability of a proposal, design or product for the use for which it is intended, and may also include a measure of the competency of a supplier. “Functionality” is also referred to as “Quality”.
- 1.28 **“Granting of Rights”**: means the granting by the Municipality of the right to use, control or manage capital assets in circumstances where sections 14 and 90 of the MFMA and Chapters 2 and 3 of the Municipal Asset Transfer Regulations do not apply. In other words, where the granting of such rights does not amount to “transfer” or “disposal” of the asset and which includes leasing, letting, hiring out, etc, of the capital asset.
- 1.29 **“Green Procurement”**: is defined as taking into account environmental criteria for goods and services to be purchased in order to ensure that the related environmental impact is minimised.
- 1.30 **“Implementing Agent”**: means the decision maker/manager mandated by the Municipality to implement projects and invite bids/quotations for procurement of any nature.
- 1.31 **“In the service of the state”**: means:

- 1.32.1 a member of any municipal council, any provincial legislature or the National Assembly or the National Council of Provinces;
 - 1.32.2 an official of any municipality or municipal entity;
 - 1.32.3 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, 1 of 1999;
 - 1.32.4 a member of the board of directors of any municipal entity;
 - 1.32.5 a member of the accounting authority of any national or provincial public entity; or
 - 1.32.6 an employee of Parliament or a provincial legislature.
- 1.32 **“Joint Venture or Consortium”**: means an association of persons/companies/close corporations/firms formed for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract or contracts. The Joint Venture must be formalised by agreement between the parties.
- 1.33 **“Municipal Asset Transfer Regulations”**: means the Municipal Asset Transfer Regulations published in Government Gazette 31346 of 22 August 2008.
- 1.34 **“Municipal Entity”**: means an entity as defined in the Systems Act.
- 1.35 **“Municipal Finance Management Act” (MFMA)**: means the Local Government: Municipal Finance Management Act, 56 of 2003.
- 1.36 **“Non-exempted Capital Asset”**: means a municipal capital asset which is not exempted by section 14(6) or 90(6) of the MFMA, from the other provisions of that section.

- 1.37 **“One-off Contract”**: means a discrete contract where specified goods, services or construction works are supplied for an approved contract sum.
- 1.38 **“Person”**: includes a natural or juristic entity.
- 1.39 **“Policy”**: means this Supply Chain Management Policy as amended from time to time.
- 1.40 **“Preference points”**: mean the points for preference referred to in this Policy.
- 1.41 **“Preferential Procurement Policy Framework Act” (PPPFA)**:
means the Preferential Procurement Policy Framework Act, 5 of 2000.
- 1.42 **“Preferential Procurement Regulations”**: means the regulations pertaining to the PPPFA.
- 1.43 **“Prime Contractor”**: shall have the same meaning as “Contractor”.
- 1.44 **“Promotion of Administrative Justice Act”**: means the Promotion of Administrative Justice Act, 3 of 2000.
- 1.45 **“Quality”**: also referred to as “Functionality” (see clause 1.27 Above).
- 1.46 **“Republic”**: means the Republic of South Africa.
- 1.47 **“Responsible Agent”**: means those internal project managers being Municipality officials or external consultants appointed by the Municipality responsible for the administration of a project or contract.

- 1.48 **“SARS”**: means the South African Revenue Services.
- 1.49 **“Small, Medium and Micro Enterprises (SMME’s)”**: bears the same meaning assigned to this expression in the National Small Enterprise Act, 102 of 1996.
- 1.50 **“Sub-contractor”**: means any person or entity that is employed, assigned, leased or contracted by the prime contractor to carry out work in support of the prime contractor in the execution of a contract.
- 1.51 **“Supplier/Vendor”**: are generic terms which may include suppliers of goods and services, contractors and/or consultants.
- 1.52 **“Supplier Database”**: means the list of accredited prospective providers which a municipality or municipal entity must keep in terms of Regulation 14 of the Supply Chain Management Regulations.
- 1.53 **“Supply Chain Management (SCM) Regulations”**: means the Municipal Supply Chain Management Regulations published in Government Gazette 27636 of 30 May 2005.
- 1.54 **“Systems Act”**: means the Local Government: Municipal Systems Act, 32 of 2000
- 1.56 **“Tender/Tenderer”**: means “bid/bidder” in the context of construction works procurement.
- 1.57 **“Term Bid”**: means rates based bid for the ad-hoc or repetitive supply of goods, services or construction works, where the individual rates are approved for use over a specified contract period.
- 1.58 **“Treasury Guidelines”**: means any guidelines on supply chain management issued by the Minister in terms of section 168 of

the MFMA;

- 1.59 **“Unsolicited Bid”**: means an offer submitted by any person at its own initiative without having been invited by the Municipality to do so.
2. Words importing the singular shall include the plural and vice versa and words importing the masculine gender shall include females and words importing persons shall include companies, close corporations and firms, unless the context clearly indicates otherwise.
3. All amounts/limits stated in this document shall be deemed to be inclusive of Value Added Tax (VAT).

POLICY STATEMENT

Introduction

4. Section 111 of the Municipal Finance Management Act requires each municipality and municipal entity to adopt and implement a supply chain management policy, which gives effect to the requirements of the Act.
5. In addition, the Preferential Procurement Policy Framework Act requires an Organ of State to determine its Preferential Procurement Policy and to implement it within the framework prescribed. This requirement is given effect to in the Preferential Procurement section of this Policy.

Goal

6. The goal of this Policy is to provide a mechanism to ensure sound, sustainable and accountable supply chain management within the **Ba-Phalaborwa Local Municipality**, whilst promoting black economic empowerment, which includes general principles for achieving the following socio-economic objectives:
 - a. to stimulate and promote local economic development in a targeted and focused manner;

- b. to promote resource efficiency and greening;
- c. to facilitate creation of employment and business opportunities for the people of **Ba-Phalaborwa Local Municipality**;
- d. to promote the competitiveness of local businesses;
- e. to increase the small business sector access, in general, to procurement business opportunities created by Council;
- f. to increase participation by small, medium and micro enterprises (SMME²s); and to promote joint venture partnerships.

Objectives

7. The objectives of this Policy are:

7.1 to give effect to section 217 of the Constitution of the Republic of South Africa by implementing a system that is fair, equitable, transparent, competitive and cost effective;

7.2 to comply with all applicable provisions of the Municipal Finance Management Act including the Municipal Supply Chain Management Regulations published under GN868 in Government Gazette 27636 30 May 2005 and any National Treasury Guidelines issued in terms of the MFMA;

7.3 to ensure consistency with all other applicable legislation and any regulations pertaining thereto, including:

7.3.1 the Preferential Procurement Policy Framework Act;

7.3.2 the Broad-Based Black Economic Empowerment Act;

7.3.3 the Construction Industry Development Board Act;

7.3.4 the Local Government: Municipal Systems Act; and

7.3.5 the Promotion of Administrative Justice Act

8. This Policy will also strive to ensure that the objectives for uniformity in supply chain management systems between organs of state, in all spheres, is not undermined and that consistency with national economic policy on the promotion of investments and doing business with the public sector is maintained.

Oversight

9. In terms of Section 117 of the Municipal Finance Management Act prohibits a Municipality Councillor from being a member of a bid committee or any other committee evaluating or approving quotations or bids nor may a Municipality Councillor attend any such meeting as an observer.
10. Council, however, has an oversight role to ensure that the Municipal Manager implements this Supply Chain Management Policy.
11. The Executive Mayor must provide general political guidance over the fiscal and financial affairs of the Municipality and may monitor and oversee the exercise of responsibilities assigned to the Municipal Manager and chief financial officer in terms of the Municipal Finance Management Act.
12. For the purposes of such oversight, the Municipal Manager shall, within 10 (ten) days of the end of each quarter, submit a report on the implementation of this Policy to the Executive Mayor and, within 30 days of the end of each financial year, shall submit a similar such report to Council.
13. In addition, if any serious problem arises in relation to the implementation of this Policy, the Municipal Manager shall immediately report to Council accordingly.

14. All such reports shall be made public in accordance with section 21.
(1)(a) Of the Systems Act.

Compliance with Ethical Standards

15. In order to create an environment where business can be conducted with integrity and in a fair and reasonable manner, this Policy will strive to ensure that the Municipal Manager and all representatives of the **Ba-Phalaborwa Local Municipality** involved in supply chain management activities shall act with integrity and in accordance with the highest ethical standards.
16. All supply chain management representatives shall adhere to the code of conduct of municipal staff contained in schedule 2 of the Systems Act, and this Policy's Code of Ethical Standards.

GENERAL PROVISIONS AND APPLICATION OF POLICY

Commencement and Review

17. This Policy is effective from the date on which it is adopted by Council.
18. The Municipal Manager must annually review the implementation of this Policy and if she/he considers it necessary, submit proposals for the amendment of the Policy to the Council for approval.

Application of Policy

19. This Policy applies to:
 - 19.1 the procuring of goods or services, including construction works and consultant services;
 - 19.2 the disposal by the Municipality of goods no longer needed;

- 19.3 the selection of contractors to provide assistance in the provision of municipal services otherwise than in circumstances where chapter 8 of the Systems Act applies; or
 - 19.4 The selection of external mechanisms referred to in section 80 (1) (b) of the Systems Act for the provision of municipal services in circumstances contemplated in section 83 of that Act.
20. Unless specifically stated otherwise, this Policy does not apply if the Municipality contracts with another organ of state for:
- 20.1 the provision of goods or services to the Municipality;
 - 20.2 the provision of a municipal service; or
 - 20.3 the procurement of goods and services under a contract secured by that other organ of state, provided that the relevant supplier has agreed to such procurement.
- A report shall nevertheless be submitted to the Bid Adjudication Committee seeking authority to contract with another organ of state.
21. The Policy provides for the following supply chain management systems:
- 21.1 demand management system;
 - 21.2 acquisition management system;
 - 21.3 logistics management system;
 - 21.4 disposal management system;
 - 21.5 risk management system;
 - 21.6 Performance management system.
22. These systems must be adhered to in all supply chain management activities undertaken by the Municipality.

23. DELEGATIONS

23.1 GENERAL RULES ON DELEGATION OF AUTHORITY POLICY

23.1.1 All SCM activities must be executed in accordance with pre-established levels of authority through delegations to ensure control and division of responsibility.

23.1.2 A delegation of authority shall be in writing and be made to a specific position, and not to a named individual

23.1.3 A delegation or sub-delegation of authority may be confirmed, varied, or revoked by the person making the delegation or sub-delegation, but no such variation or revocation of a delegation or sub-delegation may detract from any right that may have accrued as a result of that delegation or sub delegation.

23.1.4 The Accounting Officer is entitled to confirm, vary or revoke any decision taken in consequence of a delegation, provided that no such variation or revocation of a decision should detract from any rights that may have accrued as a result of the decision.

23.1.5 The delegation of powers does not divest the accounting officer of the accountability concerning the exercise of the delegated power or the performance of the delegated duty.

23.1.6 The stipulations of Section 79 of the MFMA only apply to sub-delegations by the Accounting Officer.

23.2 DELEGATION OF SCM POWERS AND DUTIES

- 23.2.1 The Council will delegate such additional powers and duties to the Accounting Officer so as to enable the Accounting Officer to:
- 23.2.2 Discharge the legislative SCM responsibilities conferred on the Accounting Officer in terms of Chapter 8 of the MFMA and the SCM Policy responsibilities.
- 23.2.3 Maximise administrative and operational efficiency in the implementation of the SCM policy.
- 23.2.4 Enforce reasonable cost-effective measures for the prevention of fraud, corruption, favouritism and unfair and irregular practices in the implementation of the SCM Manual.
- 23.2.5 Comply with responsibilities in terms of Section 115 and other applicable provisions of the MFMA.
- 23.2.6 The Council may not delegate and the AO may not sub-delegate any SCM powers or duties to:
- 23.2.7 A person who is not an official of the municipality.
- 23.2.8 The voting members of the committee must exclusively be composed of officials of Ba-Phalaborwa Local Municipality
- 23.2.9 The Committee may, where appropriate, solicit the advice of the external specialists.
- 23.2.10 The accounting officer of Ba-Phalaborwa Local Municipality must develop an appropriate system of delegation and sub-delegation that will both maximize administrative and operational efficiency and provide adequate checks and balances in the municipality's financial administration.
- 23.2.11 The Municipal Council may delegate to the Accounting Officer of Ba-Phalaborwa local Municipality its power to

transfer ownership or otherwise dispose of a capital asset in respect of movable capital assets below a value determined by the Council, but only after the Municipal Council, in a meeting open to the public:

23.2.12 Has decided on reasonable grounds that the asset is not needed to provide the minimum level of basic municipal services.

23.2.13 Has considered the fair market value of the asset and the economic and community value to be received in exchange for the asset.

23.2.14 The accounting officer must discharge responsibilities in terms of Chapter 11 as well as sections 79 and 115 of the MFMA.

23.3 SUB-DELEGATIONS

The accounting officer may in terms of section 79 of the Act sub delegate any SCM powers and duties, including those delegated to the accounting officer, in terms of MFMA Regulations 4(1) but any such sub-delegation must be consistent with sub-regulation (2) and regulations 4.

23.3.1 The Accounting Officer may, in accordance with this system, subdelegate to a member of Ba-Phalaborwa Local Municipality top management or any other official of Ba-Phalaborwa Local Municipality:

23.3.1.1 Any of the powers or duties assigned to the accounting officer in terms of the Act.

23.3.1.2 Any powers or duties reasonably necessary to assist the accounting officer in complying with a duty that requires the accounting officer to take reasonable or appropriate steps to ensure the achievement of the aims of a specific provision of the Act.

23.3.2.3 The Accounting Officer or delegate must regularly review delegations issued in terms of its authority and, if necessary, amend or withdraw any of those delegations.

23.3.3.4 Delegations may not be construed 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 other than through the committee system provided for in this Manual.

23.4 RESPONSIBILITIES OF OFFICIALS POLICY

23.4.1 Each official must carry out its activities within its area of responsibility.

23.4.2 Each official must take appropriate steps to prevent any unauthorised, irregular, fruitless and wasteful expenditure in his/her area of responsibility.

23.5 ROLE OF THE MUNICIPAL MANAGER

23.5.1 Ensures strict adherence to the guidelines provided in the SCM Policy.

23.5.2 Implementation of the Ba-Phalaborwa Local Municipality Supply Chain Management Policy.

23.5.3 Annual review of targets and the SCM Policy.

23.5.4 Approves the inclusion of a service provider in the Municipality supply chain management system after rehabilitation of the service provider according to statutory requirements.

23.5.5 Appoints the members of the bid committees.

23.6 ROLE OF THE DIRECTORS

23.6.1 Each Director shall be responsible and accountable for

- Exercising the powers, performing the functions and discharging the duties conferred or assigned to him in terms of this SCM Policy;²⁷
- Implementing the SCM Policy and any procedural and other prescripts issued in terms of the policy within his area of responsibility.
- Ensuring compliance with the SCM Policy and any procedural and other prescripts issued.

23.7 ROLE OF THE CHIEF FINANCIAL OFFICER (CFO)

23.7.1 Custodian of the SCM Policy and report on progress regarding its implementation.

23.7.2 Conducts procurement audits of the entire supply chain management system to identify successes and failures for incorporation into a “lessons learnt” database.

23.7.3 Overall management of the quotation and competitive bidding process from solicitation to processing of invoice payment.

23.7.4 Promotes corporate approach by encouraging standardization of items purchased within the Municipality to realize economies of scale.

23.7.5 Provides supplier interface on supplier performance issues.

23.7.6 Ensures that procurements and disposals are effected through practices that demonstrate compliance to all relevant legislation.

23.7.7 Responsible for managing procurements and disposals to ensure that the supply chain management system of the Municipality is adhered to.

23.7.8 Ensures that the procurements and disposal process followed adheres to preference targets without compromising price, quality, service delivery and developmental objectives.

23.7.9 Responsible for ensuring that all employees involved in the supply chain management process receive the necessary training to support implementation of the SCM Policy.

23.7.10 Responsible for establishing the amount to be paid by prospective service providers as a non-refundable deposit for enquiry documents issued by the Municipality.

23.7.11 Responsible for the verification of the applications of service providers for possible inclusion in the Register.

23.7.12 Submit regular reports to the Finance Portfolio Committee regarding progress and any matters of importance relating to the SCM Policy.

23.8 DELEGATED POWERS RELATING TO THE ACQUISITION OF GOODS, SERVICES AND THE EXECUTION OF WORK Approval authority apply for acquisitions (excluding the appointment of professional service providers) in respect of quotations. AMOUNT(VAT INCLUSIVE)	DELEGATED BODY TO THE ACQUISITION OF GOODS, SERVICES AND EXECUTION OF WORK
Acquisitions to a maximum of R 501-R2000.	Persons on post level 6
Acquisitions from R2000 – R30 000	Person on post level 5
Acquisitions from R30 001 – R 45 000	Persons on level 4
Acquisitions from R 45,001 up to R100 000	Assistant Director level 3
Acquisitions from R 100, 001 up to R199 000	Chief Financial Officer
Acquisitions from R200 000 up to R50 000 000.	Bid Adjudication committee/Municipal Manager

Acquisitions from R50 000 001 above	Municipal Manager
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Competency

25. The Municipal Manager shall ensure that all persons involved in the implementation of this Policy meet the prescribed competency levels, and where necessary, shall provide relevant training.

26. The training of officials involved in implementing this Policy shall be in accordance with any National Treasury guidelines on supply chain management training.

27. Supply Chain Management Unit

27.1 The Municipal Manager shall establish a Supply Chain Management Unit (SCM Unit) in the Budget & Treasury Directorate.

27.2 The SCM Unit shall be subject to the management control of, and accountable to the CFO.

27.3 The SCM Unit shall consist of:

27.3.1 A demands management section;

27.3.2 A procurement section or acquisition management;

27.3.3 A stores and warehouse section (logistics management);

27.3.4 A performance and contract management section;

27.3.5 A disposal section and asset management section;

27.3.6 The Assistant Director: SCM shall be responsible and accountable for the day-to-day management of the SCM Unit in consultation with the CFO.

27.4.7 The SCM Unit shall consist of personnel with relevant qualifications.

27.4.8 The CFO must ensure that officials implementing, applying and managing the SCM Policy are trained in accordance with the prescribed requirements.

All documents pertaining to the procurement of goods or services by means of written price quotations of a transaction value over R501 up to R200 000 (VAT included), as well as all documents pertaining to section 29

Contract Value	Method of Acquisition	Number of Quotation (minimum)
0-500	Petty Cash	1
501-5000	Verbal Quotation	2
5001-30000	Written Quotation	3
30001-200000	Formal written Quotation	3

Communication with the Municipality

28. All correspondence with regard to this Policy shall be addressed to the Chief Financial Officer or Assistant Director: Supply Chain Management.

Availability of Supply Chain Management Policy

29. A copy of the Policy and other relevant documentation should be made available on the Municipality's website.

DEMAND MANAGEMENT SYSTEMS

Introduction

30. Demand management provides for an effective system to ensure that the resources required to support the strategic operational commitments of the Municipality are delivered at the correct time, at the right price and at the right location, and that the quantity and quality satisfy the needs of the Municipality.
31. The Municipality's Integrated Development Plan (IDP) is a comprehensive strategy document setting out how the Municipality intends to tackle its development challenges in a financial year. It is on the basis of the IDP that the resources of the municipality will be allocated and on which the budget is based.
32. In order to achieve effective demand management, the Assistant Director: Supply Chain Management shall continuously ensure:
 - 32.1 That efficient and effective provisioning and procurement systems and practices are implemented to enable the Municipality to deliver the required quantity and quality of services to the communities.
 - 32.2 The establishment of uniformity in policies, procedures, documents and contract options and the implementation of sound systems of control and accountability.
 - 32.3 The development of a world-class professional supply chain management system which results in continuing improvement in affordability and value for money, based on total cost of ownership and quality of procurement as competition amongst suppliers is enhanced.
 - 32.4 In dealing with suppliers and potential suppliers that the Municipality shall respond promptly, courteously and efficiently to enquiries, suggestions and complaints.

Major Activities

33. Demand management lies at the beginning of the supply chain and the major activities associated with identifying demand are:

33.1 establishing requirements;

33.2 determining needs; and

33.3 Deciding on appropriate procurement strategies.

34. Demand management accordingly shall involve the following activities:

34.1 understanding the future needs;

34.2 identifying critical delivery dates;

34.3 identifying the frequency of the need;

34.4 linking the requirement to the budget;

34.5 conducting expenditure analyses based on past expenditure;

34.6 determining requirements,

34.7 conducting commodity analyses in order to check for alternatives; and

34.8 Conducting industry analyses.

ACQUISITION MANAGEMENT SYSTEM

Introduction

35. The objectives of this acquisition management system are to ensure:

- 35.1 that goods and services, including construction works and consultant services are procured by the Municipality only in accordance with the authorised procedures incorporated herein;
- 35.2 that expenditure on goods and services, including construction works and consultant services is incurred in terms of an approved budget;
- 35.3 that the threshold values of the different procurement procedures are complied with;
- 35.4 that bid documentation, evaluation and adjudication criteria, and general conditions of contract are in accordance with the requirements of relevant legislation including, the Preferential Procurement Policy Framework Act, and any conditions of the Construction Industry Development Board Act; and
- 35.5 That procurement guidelines issued by the National Treasury are taken into account.

General

Application

36. This acquisition management system contains the general conditions and procedures which are applicable, as amended from time to time, to all procurement, contracts, and orders for the Municipality.

Supplier Database

37. The Municipal Manager shall ensure that the suppliers are registered on the centralised supplier database.
38. All the service providers who need to render the services to the institutions register on the centralised supplier database.
39. The listing criteria for accredited prospective providers are:

- 39.1 Name of supplier / service provider;
- 39.2 Street address;
- 39.3 Postal address;
- 39.4 Contact person
- 39.5 Department's telephone number;
- 39.6 Department's fax number;
- 39.7 Department's cell number;
- 39.8 Department's email address;
- 39.9 Contact person in Accounts Department;
- 39.10 Accounts Department's telephone number;
- 39.11 Accounts Department's fax number;
- 39.12 Accounts Department's email address;
- 39.13 Vat registration yes/no;
- 39.14 Vat registration number;
- 39.15 Bank details;
- 39.16 Type of industry;
- 39.17 Valid certification for specialised services;
- 39.18 Valid tax clearance certificate;
- 39.19 CIDB registration if applicable;
- 39.20 Valid B-BBBE certificate /Sworn affidavit

39.21 Municipal bidding forms (MBD)

40. The Municipal Manager shall 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 and whose Tax Clearance Certificate matters are not cleared by South African Revenue Service.
41. For quotations (up to and including R200 000 (VAT Inclusive) bidders are required to be registered on the Centralised supplier database (CSD) for their quotations to be responsive.
42. Where bids exceed R200 000 (VAT Inclusive), bidders who are not registered on the Centralised supplier database (CSD) are not precluded from submitting bids, but must however be registered prior to the evaluation of tenders in order for their bids to be responsive.
43. All parties to a Joint Venture must comply with the requirements of clauses 41 and 42 above.

Combating Abuse of the Supply Chain Management Policy¹

44. The Municipal Manager (if not involved) shall be entitled to take all reasonable steps to prevent abuse of the supply chain management system and to investigate any allegations against an official, or other role player, of fraud, corruption, favouritism, unfair, irregular or unlawful practices or Failure to comply with the supply chain management system and when justified in terms of administrative law:
 - 44.1 shall take appropriate steps against such official or other role player;
 - or

44.2 shall report any alleged criminal conduct to the South African Police Service;

44.3 may reject a recommendation for the award of a contract if the recommended bidder or person submitting a quote, or any of its directors, has committed a corrupt or fraudulent act in competing for the particular contract;

44.4 may invalidate recommendations or decisions that were unlawfully or improperly made, taken or influenced, including recommendations or decisions that were made, taken or in any way influenced by:

44.4.1 councillors in contravention of item 5 or 6 of the Code of Conduct for Councillors in schedule 1 of the Systems Act;
or

44.4.2 Municipal officials in contravention of item 4 or 5 of the Code of Conduct for Municipal Staff Members set out in schedule 2 of the Systems Act.

44.5 may cancel a contract awarded to a person if:

44.5.1 the person committed a corrupt or fraudulent act during the procurement process or the execution of the contract; or

44.5.2 an official or other role player committed any corrupt or fraudulent act during the procurement process or in the execution of the contract that benefited that person.

45. The Municipal Manager may reject the bid or quote of any person if that person or any of its directors has:

- 45.1 failed to pay municipal rates and taxes or municipal service charges and such rates, taxes and charges as are in arrears for more than three months;
 - 45.2 failed, during the last five years, to perform satisfactorily on a previous contract with the Municipality or any other organ of state after written notice was given to that bidder that performance was unsatisfactory;
 - 45.3 abused the supply chain management system of the Municipality or has committed any improper conduct in relation to this system;
 - 45.4 been convicted of fraud or corruption during the past five years;
 - 45.5 wilfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
 - 45.6 been listed in the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act, 12 of 2004 or has been listed on National Treasury's database as a person prohibited from doing business with the public sector.
46. The Municipal Manager shall inform the Provincial Treasury of any actions taken in terms of clauses 44 to 45 above.

Appointment of Observer

47. Where appropriate, the Municipal Manager may appoint a neutral or independent observer in order to ensure fairness and transparency in the application of this acquisition management system.

Contracts Having Budgetary Implications beyond Three Financial Years

48. The Municipality may not enter into any contract that will impose financial obligations beyond the three years covered in the annual budget for that financial year, unless the requirements of section 33 of the Municipal Finance Management Act have been fully complied with.

Proudly South African Campaign

49. The Municipality supports the Proudly South African Campaign and may identify, as a specific goal the promotion of South African owned enterprises. Refer to clauses 383 and 384.

Specialised Forms of Procurement

Acquisition of Goods or Services from other Organs of State or Public Entities

50. In the case of goods or services procured from another organ of state or public entity (including the Department of Water Affairs, Eskom or any other such entities), such procurement shall be made public, giving details of the nature of the goods or services to be procured and the name/s of the supplier/s.

Acquisition of Goods and Services under Contracts secured by other Organs of State

51. The Municipal Manager may procure goods or services under a contract secured by another organ of state, but only if:
- 51.1 the contract has been secured by that other organ of state by means of a competitive bidding process applicable to that organ of state;
 - 51.2 the municipality or entity has no reason to believe that such contract was not validly procured;
 - 51.3 there are demonstrable discounts or benefits for the municipality or entity to do so; and
 - 51.4 That other organ of state and the provider have consented to such procurement in writing.

Acquisition of Banking Services

52. Subject to section 33 of the Municipal Finance Management Act, any contract for the provision of banking services:
- 52.1 shall be procured through a competitive bidding process;
 - 52.2 shall be consistent with section 7 of the Municipal Finance Management Act; and
 - 52.3 May not be for a period longer than five years.
53. The process for procuring a contract for banking services must commence at least nine months before the end of an existing contract.
54. The closure date for the submission of bids for banking services may not be less than 60 days from the date on which the advertisement is placed in a newspapers commonly circulating locally.
55. Bids shall be restricted to banks registered in terms of the Banks Act, 94 of 1990.

Acquisition of IT Related Goods or Services

56. If the transaction value of IT related goods or services exceeds R5 million in any financial year, or if the transaction value of a single contract (whether for one or more years) exceeds R5 million, the Municipal Manager must notify the State Information Technology Agency (SITA) together with a motivation of the IT needs of the Municipality.

If SITA comments on the submission and the Municipality disagrees with such comment, the comments and the reasons for rejecting or not following such comments must be submitted to the Council, the Provincial and National Treasury, and the Auditor General prior to awarding the bid.

57. Notwithstanding the above, the Municipal Manager may request the SITA to assist with the acquisition of IT related goods or services in which case the parties must enter into a written agreement to regulate the services provided by, and the payments to be made to, the SITA.

Acquisition of Goods Necessitating Special Safety Arrangements

59. Goods, other than water, which necessitate special safety arrangements (for example, flammable products, poisons), may not be acquired in excess of immediate requirements unless there is sound financial justification therefor.

Where the storage of goods, other than water in bulk is justified, the Municipal Manager may authorize such storage and the decision must be based on sound reason including total cost of ownership and cost advantages for the Municipality.

Public-Private Partnerships

61. Part 2 of chapter 11 of the MFMA applies to the procurement of public private partnership agreements. Section 33 also applies if the agreement will have multi-year budgetary implications for the Municipality within the Meaning of that section.

Publications in Newspapers

62. In respect of any contract relating to the publication of official and legal notices and advertisements in the press by or on behalf of the Municipality, there is no requirement for a competitive bidding process to be followed.

Community Based Vendors

63. The Assistant Director: Supply Chain Management may request quotations directly from Community Based Vendors in a specific area or from a specific

community for the procurement of goods and services for amounts less than R30 000 (including construction works).

Range of Procurement Processes

64. Goods and services, including construction works and consultant services shall be procured through the range of procurement processes set out below.

Competitive Bids

65. Where the estimated transaction value exceeds R200 000 (VAT inclusive), or for any contract exceeding one year in duration (which includes any defects liability period, if applicable).

Term Bids

66. For the supply of goods and services or construction works that is of an ad-hoc or repetitive nature for a predetermined period of time.

Formal Written Price Quotations

67. Where the estimated transaction value exceeds R30 001 (VAT inclusive) and is less than or equal to R200 000 (VAT inclusive).

Written Price Quotations

68. Where the estimated transaction value exceeds R500 (VAT inclusive) and is less than or equal to R30 000 (VAT inclusive).

Petty Cash Purchases

69. Where the transaction value is less than or equal to R500 (VAT inclusive).

Procurement of Consulting Services

70. Where the estimated value of fees exceeds R200 000 (VAT inclusive) or where the duration of the appointment will exceed one year, a competitive bidding process shall apply.
71. Where the estimated value of fees is less than or equal to R200 000 (VAT inclusive) and the duration of the appointment will be less than one year, a selection process as described in this Policy, as amended from time to time, shall be applied.

Reduction in Threshold Values

72. The Municipal Manager may:

72.1 lower, but not increase, the different threshold values specified in the acquisition management system of this Policy; or

72.2 direct that:

72.2.1 written quotations be obtained for any specific procurement of a transaction value lower than R500;

72.2.2 Formal written quotations be obtained for any specific procurement above R501 up to R2000

72.2.3

72.2.4 Formal written quotations be obtained for any specific procurement above R2001 up to R30 000

72.2.2 formal written price quotations be obtained for any specific procurement of a transaction value of R30 000 up to R200 000; or

72.2.3 a competitive bidding process be followed for any specific procurement of a transaction value more than R200 000.

General Conditions Applicable to Bids and Quotations

73. The Municipality shall not consider a bid or quote unless the bidder who submitted the bid or quote:

73.1 has furnished the Municipality with that bidder's:

73.1.1 full name;

73.1.2 identification number or company or other registration number; and

73.1.3 tax reference number; and

73.1.4 VAT registration number, if any;

73.1.5 Municipal bidding forms (MBD)

73.1.6 certificate of attendance at a compulsory site inspection, where applicable;

73.2 has submitted an original and valid tax clearance certificate certifying that the provider's tax matters are in order; and

73.3 has indicated whether:

73.3.1 the provider is in the service of the state, or has been in the service of the state in the previous twelve months;

73.3.2 if the provider is not a natural person, whether any of the directors, managers, principal shareholders or stakeholders is in the service of the state, or has been in the service of the state in the previous twelve months; or

73.3.3 Whether a spouse, child or parent of the provider or of a director, manager, shareholder or stakeholder referred to in sub-clause 73.3.2 is in the service of the state, or has

been in the service of the state in the previous twelve months.

74. Irrespective of the procurement process, the Municipality may not make any award above R15 000.00, to a person who's tax matters have not been declared by the SARS to be in order.
75. Before making an award the Municipality must check with SARS if the person's tax matters are in order and, if SARS does not respond within seven days such person's tax matters may, for the purposes of clause 74, be presumed to be in order.
76. Irrespective of the procurement process followed, the Municipality is prohibited from making an award to a person:
 - 76.1 who is in the service of the state;
 - 76.2 if the person is not a natural person, of which any director, manager or principal shareholder or stakeholder is in the service of the state; or
 - 76.3 who is an advisor or consultant contracted with the Municipality (Refer to clause 95 in this regard).
77. The Municipal Manager shall ensure that the notes to the annual financial statements of the Municipality disclose particulars of any award above R500 to a person who is a spouse, child or parent of a person in the service of the state, or who has been in the service of the state in the previous twelve months, including:
 - 77.1 the name of the person;
 - 77.2 the capacity in which the person is in the service of the state: and
 - 77.3 the amount of the award.

Competitive Bids

General

78. Competitive bids must be called for any procurement of goods or services, construction works, or consultant services above a transaction value of R200 000 (VAT inclusive), or for any contract exceeding one year in duration.
79. Goods or services, construction works, or consultant services may not be split into parts or items of lesser value merely to avoid complying with the requirements relating to competitive bids.
80. When determining transaction values, a requirement for goods or services, construction works or consultant services consisting of different parts or items must as far as possible be treated and dealt with as a single transaction.

Bid Specifications

81. Bid specifications must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services.
82. Bid specifications must take account of any accepted standards such as those issued by South African National Standards, the International Standards Organisation, or any authority accredited or recognised by the South African National Accreditation System with which the equipment or material or workmanship should comply.
83. Bid specifications shall, where possible, be described in terms of performance required rather than in terms of descriptive characteristics for design.
84. Bid specifications may not create trade barriers in contract requirements in the forms of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labelling of conformity certification.
85. Bid specifications may not make any 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 words “or equivalent”.

86. Bid specifications and/or bid documentation must indicate each specific goal for which adjudication points may be awarded.

Bid specifications and/or bid documentation must be approved by the Municipal Manager or his delegated authority prior to publication of the invitation for bids.

87. Where specifications are based on standard documents available to bidders, a reference to those documents is sufficient.

Bid Specification Committee

89. All bid specifications and bid documentation must be compiled by an adhoc bid specification committee constituted for each project or procurement activity.

The Bid Specification Committee shall be comprised of at least three Municipality officials, an appointed Chairperson, a responsible official and at least one Supply Chain Management Practitioner of the Municipality.

90. Where appropriate a representative of Internal Audit and/or Legal Services and/or an external specialist advisor may form part of this committee.

91. Green procurement must be incorporated as far as reasonable possible, for all specifications of goods, services and construction works.

92. In the development of bid specifications, innovative mechanisms should be explored to render the service or product more resource and energy efficient.

94. The Municipal Manager, or his delegated authority, shall, taking into account section 117 of the MFMA, appoint the members of the Bid Specification Committees.
95. No person, advisor or corporate entity involved with the bid specification committee, or director of such corporate entity, may bid for any resulting contracts.
96. Bid Specification Committee meetings must be conducted in accordance with the applicable Rules of Order Regulating the Conduct of Meetings.

Compilation of Bid Documentation

97. If the bid relates to construction works as contemplated by the Construction Industry Development Board Act, then the requirements of that Act must be taken into account in the bid documentation.
98. General conditions of contract and supply chain management guidelines of the National Treasury in respect of goods and services must be taken into account when compiling bid documents.
99. Bid documentation must clearly indicate the terms and conditions of contract, specifications, criteria for evaluation and adjudication procedures to be followed where applicable, and include where, in exceptional circumstances, Site inspections are compulsory.
100. An appropriate contract and/or delivery period must be specified for all contracts.
101. The requirements of the preferential procurement section of this Policy must be clearly set out in the bid documentation.
102. The bid documentation and evaluation criteria shall not be aimed at hampering competition, but rather to ensure fair, equitable, transparent, competitive and cost effective bidding, as well as the protection or advancement of persons, or categories of persons, as embodied in the preferential procurement section of this Policy.

103. The bid documentation must require a bidder to furnish the following:
 - 103.1 the bidders full name;
 - 103.2 the identification number or company or other registration number;
 - 103.3 the bidders tax reference number and VAT registration number, if any;
and
 - 103.4 an original valid tax clearance from the South African Revenue Services stating that the bidders tax matters are in order.
104. Bid documentation must stipulate that disputes must be settled by means of mutual consultation, mediation (with or without legal representation) or, where unsuccessful, in a court of South African law.
105. A provision for the termination/cancellation of the contract in the case of non- or under-performance must be included in the bid documentation.
106. Unless otherwise indicated in the bid documents, the Municipality shall not be liable for any expenses incurred in the preparation and/or submission of a bid.
107. Bid documentation must state that the Municipality shall not be obliged to accept the lowest bid, any alternative bid or any bid.
108. Unless the Municipal Manager otherwise directs bids are invited in the Republic only.
109. Laws of the Republic shall govern contracts arising from the acceptance of bids.

110. Bid documentation must compel bidders to declare any conflict of interest they may have in the transaction for which the bid is submitted.
111. The bid documentation must require bidders to disclose:
- 111.1 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;
- 111.2 if the bidder 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
- 111.3 Whether a spouse, child or parent of the bidder or of a director, manager, shareholder or stakeholder referred to in sub-clause 111.2 is in the service of the state, or has been in the service of the state in the previous twelve months.
112. Bid documentation for consultant services must require bidders to furnish the Municipality with particulars of all consultancy services, and any similar services (to the services being bid for) provided to an organ of state in the last five years.
113. Bid documentation for consultant services must ensure that copyright in any document produced, and the patent rights or ownership in any plant, machinery, item, system or process designed or devised by a consultant in terms of an appointment by the Municipality, shall vest in the Municipality. **Bids exceeding R10 million**
114. The estimated value of the transaction exceeds R10 million, the bid documentation must require the bidders to furnish:
- 114.1 if the bidder is required by law to prepare annual financial statements for auditing, their audited annual financial statements –
- 114.1.1 for the past three years, or

114.1.2 since their establishment if established during the past three years,

114.2 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,

114.3 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, and

114.4 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 is expected to be transferred out of the Republic.

Alternative Bids

115. Bid documentation may state that alternative bids can be submitted provided that a bid free of qualifications and strictly in accordance with the bid documents is also submitted.

116. An alternative bid shall be submitted on a separate complete set of bid documents and shall be clearly marked “Alternative Bid” to distinguish it from the unqualified bid referred to above.

117. Bid documentation shall state that the Municipality will not be bound to consider alternative bids.

Public Invitation for Competitive Bids

118. On completion of the bid specification and bid document processes the Municipality shall publicly invite bids.

119. Determining the procedure for the invitation of competitive bids, and must stipulate –that 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 municipality or municipal entity or any other appropriate ways (which may include an advertisement in the CIDB website); and the information a public advertisement must contain, which 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.

(ii) A supply chain management policy may allow the accounting officer to 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.

(iii) Bids submitted to the municipality or municipal entity must be sealed and dropped inside the tender box.

120. The bid notice may require payment of a non–refundable tender fee by bidders wanting to collect bid documents. This tender fee shall be determined by the Assistant Director: Supply Chain Management from time to time.

122. The public notice contemplated by clause 119 above shall specify:

122.1 the title of the proposed contract and the bid or contract reference number;

122.2 such particulars of the contract as the Municipality deems fit;

122.3 the date, time and location of any site inspection, if applicable;

122.4 the place where the bid documentation is available for collection and the times between which bid documentation may be collected;

122.5 that bids may only be submitted on the bid documentation provided by the Municipality;

122.6 the deposit payable, if any;

122.7 the place where bids must be submitted;

122.8 the closing date and time for submission of bids; and

122.9 The required CIDB contractor grading for construction work.

123. The bid notice shall further state that all bids for the contract must be submitted in a sealed envelope on which it is clearly stated that such envelope contains a bid and the contract title and contract or bid reference number for which the bid is being submitted.

124. Bid documentation shall be available for collection until the closing date of bids.

Issuing of Bid Documents

125. Bid documents and any subsequent notices may only be issued by officials designated by the Assistant Director: Supply Chain Management from time to time.

126. Details of all prospective bidders who have been issued with bid documents must be recorded by the issuing office but shall remain **confidential** for the duration of the bid period.

127. Details of prospective bidders must, wherever possible, include the full name of the person drawing documents, a contact person, a contact telephone and fax number and a postal and email address.

Site Inspections

128. In general, site inspections, where applicable will not be compulsory. In exceptional circumstances however, a site inspection may be made compulsory with the approval of the Assistant Director: Supply Chain Management, provided that the minimum bid period is extended by at least 7 (seven) days (Refer to clauses 156 to 158 in this regard).
129. If site inspections are to be held, full details must be included in the bid notice, including whether or not the site inspection is compulsory.
130. Where site inspections are made compulsory, the date for the site inspection shall be at least 3 – 7 (seven) days after the bid has been advertised, and a certificate of attendance signed by the responsible agent must be submitted with the bid.
131. If at a site meeting, any additional information is provided or clarification of vague points is given, such additional information or clarification must be conveyed to all bidders in accordance with clauses 163 to 165 of this Policy.

Two-stage (Prequalification) Bidding Process

132. In a two-stage (prequalification) bidding process, bidders are first invited to prequalify in terms of predetermined criteria, without being required to submit detailed technical proposals (where applicable) or a financial offer.
133. In the second stage, all bidders that qualify in terms of the predetermined criteria will be shortlisted and invited to submit final technical proposals (where applicable) and/or a financial offer.
134. This process may be applied to bids for large complex projects of a specialist or long term nature or where there are legislative, design, technological and/or safety reasons to restrict bidding to firms who have proven their capability and qualification to meet the specific requirements of the bid, including projects where it may be undesirable to prepare complete

detailed technical specifications or long term projects with a duration exceeding three years.

135. The notice inviting bidders to pre-qualify must comply with the provisions of public invitation for competitive bids (clauses 118 to 124 refer).
136. Once bidders have pre-qualified for a particular project, they shall be given not less than 7 (seven) days to submit a final technical proposal (where applicable) and/or a financial offer.

Two Envelope Systems

137. A two envelope system differs from a two-stage (prequalification) bidding process in that a technical proposal and the financial offer are submitted in separate envelopes at the same place and time. The financial offers will only be opened once the technical proposals have been evaluated (clauses 184 to 189 refer).

Validity Periods

138. The period for which bids are to remain valid and binding must be indicated in the bid documents.
139. The validity period is calculated from the bid closure date and bids shall remain in force and binding until the end of the final day of that period.
140. This period of validity may be extended by the Chairperson of the Bid evaluation committee, provided that the original validity period has Not expired, and that all bidders are given an opportunity to extend such Period. Any such extension shall be agreed to by a bidder in writing and Signed off by the Chief Financial Officer and the Municipal Manager.
141. Bidders who fail to respond to such a request before their tender lapses, or who decline such a request shall not be considered further in the bid evaluation process.

142. The responsible official must ensure that all bidders are requested to extend the validity period of their bids where necessary in order to ensure that the bids remain valid throughout the appeal period or until the appeal is finalised. If bidders are requested to extend the validity period of their bids as a result of an appeal being lodged it must be made clear to bidders that this is the reason for the request.

Contract Price Adjustment

143. For all contract periods equal to or exceeding one year, an appropriate contract price adjustment formula must be specified in the bid documents.
144. In general, if contract periods do not exceed one year, the bid shall be a fixed price bid and not subject to contract price adjustment.
145. 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 for that period by which the extended contract period exceeds such one year. An appropriate contract price adjustment formula must be specified in the bid documents.
146. Notwithstanding clause 144, if the bid validity period is extended, then contract price adjustment may be applied.

Contracts providing for Compensation Based on Turnover

147. If a service provider acts on behalf of the 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 Municipality must stipulate;

- 147.1 a cap on the compensation payable to the service provider; and
147.2 that such compensation must be performance based.

Provisional Sums and Prime Cost Items

148. If monetary allowances in excess of R200 000 for provisional sums or prime cost items have been included in the bid documents, and where the work or items to which the sums relate are to be executed/supplied by sub-contractors/suppliers, then a competitive bidding process, as determined by the Assistant Director: Supply Chain Management from time to time, shall be followed in respect of these sums/items.
149. When monetary allowances of less than R200 000 have been included in the bid documents, and where the work or items to which the sums relate are to be executed/supplied by sub-contractors/suppliers, the contractor must be required to obtain a minimum of three written quotations for approval by the responsible agent.

Samples

150. Where 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 separately (to the bid) to the addressee mentioned in the bid documents.
151. Bids may not be included in parcels containing samples.
152. If samples are not submitted as required in the bid documents or within any further time stipulated by the Chairperson of the Bid Evaluation Committee in writing, then the bid concerned may be declared non-responsive.
153. Samples shall be supplied by a bidder at his/her 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.
154. If a bid is accepted for the supply of goods according to a sample submitted by the bidder, that sample will become the contract sample. All goods/materials supplied shall comply in all respects to that contract sample.

Closing of Bids

155. Bids shall close on the date and at the time stipulated in the bid notice.
156. For bids for goods and services the bid closing date must be at least 7
-
14 days after publication of the notice.
157. For construction works the bid closing date must be at least 21 (twenty one) days after publication of the notice. Notwithstanding the above, if
158. the estimated contract value exceeds R10 million (VAT included), or if the contract is of a long term nature with a duration period exceeding one year, then the bid closing date must be at least 30 (thirty) days after publication on the website and the newspaper.
159. For banking services, the bid closing date must be at least 60 (sixty) days after publication of the notice.
160. For proposal calls using a two envelope system, the bid closing date must be at least 30 (thirty) days after publication of the notice.
161. The bid closing date may be extended by the Assistant Director: Supply Chain Management if circumstances justify this action; provided that the closing date may not be extended unless a notice is published in the press prior to the original bid closing date. This notice shall be communicated through the email with the service providers bided by the supply chain management office designated by the Municipal Manager, and a notice to all bidders to this effect shall be issued.
162. The Municipal Manager may determine a closing date for the submission of bids which is less than any of the periods specified in clauses 156 to 160 above, 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.

Communication with bidders before bid closing

163. The Bid Specification Committee Chairperson may, if necessary, communicate with bidders prior to bids closing.

164. Such communication shall be in the form of a notice issued to all bidders by the Assistant Director: Supply Chain Management by either e-mail, facsimile, or registered post as appropriate. A copy of the notice together with a transmission verification report/proof of posting shall be kept for record purposes. Notices should be issued at least one week prior to the bid closing date, where possible.

165. Notwithstanding a request for acknowledgement of receipt of any notice issued, the bidder will be deemed to have received such notice if the procedures in clause 164 have been complied with.

Submission of Bids

166. Each bid must be in writing using non-erasable ink and must be submitted on the official Form of Bid /Offer issued with the bid documents.
167. The bid must be submitted in a separate sealed envelope with the name and address of the bidder, the bid number and title, the bid box number (where applicable), and the closing date indicated on the envelope. The envelope may not contain documents relating to any bid other than that shown on the envelope. Only sealed bids will be accepted.
168. The onus shall be on the bidder to place the sealed envelope in the official, marked and locked bid box provided for this purpose, at the designated venue, not later than the closing date and time specified in the bid notice.
169. Postal bids will not be accepted for consideration.
170. No bids forwarded by telegram, facsimile or similar apparatus shall be considered. However, photostate copies of bids or facsimiles which are submitted in the prescribed manner will be considered, provided the original Forms of Bid/Offer can be shown to have been posted or couriered prior to the close of bids.
171. Electronic bids will not be accepted.
172. The bidder shall choose a domicilium citandi et executandi in the Republic and unless notice of the change thereof has duly been given in writing, it shall be the address stated in the bid.
173. No person may amend or tamper with any bids or quotations after their submission.

Late Bids

175. A bid is late if it is not placed in the relevant bid box by the closing time for such bid.

176. A late bid shall not be admitted for consideration and where feasible shall be returned unopened to the bidder with the reason for the return thereof endorsed on the envelope.

Opening of Bids

177. At the specified closing time on the closing date the applicable bid box shall be closed.
178. The bid box shall be opened in public as soon as practical after the closing time.
179. Immediately after the opening of the bid box, all bids shall be opened in public and checked for compliance.
180. The official opening the bids shall in all cases read out the name of the bidder and, if practical, the amount of the bid.
181. As soon as a bid or technical proposal has been opened:
- 181.1 the bid/proposal shall be stamped with the official stamps, and endorsed with the opening official's signature;
 - 181.2 the name of the bidder, and where possible, the bid sum shall be recorded in a bid opening record kept for that purpose; and
 - 181.3 The responsible official who opened the bid shall forthwith place his/her signature on the bid opening record.
182. Bids found to be inadvertently placed in the incorrect bid box will be redirected provided that the applicable bids either closed on the same day at the same time, or are still open (in which case the Municipality disclaims any responsibility for seeing that the bids are in fact lodged in the correct bid box). A record of all bids placed in an incorrect box shall be kept.
183. Bids received in sealed envelopes in the bid box without a bid number or title on the envelope will be opened at the bid opening and the bid number and title ascertained. If the bid was in the correct bid box it will be read out. If the bid is found to be in the incorrect bid box, it will be redirected

provided that the applicable bids either closed on the same day at the same time, or are still open. If the bid closes at a later date, the bid will be placed in a sealed envelope with the bid number and title endorsed on the outside, prior to being lodged in the applicable box. The Municipality however disclaims any responsibility for seeing that the bid is in fact lodged in the correct box.

Opening of Bids where a Two Envelope System (consisting of a technical proposal and a financial proposal) is followed

184. If a two envelope system is followed, only the technical proposal will be opened at the bid opening.
185. The unopened envelope containing the financial proposal shall be stamped and endorsed with the opening official's signature, and be retained by him/her for safekeeping.
186. When required the financial offers/bids corresponding to responsive technical proposals, shall be opened by the opening official in accordance with clauses 180 and 181.
187. All bidders who submitted responsive technical proposals must be invited to attend the opening of the financial offers/bids.
188. Envelopes containing financial offers/bids corresponding to non-responsive technical proposals shall be returned unopened along with the notification of the decision of the Bid Adjudication Committee in this regard (clause 228 refers).
189. After being recorded in the bid opening record, the bids/technical proposals shall be handed over to the official responsible for the supervision of the processing thereof and that official shall acknowledge receipt thereof by signing the bid opening record.

Invalid Bids

190. Bids shall be invalid, and shall be endorsed and recorded as such in the bid opening record by the responsible official appointed by the Assistant Director : Supply Chain Management to open the bid, in the following instances:
- 190.1 If the bid is not sealed;
 - 190.2 the bid, including the bid price/tendered amount, where applicable is not submitted on the official Form of Bid/Offer;
 - 190.3 if the bid is not completed in non-erasable ink;
 - 190.4 if the Form of Bid/Offer has not been signed;
 - 190.5 if the Form of Bid/Offer is signed, but the name of the bidder is not stated, or is indecipherable; or
 - 190.6 if in a two envelope system, the bidder fails to submit both a technical proposal and a separate sealed financial offer/bid.
191. When bids are declared invalid at the bid opening, the bid sum of such bids shall not be read out. However, the name of the bidder and the reason for the bid having been declared invalid shall be announced.

Bid Sum

192. A bid will not necessarily be invalidated if the amount in words and the amount in figures do not correspond, in which case the amount in words shall be read out at the bid opening.
193. All rates, with the exception of rates only bids, and proprietary information are confidential and shall not be disclosed.

Bid Evaluation

General

194. The Municipality shall not be obliged to accept any bid.
- 195 For goods and services bids, the Municipality shall have the right to accept the whole bid or part of a bid or any item or part of an item or accept more than one bid.

Bid Evaluation Committee

196. An ad-hoc Bid Evaluation Committee shall be constituted for each project or procurement activity to evaluate bids received.
197. The Bid Evaluation Committee shall be comprised of at least three Municipality officials, an appointed Chairperson (who may be the same person as the Chairperson of the Bid Specification Committee), a responsible official and at least one Supply Chain Management Practitioner of the Municipality.
198. Where appropriate, a representative of Internal Audit and/or Legal Services may form part of this committee, which may also include other internal specialists/experts as necessary. External specialists/experts may advise the Bid Evaluation Committee, as required.
199. The Municipal Manager, or his delegated authority, shall, taking into account section 117 of the MFMA, appoint the members of the Bid Evaluation Committees.
200. Bid Evaluation Committee meetings must be conducted in accordance with the applicable Rules of Order Regulating the Conduct of Meetings.

Bid Evaluation

201. The Responsible Agent shall carry out a preliminary evaluation of all valid bids received and shall submit a draft bid evaluation report to the Bid Evaluation Committee for consideration.
202. Any evaluation of a bid shall consider the bids received and shall note for inclusion in the evaluation report, a bidder:
 - 202.1 bid does not comply with the provisions for combating abuse of this Policy;
 - 202.2 whose bid does not comply with the general conditions applicable to bids and quotations of this Policy;

- 202.3 whose bid is not in compliance with the specification;
 - 202.4 whose bid does meet the minimum score for functionality, if applicable;
 - 202.5 Whose bid price is lower -10% and more than the 10% of the contract price.
 - 202.6 whose bid is not in compliance with the terms and conditions of the bid documentation;
 - 202.7 whose bid does not comply with any minimum goals stipulated in terms of the preferential procurement section of this Policy;
 - 202.8 who, in the case of construction works acquisitions, does not comply with the requirements of the Construction Industry Development Board Act regarding registration of contractors;
 - 202.9 who has failed to submit an original and valid tax clearance certificate from the South African Revenue Services (SARS) certifying that the taxes of the bidder are in order or that suitable arrangements have been made with SARS, and
 - 202.10 who fails to comply with any applicable Bargaining Council agreements.
203. Bids shall be evaluated according to the following as applicable:
- 203.1 bid price (corrected if applicable and brought to a comparative level where necessary),
 - 203.2 the unit rates and prices,

- 203.3 the bidder's ability to execute the contract,
 - 203.4 any qualifications to the bid,
 - 203.5 The bid ranking obtained in respect of preferential procurement as required by this Policy, system is prescribed, and where appropriate, ranges have been set indicating breakdown of the points/percentages as provided for in the relevant sliding scales for the specific evaluation criteria.
 - 203.6 In terms of the PPPFA, the correct preference points
 - 203.7 the financial standing of the bidder, including its ability to furnish the required institutional guarantee, where applicable,
 - 203.8 any other criteria specified in the bid documents.
-
- 204. No bidder may be recommended for an award unless the bidder has demonstrated that it has the resources and skills required to fulfil its obligations in terms of the bid document.
 - 205. The Bid Evaluation Committee shall check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not in arrears.
 - 206. Additional information or clarification of bids may be called for if required but only in writing.
 - 207. Alternative bids may be considered, provided that a bid free of qualifications and strictly in accordance with the bid documents is also submitted. The Municipality shall not be bound to consider alternative bids.
 - 208. If a bidder requests in writing, after the closing of bids, that his/her bid be withdrawn, then such a request may be considered and reported in the bid evaluation report for decision by the Bid Adjudication Committee.

209. The bidder obtaining the highest number of points should be recommended for acceptance unless there are reasonable and justifiable grounds to recommend another bidder.
210. If, after bids have been brought to a comparative level, two or more score equal total adjudication points, the recommended bidder shall be the one scoring the highest preference points.
211. If two or more bids are equal in all respects, the Bid Evaluation Committee shall draw lots to decide on the recommendation for award, or may, in the case of goods and services, recommend splitting the award proportionately, where applicable.
212. All disclosures of a conflict of interest shall be considered by the Bid Evaluation Committee and shall be reported to the Bid Adjudication Committee.

Recommendation to Bid Adjudication Committee

213. The Bid Evaluation Committee shall, having considered the Responsible Agent's draft report, submit a report, including recommendations regarding the award of the bid or any other related matter, to the Bid Adjudication Committee for award .
 - 21.4 The award structure for a specific quotation/bid cannot be:
 - 21.4.1 An official who performed the evaluation or made a recommendation in respect of that quotation/bid.
 - 21.4.2 A person who served as member on the Bid Evaluation Committee, who processed that quotation/bid.
 - 21.4.3 No advisor or person, who assisted the Bid Evaluation Committee, may form part of the final decision-making process regarding the award of bids.
 - 21.4.4 Except for the position of chairperson, the Bid Adjudication Committee should not be established for a period exceeding 1 year should replacement skills be available. Each member's individual appointment for a period not longer than another one year may be considered, should the skills not be available, but must be reviewed annually.

- 21.4.5 Each member must have a secundus where feasible in the case of a standing committee.
- 21.4.6 The SCM Unit is responsible to establish the Bid Adjudication Committee in conjunction with the Accounting Officer or delegate.
- 21.4.7 The delegated officials acting as award structures must be identified by rank in the delegated powers.
- 21.4.8 The Bid Adjudication Committee may be established for a period, not exceeding one (1) year. 21.4.9The members of the Bid Adjudication Committee must be informed in writing of their appointment to the Committee.
- 21.4.10 Predetermined meetings at regular intervals must be held, but the Bid Adjudication Committee may also meet ad hoc if required.
- 21.4.11 Before the start of the each meeting, each member must declare its interest in writing pertaining to the specific bid(s) in question.
- 21.4.12 Should an interest be declared which constitutes a conflict or is regarded as material, the member must recuse him/herself as a member of the Bid Adjudication Committee. The SCM Unit must then identify a replacement member for the Committee if the Committee does not comply with the prescribed minimum of 4 Directors.
- 21.4.13 The SCM Unit must timely route the recommendations to the Bid adjudication Committee for consideration.
- 21.4.14 The SCM Unit must perform secretariat functions for the Committee meetings **Bid Adjudication.**

Bid Adjudication Committee

214. The Bid Adjudication Committee shall comprise at least five senior managers, and shall include:
- 214.1 the Chief Financial Officer or a Manager designated by the Chief Financial Officer;
 - 214.2 at least one senior supply chain management practitioner of the Municipality; and
 - 214.3 a technical expert in the relevant field who is an official of the Municipality, if the Municipality has such an expert.
215. The Municipal Manager shall appoint the members and chairperson of the Bid Adjudication Committee. If the chairperson is absent from a meeting, the members of the committee who are present shall elect one of the committee members to preside at the meeting.
216. Neither a member of a Bid Specification Committee, Bid Evaluation Committee, nor an advisor or person assisting such committees, may be a member of a Bid Adjudication Committee.

Adjudication and Award

217. The Bid Adjudication Committee shall consider the report and recommendations of the Bid Evaluation Committee and make a final award or make another recommendation to the Municipal Manager on how to proceed with the relevant procurement.
218. The Bid Adjudication Committee may make an award to a preferred bidder, subject to the Municipal Manager negotiating with the preferred bidder in terms of clause 231 of this Policy.
219. The Municipal Manager may at any stage of the bidding process, refer any recommendation made by the Bid Evaluation or Bid Adjudication Committee back to that committee for reconsideration of the recommendation.

Approval of Bid not recommended

220. If a Bid Adjudication Committee decides to award a bid other than the one recommended by the Bid Evaluation Committee, the Bid Adjudication Committee must, prior to awarding the bid:

220.1 check in respect of the preferred bidder whether that bidder's municipal rates and taxes and municipal service charges are not in arrears;

220.2 Check in respect of the preferred bidder that it has the resources and skills required to fulfil its obligations in terms of the bid document.

220.3 Notify the Municipal Manager.

221. The Municipal Manager may:

after due consideration of the reasons for the deviation ratify or reject the decision of the Bid Adjudication Committee referred to in clause 220 above.

If the decision of the Bid Adjudication Committee is rejected, refer the decision of the adjudication committee back to that committee for consideration.

222. If a bid other than the one recommended in the normal course of implementing this Policy is approved, then the Municipal Manager must, in writing and within ten working days, notify the Auditor-General, the Provincial Treasury and the National Treasury of the reasons for deviating from such recommendation.

223. The requirement of clause 220.3 does not apply if a different bid was approved in order to rectify an irregularity.

Reconsideration of Recommendations

224. The Municipal Manager may, at any stage of a bidding process, refer any recommendation made by the Bid Evaluation Committee or Bid Adjudication Committee back to that Committee for reconsideration of the recommendation.

Right of Appeal

225. In terms of Section 62 of the Systems Act, a person whose rights are affected by a decision taken by the Municipality, in terms of a delegated authority, in the implementation of its supply chain management system, 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 receipt of the notification of the decision.
226. Tender documents must state that any appeal in terms of clause 225 must be submitted to the Municipal Manager at the address stated, and must contain the following:
- a. reasons and/or grounds for the appeal;
 - b. the way in which the appellants rights have been affected; and
 - c. The remedy sought by the appellant.
227. No tender shall be formally accepted until either the expiry of the 21 day appeal period, or confirmation in writing before the expiry of the 21 day appeal period that none of the affected parties intend to appeal, or confirmation of the satisfactory resolution of any appeals.

Notification of Decision

- 228 If the Bid Adjudication Committee or other delegated official has resolved that a bid be accepted, the successful and unsuccessful bidders shall be notified in writing of this decision.
- 229 The successful bidder shall, in addition, be advised of the 21 day appeal period, and be notified that no rights accrue to him/her until the tender is formally accepted in writing.
- 230 Every notification of decision shall be faxed or sent via electronic mail to the address chosen by the bidder, with a copy of proof of transmission kept for

record purposes, or shall be delivered by hand, in which case acknowledgement of receipt must be signed and dated on a copy of such notification and kept for record purposes.

Negotiations with Preferred Bidders

231. The Municipal Manager may negotiate the final terms of a contract with bidders identified through a competitive bidding process as preferred bidders provided that such negotiation:

231.1 does not allow any preferred bidder a second or unfair opportunity;

231.2 is not to the detriment of any other bidder; and

231.3 Does not lead to a higher price than the bid as submitted.

232. Minutes of such negotiations must be kept for record purposes.

Cancellation of Bids

233. If it becomes necessary to cancel or re-advertise formal bids, then a report to this effect shall be submitted to the Bid Adjudication Committee for decision.

234. If bids have been cancelled, then all bidders must be notified in writing.

235. It is not necessary to notify original bidders when calling for new bids, which will be advertised in accordance with clause 119.

236. No bid may be re-advertised before the expiry of the validity period of the original bid, or any extended validity period.

237. Notwithstanding clause 236, where no valid bids are received or where all bidders have indicated in writing that they have no objection to the readvertisement of the bid, then the bid may be re-advertised forthwith.

238. In the case of bids for construction related works, and where the Bid Adjudication Committee resolved that there were no responsive tenders received, then the bid may be re-advertised forthwith.

Increase in Contract Period or Contract Sum

239. Any increase in the contract period (in respect of term bids) or contract sum (in respect of one-off contracts) that may become necessary as a result of exceptional circumstances, or which are considered to be in the public's interest, may be approved by the Bid Adjudication Committee. Such approval must be obtained prior to the contract period expiring or contract sum being exceeded.
240. Where community participation has been a part of the contract, the community must be advised of the proposed increase and be invited to provide written comment.
241. Any unapproved increases in the contract sum or contract period that have become necessary as a result of exceptional circumstances, or which have been considered to be in the public's interest, must be explained in a report to the Bid Adjudication Committee requesting condonation and approval for such unapproved increase.

Term Bids

General

242. It is permissible to invite bids for the supply of goods and services or construction works that is of an ad-hoc or repetitive nature, for a predetermined period of time (commonly referred to as a term bid).
243. The general acquisition procedure for term bids shall comply with procedures contained in the acquisition management system for competitive bids.
244. Bid documentation, where applicable, shall state that the acceptance of term bids based on a schedule of rates will not necessarily guarantee the bidder any business with the Municipality.
245. The practice of using term bids to circumvent the bid process in respect of what should be planned project work is not permissible.
246. Material for repairs and maintenance can be purchased on a term bid where circumstances warrant it.

247. Additional items included in a term bid by any bidder which are clearly not an alternative to any of the items specified shall not be considered.

Evaluation and Adjudication of Term Bids

248. The process for considering term bids shall be in terms of the evaluation and adjudication procedures for conventional competitive bids.
249. Subsequent to award, where different selections of items are required in terms of the same term bid and it is not possible or practical to separate orders for different items from different suppliers, service providers or contractors (in the case of construction works, for example), then a selection process will have to be carried out in respect of each application by the Responsible Agent. Individual orders will then be placed (or contracts awarded) on the basis of the highest total evaluation points received, per application.
250. If the selected supplier, contractor or service provider, in terms of the selection process specified in the term bid documentation, is unable to provide the required goods, services or construction works at the required time and confirms as such in writing then the bidder with the next highest evaluation points shall be selected. If after a contract is awarded, or an order is placed in terms of a term bid, the supplier, contractor or service provider fails to supply the goods or service required, then the remedies in terms of the contract shall apply.

Formal Written Price Quotations

General

251. Where the Municipality intends to enter into any contract which is for the supply of any goods or services, or the execution of any construction work which involves or is likely to involve a transaction value over R30 000 and up to R200 000 (VAT inclusive), then a minimum of three written quotes shall be obtained from providers who are suitably qualified and experienced, having the necessary resources, and who are registered and verified on the Municipality's supplier database. Ongoing competition amongst providers shall be promoted, including by inviting providers to submit quotations on a rotational basis. Quotations may be obtained from providers who are not listed on the Municipality's supplier database, provided that such providers must meet the listing criteria referred to in this Policy.

252. Any request for a formal written quotation which is likely to be in excess of R30 000 must be advertised for at least 7 (seven) days on the Municipality's official website and an official notice board as applicable. If there's no response on the website the database will be utilized to seek quotations.
253. Notwithstanding clause 251, if quotations have been invited on the Municipality's official website, no additional quotes need to be obtained should the number of responses be less than three.
254. If it is not possible to obtain at least three written quotations, the reasons must be recorded and approved by the Chief Financial Officer
255. The names of the potential providers and their written quotations must be recorded.
256. The practice of breaking out (parcelling) projects in order to circumvent the competitive bid process is not permissible.

Quotation Documentation

257. All quotation documentation, where practicable, shall comply with the requirements of bid documentation contained in the acquisition management system for competitive bids.

Validity Periods

258. The provisions of clauses 138 to 141 of this Policy shall apply mutatis mutandis with regard to quotations.

Quotation Prices

259. In general, all quotations should be submitted on a fixed price basis (not subject to contract price adjustment). Only in exceptional circumstances may contract price adjustment be applied.
260. Notwithstanding clause 259 above, if the quotation validity period is extended, then contract price adjustment may be applied on a proven, fair and reasonable basis.

Submission of Documentation and Municipal bidding Documentation

261. Quotation documents issued by the Municipality shall clearly state the place where such documents must be submitted and the date and time by when they must be submitted.
262. No quotations submitted after any stipulated closing date and time shall be considered.
263. All Municipal bidding documentation required to be submitted with the tender document must be accompanied along with the tender document for compliance.

Opening of Quotations (where lodged in a quotation box)

263. The provisions of clauses 177 to 183 of this Policy shall apply with regard to quotations that are required to be lodged in a quotation box, with the exception of clause 182 where, with respect to quotations, the Municipality disclaims any responsibility for seeing that the quotations are lodged in the correct quotation box. Quotations found in the incorrect box shall be Declared invalid and will not be considered.

Consideration and Acceptance of Quotations

264. All orders in respect of formal written price quotations shall be approved and released by the Municipal Manager or his delegated authority.

Written Price Quotations

General

265. Where the Municipality intends to procure any goods or services, which involves a transaction value of up to R30 000 (VAT inclusive), written price quotations shall be obtained from at least three different providers preferably from, but not limited to, providers whose names appear on the supplier database, provided that if quotations are obtained from providers who are not listed, such providers must meet the listing criteria referred to in this Policy. Ongoing competition amongst providers shall be promoted, including by inviting providers to submit quotations on a rotational basis.

266. If it is not possible to obtain at least three written quotations, the reasons must be recorded and approved by the Chief Financial Officer.
267. The names of the potential providers requested to provide quotations and their written quotations must be recorded.
268. The practice of breaking out (parcelling) purchases in order to circumvent the formal written price quotation process is not permissible.
269. All orders in respect of written price quotations shall be approved and released by the Municipal Manager, or his delegated authority.
270. In case of unforeseen circumstances (e.g. electricity breakdown, water supply breakdown, damaged bridge etc.) The Procurement Officer will seek three(3) quotations to fix the problem, if the amount is less than threshold of R200 000.00 (two hundred thousand rand) but if the amount is above R200 000.00 (two hundred thousand rand) only the Accounting Officer or Chief Financial Officer can decide on the Deviation from the normal way of procuring goods or services.
271. That Deviation must be reported during the next sitting of the Council for approval and be disclosed on the Annual Financial Statement of that Financial Year and failure to do that then that transaction will be regarded Fruitless Expenditure.

Petty Cash Purchases (If applicable)

General

272. Where there is a need to purchase any goods or services using a petty cash system, which involves a transaction value up to R500 (VAT inclusive), the Municipality's Procedures and Guidelines for Petty Cash Purchases shall be adhered to.
273. The delegated official responsible for petty cash must compile monthly reconciliation report for the Chief Financial Officer, which must include the total amount of petty cash purchases for that month and receipts and appropriate documents for each purchase.
274. The practice of breaking out (parcelling) purchases in order to circumvent the formal written price quotation and written price quotation processes is not permissible.

Appointment of Consultants

General

275. In the procurement of consulting services cognisance should be taken of any National Treasury guidelines in this respect or of Construction Industry Development Board Guidelines in respect of services relating to the built environment and construction works.

Procurement Process (over R200 000)

276. Where the estimated value of the fees exceeds R200 000 (VAT inclusive), or where the duration of the appointment will exceed one year, consulting services shall be procured through a competitive bidding process.
277. The practice of breaking out (parcelling) consultant appointments in order to circumvent the competitive bidding process is not permitted.

Procurement Process (up to R200 000)

276. Where the estimated value of the fees is less than or equal to R200 000 (VAT inclusive) and the duration of the appointment is less than one year, the selection of a consultant to provide the required service shall follow a written price quotation or a formal written price quotation procedure as described in this Policy.
277. Responsible agents must endeavour to ensure that there is rotation in respect of inviting suitably qualified consultants to quote.
278. A price/preference points system, as described in the preferential procurement section of this Policy, must be applied to such quotations.
279. Where it is in the interests of the Municipality to follow an advertised process, a formal competitive bidding process in accordance with the requirements of this policy may be followed.

Single-source Selection

280. National Treasury Guidelines provide for single-source selection in exceptional cases. The justification for single-source selection must be examined in the context of the overall interests of the Municipality and the project.

281. Single-source selection may be appropriate only if it presents a clear advantage over competition:
- 281.1 for services that represent a natural continuation of previous work carried out by the consultant, and continuity of downstream work is considered essential;
 - 281.2 where rapid selection is essential;
 - 281.3 for very small appointments;
 - 281.4 When only one consultant is qualified, or has experience of exceptional worth for the project.
282. The reasons for single-source selection must be fully motivated in a report and approved by the Bid Adjudication Committee prior to conclusion of a contract, provided that if the award is for an amount of R200 000 (VAT inclusive) or less, such award shall be approved by the Director : Supply Chain Management.

Deviation from the Procurement Processes

General

283. The Municipal Manager may dispense with the official procurement processes established by this Policy, and procure any required goods or services through any convenient process, which may include direct negotiation, but only in respect of:
- i. any contract relating to an emergency (as described in clauses 285 and 286 below) where it would not be in the interests of the Municipality to invite bids,
 - ii. any goods or services which are available from a single provider only,
 - iii. the acquisition of animals for zoos, or
 - iv. the acquisition of special works of art or historical objects where specifications are difficult to compile;

- v. any other exceptional circumstances where it is impractical or impossible to follow the official procurement process, including: accommodation, conference facilities, car hire, travel agencies, towing services, courier services and where organizers of the event are the sole providers of services.
- vi. any purchase on behalf of the Municipality at a public auction sale;
- vii. any contract in respect of which compliance therewith would not be in the public interest;
- viii. ad-hoc repairs to plant and equipment where it is not possible to ascertain the nature or extent of the work required in order to call for bids; and

284. The Municipal Manager must record the reason for any deviation in terms of sub regulation(1)(a)and (b) and report them to the next meeting of the council board of directors in the case of a municipal entity, and include as a note to the annual financial statements

Emergency Dispensation

285. The conditions warranting Emergency dispensation should include the existence of one or more of the following:

- a. the possibility of human injury or death;
- b. the prevalence of human suffering or deprivation of rights;
- c. the possibility of damage to property, or suffering and death of livestock and animals;
- d. the interruption of essential services, including transportation and communication facilities or support services critical to the effective functioning of the Municipality as a whole;

- e. the possibility of serious damage occurring to the natural environment;
 - f. the possibility that failure to take necessary action may result in the Municipality not being able to render an essential community service; and
 - g. The possibility that the security of the state could be compromised.
286. The prevailing situation, or imminent danger, should be of such a scale and nature that it could not readily be alleviated by interim measures, in order to allow time for the formal procurement process. Emergency dispensation shall not be granted in respect of circumstances other than those contemplated above.
287. Where possible, in an emergency situation, three quotes in accordance with general acquisition management principles should be obtained and a report submitted to the Municipal Manager for approval. However, where time is of the essence, the emergency shall be immediately addressed, and the process formalised in a report to the Municipal Manager as soon as possible thereafter.

Unsolicited Bids

- 288 The Municipality is not obliged to consider any unsolicited bids received outside of the normal bidding process.
289. The Municipality may only consider an unsolicited bid if the following have been complied with:
- a. the product or service offered in terms of the bid is a demonstrably or proven unique innovative concept;
 - b. the product or service offered will be exceptionally beneficial to, or have exceptional cost advantages for, the Municipality;
 - c. the person or entity that 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 Municipal Manager. In this regard a report

must be submitted to the Municipal Manager seeking approval to take the unsolicited bid process further.

290. If the Municipal Manager considers the unsolicited bid worthy of pursuing, the decision to consider such bid shall be made public in accordance with section 21A of the Systems Act together with:
- 290.1 reasons as to why the bid should not be open to other competitors;
 - 290.2 an explanation of the potential benefits for the Municipality were it to accept the unsolicited bid; and
 - 290.3 An invitation to the public and other potential suppliers to submit their written comments within 30 (thirty) days of the notice being published.
291. Details of the unsolicited bid, together with any written comments received pursuant to clause 290.3 as well as any responses from the bidder, shall be submitted to the provincial and National Treasury for comment.
292. The unsolicited bid shall then be submitted to the Bid Adjudication Committee, together with any written comments submitted by the public and any written comments or recommendations of the provincial or National Treasury, for consideration.
293. The Bid Adjudication Committee may award the bid in respect of any amount.
294. Any meeting of the Bid Adjudication Committee to consider an unsolicited bid shall be open to the public.
295. If any recommendations of the Provincial or National Treasury are rejected or not followed, the Municipal Manager shall submit to the Auditor-General, the Provincial Treasury and the National Treasury the reasons for rejecting or not following those recommendations. Such submission shall be made within 7 (seven) days of the decision to award the unsolicited bid. No contract committing the Municipality to the bid may be entered into or signed within 30 (thirty) days of the submission.

Ratification of Minor Breaches of the Bid Processes

296. The Municipal Manager may ratify any minor breaches of the procurement processes, which are purely of a technical nature, by an official or committee acting in terms of delegated powers or duties.

Condonation of Expenditure

297. The Municipal Manager may, upon recommendation of the Bid Adjudication Committee, condone any expenditure incurred in contravention of, or that is not in accordance with, a requirement of this Policy. This power may not be sub-delegated by the Municipal Manager. Such condonation shall not preclude the taking of disciplinary steps against the responsible official.

298. In the event where the Municipal Manager refuses to condone any expenditure referred to in clause 297 such expenditure will be deemed to be either unauthorised, irregular or fruitless and wasteful expenditure as defined in section 1 of the MFMA and will be treated by the Municipal Manager in accordance with the relevant provisions of the MFMA.

Obligation to Report

299. The reasons for all deviations shall be recorded and reported by the Municipal Manager to Council at the next Council meeting, and shall be included as a note to the annual financial state

LOGISTICS MANAGEMENT SYSTEM

Introduction

300. Logistics management must provide for an effective system in order to provide for the setting of inventory levels, placing of orders, receiving and distribution of goods, stores and warehouse management, expediting orders, transport management, vendor performance, and maintenance and contract administration.

Setting of Inventory Levels

301. Stock items shall be systematically replenished using the re-order point planning strategy in conjunction with minimum and maximum levels.
302. Open reservations shall be taken into account during the replenishment run.

Placing of Orders

303. Purchase orders will be created with reference to requisitions where the supply source is contract or quotations (where sourcing had to take place).
304. All purchase orders which are for imported goods and which are subject to rate and exchange adjustments must specify that the vendor must take out a forward exchange contract in order to fix the Rand based price in the purchase order.
305. Standing orders (also known as “framework orders”) will be used in cases where a longer term arrangement, such as after hour services and copier contracts, are required.
306. Purchase order approvals will be systems based and will involve the procurement department only.
307. The assets section (for asset creation) and the transport section (for insurance claims) will be informed after the purchase order approval.

Receiving and Distribution of Goods

308. Goods will be received on the financial system with reference to purchase orders.
309. No over receipt of stock will be allowed. Under receipts will keep the purchase order open for the outstanding delivery quantity.

310. Goods will be issued from stock with reference to reservations. Goods can be issued for consumption against internal orders, cost centres, projects and assets under construction.

Stores and Warehouse Management

311. The stores and warehousing function shall be centralized and will operate under the jurisdiction of the Supply Chain Management Unit.
312. The Supply Chain Management Unit must ensure proper financial and budgetary control; uphold the principle of effective administration, proper stock holding and control, product standardisation, quality of products and a high standard of service levels.
313. The Store man cannot receive goods from the supplier after working hours unless directed to do so by Chief Financial Officer or delegated official .The store room can only be opened after working hours when emergency stock item(s) are issued to departments.
314. All stock items must be issued to departments upon receiving Duly completed Stock Requisition Form signed by receiver , approved by the Supervisor and recommended by Budget Section for vote allocations and checking the availability of funds in the votes
315. Upon receiving non-stock items the Store man will inform the user department to collect their goods. This will help the section to keep and be accountable only stock items in the store room or ware house
316. Stocktaking will be conducted every quarter.

Expediting Orders

317. The purchasing expeditor will be required to monitor and expedite outstanding purchase orders.
318. Reminder letters can be faxed automatically to vendors based on the reminder levels (days before delivery due date) that are set in the purchase order.

Transport Management

319. The Municipality's fleet management policy must be adhered to at all times.

Vendor Performance

317. The System will enable to do system-based evaluation on the vendors' performance with regard to certain pre-determined criteria.

318. The information will be available for contract negotiations and regular feedback to the vendors.

Contract Management

Application

319. The contract management provisions below are applicable only to contracts for the provision of goods or services (excluding construction work contracts).

Competency

320. All contracts must be administered by an official(s) having the necessary competencies to ensure effective management of the contract.

Maintenance and Contract Administration

321. Contracts related to the procurement of goods and services will be captured on the Municipality's contract register in the form of a price schedule.

322. Value (where the maximum value of the contract is restricted) and volume (where the maximum units procured are restricted) based contracts will be used.

323. The use of fixed price, fixed term contracts will be promoted and expenditure will be driven towards contracts versus once-off purchases. Consolidated

(Municipality wide) procurement volumes have to drive down the negotiated contract prices.

324. Contract price adjustments shall be processed only in accordance with contract terms and conditions. Price adjustments shall be made on the procurement contract and any current purchase orders shall be changed to reflect the new price.

Contract Administration

325. Contract administration is the last stage of the tendering and contract cycle, and includes all administrative duties associated with a contract after it is executed, including contract review.

326. The effectiveness of contract administration will depend on how thoroughly the earlier steps were completed. Changes can be made far more readily early in the tendering cycle than after contract management has commenced.

327. Some of the key early stages, which influence the effectiveness of contract administration, include:

327.1 Defining the output, that is, writing specifications which identify what the aims and outputs of a contract will be;

327.2 assessing risk;

327.3 researching the market place (including conducting pre-tender briefings);

327.4 formulating appropriate terms and conditions of contract;

327.5 identifying appropriate performance measures and benchmarks so that all parties know in advance what is expected, and how it will be tested;

327.6 actively creating competition, so the best possible suppliers bid for contracts; and

- 327.7 Evaluating bids competently, to select the best contractor, with a strong customer focus and good prospects of building a sound relationship.

Levels of Contract Administration

328. There are three levels of contract administration:

328.1 The first operational level is for standard contracts for goods and services. Day to day contract administration should become no more than a monitoring, record keeping and price adjustment authorisation role.

328.2 The second or intermediate level is for more complex contracts for services. An example would be a contract to outsource cleaning services. This type of contract will require a more active role for the contract manager in developing the relationship between the Municipality and the contractor.

328.3 The third level is for strategic contracts involving complex partnerships and outsourcing arrangements. These contracts need more active management of the business relationships between the supplier and the users, for example to manage outputs and not the process. Sufficient resources need to be dedicated by all parties to successfully manage these contractor relationships and, where feasible, to achieve partnership. A partnership is the result of mutual commitment to a continuing co-operative relationship, rather than parties working on a competitive and adversarial basis.

Appointing a Contract Manager

329. A contract manager should be appointed by the senior official in charge of the project prior to the execution of the contract.

330. Where it is practical to do so, the contract manager should be involved at the earliest stage of the acquisition, which is the time of writing the specification. Contract administration arrangements should be identified and planned including who, how, delegations, reporting requirements and relationships and specific task responsibilities.

331. Departments shall be responsible for ensuring that contract managers:
- 331.1 prepare the contract administration plan;
 - 331.2 monitor the performance of the contractor;
 - 331.3 are appointed with appropriate responsibility and accountability;
 - 331.4 are adequately trained so that they can perform and exercise the responsibility; and
 - 331.5 Act with due care and diligence and observe all accounting and legal requirements.

Duties and Powers of Contract Manager

332. The contract manager's duties and powers shall be governed by the conditions of contract and the general law.
333. The contract manager shall also be required to form opinions and make decisions, and in doing so is expected to be even-handed and prudent.

Contract Guidelines

334. A guideline, which provides a description of the roles and responsibilities of a contract manager during the contract administration stage, shall be documented.
335. The following is not an exhaustive description of contract administrative activities, and some tasks may not be carried out in the sequence presented, may be done concurrently with other tasks, or may not be necessary in some circumstances.

Delegating to Contract Administrator

336. Where appropriate, a contract manager may delegate some contract administration duties to a contract administrator.

337. The contract administrator would usually be required to perform duties related to processes for record keeping and authorising payment and collecting data on the contractor performance.
338. The contract manager will however remain ultimately responsible for the performance of the contract.

Contract Management Process

339. The contract manager shall ensure the contractor fulfils its obligations and accepts its liabilities under the contract and must also ensure the contractors are treated fairly and honestly.
340. Both parties adhering to the agreed terms will result in:
- 340.1 value for money;
 - 340.2 timeliness;
 - 340.3 cost effectiveness; and
 - 340.4 Contract performance.

Document Retention

341. The need exists to retain documents on a contract file for information and audit purposes, and in order to comply with the requirements of the Records Office.
342. Proper records regarding all aspects of the contract must accordingly be maintained.

Guidelines on Contract Administration

343. The responsibilities of a contract manager may include the following:
- a. establishing a contract management plan for the project;

- b. reviewing the contract management process (including the plan) on a regular basis;
- c. providing liaison between internal managers and users, and suppliers to identify and resolve issues as they arise;
- d. monitoring the contractor's continuing performance against contract obligations;
- e. providing the contractor with advice and information regarding developments within the department, where such developments are likely to affect the products provided;
- f. determining if staged products should continue, and providing a procurement process for additional stages which meet the principle of obtaining value for money;
- g. providing accurate and timely reporting to the senior management in charge of the project, highlighting significant performance issues or problems;
- h. ensuring insurance policy(s) terms and conditions provide adequate protection for the Municipality and are maintained throughout the contract period;
- i. ensuring all products provided are certified as meeting the specifications before the supplier is paid;
- j. maintaining adequate records (paper and/or electronic) in sufficient detail on an appropriate contract file to provide an audit trail;
- k. managing contract change procedures;
- l. resolving disputes as they arise;
- m. conducting post contract reviews; and
- n. pursuing remedies in the event of contract breach.

DISPOSAL MANAGEMENT SYSTEM

Goal

344. To give effect to:

344.1 Regulation 40 of the Supply Chain Management Regulations which requires an effective system for the disposal of letting of assets including unserviceable, redundant or obsolete assets, and

344.2 the Municipal Asset Transfer Regulations,

i.e. Subject to sections 14 and 90 of the Municipal Finance Management Act (MFMA) and any other applicable legislation.

345. As far as possible, assets to be disposed of must be made available to recycling. Disposal to landfill is not allowed unless no recycling options are available.

Disposal Management System

346. Subject to the provisions of the Municipal Asset Transfer Regulations:

346.1 moveable assets may be sold either by way of written price quotations, a competitive bidding process, auction or at market related prices, whichever is the most advantageous to the Municipality;

346.2 immovable property may:

346.2.1 be sold only at market related prices except when the public interest or the plight of the poor demands otherwise;

346.2 only at market related rates except when the public interest or the plight of the poor demands otherwise and provided that all charges, rates, tariffs, scales of fees or other charges relating to the letting of immoveable property are annually reviewed

346.3 in the case of the free disposal of computer equipment, the provincial department of education must first be approached to indicate within 30 days whether any of the local schools are interested in the equipment;

346.4 in the case of fire arms, the National Conventional Arms Control Committee must approve any sale or donation of firearms to any person within or outside the Republic.

Transfer or Permanent Disposal of Assets and the Granting of Rights

347 Non-exempted capital assets shall be transferred or permanently disposed of strictly in accordance with Chapter 2 of the Municipal Asset Transfer Regulations.

348 Exempted capital assets shall be transferred strictly in accordance with Chapter 3 of the Municipal Asset Transfer Regulations.

349 The granting of rights (where sections 14 and 90 of the MFMA do not apply) by the Municipality, shall be executed strictly in accordance with Chapter 4 of the Municipal Asset Transfer Regulations.

RISK MANAGEMENT SYSTEM

The risks pertaining to Supply Chain Management should at all times comply with the criteria laid down in the risk management policies of the Municipality.

General

350. Risk Management shall provide for an effective system for the identification, consideration and avoidance of potential risks in the Municipality's supply chain management system.
351. Managing risk must be part of the Municipality's philosophy, practices and business plans and should not be viewed or practiced as a separate activity in isolation from line managers.
352. Risk Management shall be an integral part of effective management practice.

The Risk Management Process

353. The risk management process shall be applied to all stages of supply chain management, be it the conceptual stage, project definition, specification preparation, acquisition approval or implementation to completion.
354. Risk management is an integral part of good management of acquisition activities and cannot be effectively performed in isolation from other aspects of acquisition management.
355. Appropriate risk management conditions should therefore be incorporated in contracts.

Key Principles

356. The key principles on managing risk in supply chain management include:
 - 356.1 early and systematic identification of risk on a case-by-case basis, analysis and assessment of risks, including conflicts of interest and the development of plans for handling them;
 - 356.2 allocation and acceptance of responsibility to the party best placed to manage risk;
 - 356.3 management of risks in a pro-active manner and the provision of adequate cover for residual risks;
 - 356.4 assignment of relative risks to the contracting parties through clear and unambiguous contract documentation;

356.5 acceptance of the cost of the risk where the cost of transferring the risk is greater than that of retaining it; and

357. Ensuring that the costs incurred in managing risks are commensurate with the importance of the purchase and the risks to the Municipality's operations.

PERFORMANCE MANAGEMENT SYSTEM

The Municipal Manager must establish and implement an internal monitoring system in order to determine the basis of a retrospective analysis whether the authorised Supply Chain Management processes were followed and whether the objectives of this Policy were achieved.

Performance management shall accordingly be characterised by a monitoring Process and retrospective analysis to determine whether:

- value for money has been attained;
- proper processes have been followed;
- desired objectives have been achieved;
- there is an opportunity to improve the process;
- suppliers have been assessed and what that assessment is; and

There has been deviation from procedures and, if so, what the reasons for that deviation are.

358. The performance management system shall accordingly focus on, amongst others:

358.1 achievement of goals;

358.2 compliance to norms and standards;

358.3 savings generated;

358.4 cost variances per item;

358.5 non-compliance with contractual conditions and requirements; and

358.6 the cost efficiency of the procurement process itself.

- 358.7 Vetting of supply chain practitioners and their minimum requirements competency for rotational budget and treasury staff.

CODE OF ETHICAL STANDARDS

General

359. In addition to this Code of Ethical Standards, the codes of conduct for municipal councillors and employees shall apply in the application of this Supply Chain Management Policy.
360. A code of ethical standards is hereby established for officials and all role players in the supply chain management system in order to promote:
- 360.1 mutual trust and respect; and
 - 360.2 an environment where business can be conducted with integrity and in a fair and reasonable manner.
361. An official or other role player involved in the implementation of the supply chain management policy:
- 361.1 must treat all providers and potential providers equitably;
 - 361.2 may not use his or her position for private gain or to improperly benefit another person;
 - 361.3 may not accept any reward, gift, favour, hospitality or other benefit directly or indirectly, including to any close family member, partner or associate of that person, of a value more than R350;
 - 361.4 notwithstanding clause 361.3, must declare to the Municipal Manager details of any reward, gift, favour, hospitality or other benefit promised, offered or granted to that person or to any close family member, partner or associate of that person;

- 361.5 must declare to the Municipal Manager details of any private or business interest which that person, or any close family member, partner or associate, may have in any proposed procurement or disposal process of, or in any award of a contract by, the Municipality;
- 361.6 must immediately withdraw from participating in any manner whatsoever in a procurement or disposal process or in the award of a contract in which that person, or any close family member, partner or associate, has any private or business interest;
- 361.7 must be scrupulous in his or her use of property belonging to the Municipality;
- 361.8 must assist the Municipal Manager in combating fraud, corruption, favouritism and unfair and irregular practices in the supply chain management system; and
- 361.9 must report to the Municipal Manager any alleged irregular conduct in the supply chain management system which that person may become aware of, including;
- 361.9.1 any alleged fraud, corruption, favouritism or unfair conduct;
 - 361.9.2 any alleged contravention of this policy; or
 - 361.9.3 any alleged breach of this code of ethical standards.
362. Declarations in terms of clause 361.5 must be recorded in a register which the Municipal Manager must keep for this purpose.
363. The Municipality has adopted the National Treasury's code of conduct for supply chain management practitioners and other role players involved in supply chain management. This code of conduct is binding on all officials and other role players involved in the implementation of the supply chain management policy.
364. A copy of the National Treasury code of conduct is available on the website www.treasury.gov.za/mfma located under "legislation".
365. A breach of the code of conduct adopted will be dealt with in accordance with schedule 2 of the Systems Act.

Inducements, Rewards, Gifts and Favours

366. 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:
- 366.1 any inducement or reward to the Municipality for or in connection with the award of a contract; or
 - 366.2 any reward, gift, favour or hospitality to any official or any other role player involved in the implementation of the supply chain management policy.
367. The Municipal Manager must promptly report any alleged contravention of clause 366 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.
368. Clause 366 does not apply to gifts less than R350 in value or gifts from a single source in any calendar year that does not exceed R350 in value.

Sponsorships

369. The Municipal Manager must promptly disclose to the National Treasury and the relevant provincial treasury any sponsorship promised, offered or granted, whether directly or through a representative or intermediary, by any person who is:
- 369.1 a provider or prospective provider of goods or services; or
 - 369.2 a recipient or prospective recipient of goods disposed or to be disposed.

Objections and Complaints

370. 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 written objection or complaint against the decision or action.

Resolution of Disputes, Objections, Complaints and Queries

371. The Municipal Manager shall appoint an independent and impartial person not directly involved in the supply chain to assist in the resolution of disputes between the Municipality and other persons regarding:
- 371.1 any decisions or actions taken in the implementation of the supply chain management system; or
 - 371.2 any matter arising from a contract awarded in the course of the supply chain management system; or
 - 371.3 to deal with objections, complaints or queries regarding any such decisions or actions or any matters arising from such contract.
372. The Municipal Manager, or another official designated by the Municipal Manager, is responsible for assisting the appointed person to perform his or her functions effectively.
373. The person appointed must; strive to resolve promptly all disputes, objections, complaints; or queries received; and
- Submit monthly reports to the Municipal Manager on all disputes, objections, complaints or queries received, attended to or resolved.
374. A dispute, objection, complaint or query may be referred to the relevant provincial treasury if;
- 374.1 the dispute, objection, complaint or query is not resolved within 60 days; or
 - 374.2 No response is forthcoming within 60 days.
375. If the provincial treasury does not or cannot resolve the matter, the dispute, objection, complaint or query may be referred to the National Treasury for resolution.
376. The provisions above must not be read as affecting a person's rights to approach a court at any time.



Supply Chain Management Policy

(Preferential Procurement Regulation, 2017)

The Minister of Finance has, in terms of section 5 of the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000), made the regulations set out in the Schedule.

SCHEDULE

Preferential Procurement Regulations, 2017

Contents

1. Definitions
2. Application
3. Identification of preference point system, designated sector, pre-qualification criteria, objective criteria and subcontracting
4. Prequalification criteria for preferential procurement
5. Tenders to be evaluated on functionality
6. 80/20 preference point system for acquisition of goods or services for Rand value equal to or above R30 000 and up to R50 million
7. 90/10 preference point system for acquisition of goods or services with Rand value above R50 million
8. Local production and content
9. Subcontracting as condition of tender
10. Criteria for breaking deadlock in scoring
11. Award of contracts to tenderers not scoring highest points
12. Subcontracting after award of tender
13. Cancellation of tender
14. Remedies
15. Circulars and guidelines
16. Repeal of Regulations and saving
17. Short title and commencement

Definitions

1. In these Regulations, unless the context indicates otherwise, any word or expression to which a meaning has been assigned in the Act must bear the meaning so assigned–

“**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 of an entity 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;

“**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;

“**Broad–Based Black Economic Empowerment Act**” means the Broad–Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);

“**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

- black people;
- women;
- people with disabilities; or

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 designated in terms of regulation 8(1)(a);

“**EME**” means an exempted micro 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;

“**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).

Application

2. These Regulations apply to organs of state as envisaged in the definition of organ of state in section 1 of the Act.¹

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

3. An organ of state must–

- (a) determine and stipulate in the tender documents–
- (i) the preference point system applicable to the tender as envisaged in regulation 6 or 7; or

¹ The definition of “organ of state” in section 1 of the Act in paragraph (a) to (e) includes–

- a national or provincial department as defined in the Public Finance Management Act, 1999;
- a municipality as contemplated in the Constitution;
- a constitutional institution as defined in the Public Finance Management Act;
- Parliament;
- a provincial legislature.

Paragraph (f) of the definition of organ of state in section 1 of the Act includes any other institution or category of institutions included in the definition of “organ of state” in section 239 of the Constitution and recognised by the Minister by notice in the Government Gazette as an institution or category of institutions to which the Act applies. Government Notice R. 501 of 8 June 2011 recognises, with effect from 7 December 2011, all public entities listed in Schedules 2 and 3 to the Public Finance Management Act, 1999, as institutions to which the Act applies. Note should be taken of notices issued from time to time in terms of paragraph (f) of this definition. The application of these Regulations is also subject to applicable exemptions approved in terms of section 3 of the Act.

- (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.

Pre-qualification criteria for preferential procurement

4.(1) If an organ of state decides to apply pre-qualifying criteria to advance certain designated groups, that organ of state must 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 30% 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.

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

Tenders to be evaluated on functionality

5.(1) An organ of state must state in the tender documents if the tender will be evaluated on functionality.

(2) The evaluation criteria for measuring functionality must be objective.

(3) The tender documents must specify-

- (a) the evaluation criteria for measuring functionality;
- (b) the points for each criteria and, if any, each sub-criterion; and
- (c) the minimum qualifying score for functionality.

(4) The minimum qualifying score for functionality for a tender to be considered further-

- (a) must be determined separately for each tender; and
- (b) may not be so-

(i) low that it may jeopardise the quality of the required goods or services; or (ii) high that it is unreasonably restrictive.

(5) Points scored for functionality must be rounded off to the nearest two decimal places.

(6) A tender that fails to obtain the minimum qualifying score for functionality as indicated in the tender documents is not an acceptable tender.

(7) Each tender that obtained the minimum qualifying score for functionality must be evaluated further in terms of price and the preference point system and any objective criteria envisaged in regulation 11.

80/20 preference point system for acquisition of goods or services for Rand value equal to or above R30 000 and up to R50 million

6.(1) The following formula must be used to calculate the points out of 80 for price in respect of a tender with a Rand value equal to or above R30 000 and up to a Rand value of R50 million, inclusive of all applicable taxes:

$$P_s = 80 \left[1 - \frac{P_t - P_{min}}{P_t} \right]$$

Where-

P_s = Points scored for price of tender under consideration;

P_t = Price of tender under consideration; and

P_{min} = Price of lowest acceptable tender.

The following table must be used to calculate the score out of 20 for B-

(2)

BBEE:

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

(3) A tenderer must submit proof of its B-BBEE status level of contributor.

(4) A tenderer failing to submit proof of B-BBEE status level of contributor or is a non-compliant contributor to B-BBEE may not be disqualified, but (a) may only score points out of 80 for price; and (b) scores 0 points out of 20 for B-BBEE.

- (5) 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.
- (6) The points scored by a tenderer for B-BBEE in terms of subregulation (2) must be added to the points scored for price under subregulation (1).
- (7) The points scored must be rounded off to the nearest two decimal places.
- (8) Subject to subregulation (9) and regulation 11, the contract must be awarded to the tenderer scoring the highest points.

(9)(a) 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.

90/10 preference point system for acquisition of goods or services with Rand value above R50 million

7.(1) The following formula must be used to calculate the points out of 90 for price in respect of a tender with a Rand value above R50 million, inclusive of all applicable taxes:

Where-

$$P_s = 90 \left[1 - \frac{P_t - P_{min}}{P_t} \right]$$

P_s = Points scored for price of tender under consideration;

P_t = Price of tender under consideration; and

P_{min} = Price of lowest acceptable tender.

(2) The following table must be used to calculate the points BBEE: out of 10 for B-

B-BBEE Status Level of Contributor	Number of Points
1	10
2	9
3	6
4	5
5	4
6	3
7	2
8	1
Non-compliant contributor	0

(3) A tenderer must submit proof of its B-BBEE status level of contributor.

(4) A tenderer failing to submit proof of B-BBEE status level of contribution or is a non-compliant contributor to B-BBEE may not be disqualified, but (a) may only score points out of 90 for price; and (b) scores 0 points out of 10 for B-BBEE.

(5) 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.

(6) The points scored by a tenderer for B-BBEE contribution in terms of subregulation (2) must be added to the points scored for price under subregulation (1).

(7) The points scored must be rounded off to the nearest two decimal places.

(8) Subject to subregulation (9) and regulation 11, the contract must be awarded to the tenderer scoring the highest points.

(9)(a) 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.

Local production and content

8.(1) The Department of Trade and Industry may, in consultation with the National Treasury-

(a) designate a sector, sub-sector or industry or product in accordance with national development and industrial policies for local production and content, where only locally produced services or goods or locally manufactured goods meet the stipulated minimum threshold for local production and content, taking into account economic and other relevant factors; and

(b) stipulate a minimum threshold for local production and content.

(2) An organ of state must, in the case of a designated sector, advertise the invitation to tender with a specific condition that only locally produced goods or locally manufactured goods, meeting the stipulated minimum threshold for local production and content, will be considered.

(3) The National Treasury must inform organs of state of any designation made in terms of regulation 8(1) through a circular.

(4)(a) If there is no designated sector, an organ of state may include, as a specific condition of the tender, that only locally produced services or goods or locally manufactured goods with a stipulated minimum threshold for local production and content, will be considered.

(b) The threshold referred to in paragraph (a) must be in accordance with the standards determined by the Department of Trade and Industry in consultation with the National Treasury.

(5) A tender that fails to meet the minimum stipulated threshold for local production and content is an unacceptable tender.

Subcontracting as condition of tender

9.(1) If feasible to subcontract for a contract above R30 million, an organ of state must apply subcontracting to advance designated groups.

(2) If an organ of state applies subcontracting as contemplated in sub regulation (1), the organ of state must advertise the tender with a specific tendering condition that the successful tenderer must subcontract a minimum of 30% of the value of the contract to-

(a) an EME or QSE;

- (b) an EME or QSE which is at least 51% owned by black people;
- (c) an EME or QSE which is at least 51% owned by black people who are youth;
- (d) an EME or QSE which is at least 51% owned by black people who are women;
- (e) an EME or QSE which is at least 51% owned by black people with disabilities;
- (f) an EME or QSE which is 51% owned by black people living in rural or

Underdeveloped areas or townships;

- (g) a cooperative which is at least 51% owned by black people;
- (h) an EME or QSE which is at least 51% owned by black people who are military veterans;
or
- (i) more than one of the categories referred to in paragraphs (a) to (h).

(3) The organ of state must make available the list of all suppliers registered on a database approved by the National Treasury to provide the required goods or services in respect of the applicable designated groups mentioned in sub regulation (2) from which the tenderer must select a supplier.

Criteria for breaking deadlock in scoring

10.(1) If two or more tenderers score an equal total number of points, the contract must be awarded to the tenderer that scored the highest points for B-BBEE.

(2) If functionality is part of the evaluation process and two or more tenderers score equal total points and equal preference points for B-BBEE, the contract must be awarded to the tenderer that scored the highest points for functionality.

(3) If two or more tenderers score equal total points in all respects, the award must be decided by the drawing of lots.

Award of contracts to tenderers not scoring highest points

11.(1) A contract may be awarded to a tenderer that did not score the highest points only in accordance with section 2(1)(f) of the Act.

(2) If an organ of state intends to apply objective criteria in terms of section 2(1)(f) of the Act, the organ of state must stipulate the objective criteria in the tender documents.

Subcontracting after award of tender

12.(1) A person awarded a contract may only enter into a subcontracting arrangement with the approval of the organ of state.

- (2) 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 the contract is reduced to below the stipulated minimum threshold.
- (3) 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 of contributor than the person concerned, unless the contract is subcontracted to an EME that has the capability and ability to execute the subcontract.

Cancellation of tender

13. (1) An organ of state may, before the award of a tender, cancel a tender invitation if-

- (a) due to changed circumstances, there is no longer a need for the goods or services specified in the invitation;
- (b) funds are no longer available to cover the total envisaged expenditure;
- (c) no acceptable tender is received; or
- (d) there is a material irregularity in the tender process.

(2) The decision to cancel a tender invitation in terms of sub regulation (1) must be published in the same manner in which the original tender invitation was advertised.

(3) An organ of state may only with the prior approval of the relevant treasury cancel a tender invitation for the second time.

Remedies

14.(1) Upon detecting that a tenderer submitted false information regarding its BBEE status level of contributor, local production and content, or any other matter required in terms of these Regulations which will affect or has affected the evaluation of a tender, or where a tenderer has failed to declare any subcontracting arrangements, the organ of state must-

- (a) inform the tenderer accordingly;
- (b) give the tenderer an opportunity to make representations within 14 days as to why-
 - (i) the tender submitted should not be disqualified or, if the tender has already been awarded to the tenderer, the contract should not be terminated in whole or in part;
 - (ii) if the successful tenderer subcontracted a portion of the tender to another person without disclosing it, the tenderer should not be penalised up to 10 percent of the value of the contract; and
 - (iii) the tenderer should not be restricted by the National Treasury from conducting any business for a period not exceeding 10 years with any organ of state; and

- (c) if it concludes, after considering the representations referred to in sub regulation (1)(b), that-
- (i) such false information was submitted by the tenderer-
 - (aa) disqualify the tenderer or terminate the contract in whole or in part; and
 - (bb) if applicable, claim damages from the tenderer; or
 - (ii) the successful tenderer subcontracted a portion of the tender to another person without disclosing, penalise the tenderer up to 10 percent of the value of the contract.
- (2)(a) An organ of state must-
- (i) inform the National Treasury, in writing, of any actions taken in terms of sub regulation (1);
 - (ii) provide written submissions as to whether the tenderer should be restricted from conducting business with any organ of state; and
 - (iii) Submit written representations from the tenderer as to why that tenderer should not be restricted from conducting business with any organ of state.
- (b) The National Treasury may request an organ of state to submit further information pertaining to sub regulation (1) within a specified period.
- (3) The National Treasury must-
- (a) after considering the representations of the tenderer and any other relevant information, decide whether to restrict the tenderer from doing business with any organ of state for a period not exceeding 10 years; and
 - (b) Maintain and publish on its official website a list of restricted suppliers.

Circulars and guidelines

15. The National Treasury may issue-
- Circular to inform organs of state of any matter pertaining to these Regulations; or
 - Guideline to assist organs of state with the implementation of any provision of these Regulations.

Repeal of Regulations and saving

16.(1) Subject to this regulation, the Preferential Procurement Regulations, 2011, published in Government Notice No R. 502 of 8 June 2011 (herein called “the 2011 Regulations”), are hereby repealed with effect from the date referred to in regulation 17.

(2) Any sector designated and minimum threshold determined for local production and content for purposes of regulation 9 of the 2011 Regulations and in force immediately

before the repeal of the 2011 Regulations, are regarded as having been done under regulation 8(1) of these Regulations.

(3) Any tender advertised before the date referred to in regulation 17 must be dealt with in terms of the 2011 Regulations.

Short title and commencement

17. These Regulations are called the Preferential Procurement Regulations, 2017
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Effective date 01 July 2017 Council Resolution # Chief Financial Officer
