

**SUPPLY CHAIN MANAGEMENT POLICY  
NKETOANA LOCAL MUNICIPALITY**

<b>Policy: Supply Chain Management</b>	<b>Effective Date: 01/07/2013</b>
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Notwithstanding the review date herein, this policy shall remain effective until such time approved otherwise by Council and may be reviewed on an earlier date if necessary.

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## Definitions

1. In policy, unless the context otherwise indicate, a word or expression to which a meaning has been assigned in the Act has the same meaning as in the Act, and-

**“Alienate”** means to sell exchange or donate, irrespective of whether such sale, exchange or donation is subject to a suspensive or resolutive condition and “disposal”, Alienation “or” allocation “has a corresponding meaning;

**“Allocation of Land”** means an occupational certificate or hostel occupational certificates or a permit issued by the Municipal Manager as accounting officer allowing a person to occupy a site / building set apart for a specific land use, for an indefinite, however, not permanent, period;

**“Area of jurisdiction”** means the municipal outer boundaries, determined by the Municipal Demarcation Board in terms of section 21, read with section 5 of the Local Government Municipal Demarcation Act, 1998 (Act 27 of 1998), for the Municipality and identified in the demarcation notices as **“FS193”**, and published in Provincial Gazette No 185 of 28 September 2000 and Provincial Gazette No 230 of 27 November 2000, or as later amended;

**“Categories of Land”** means a category of property / land determined by Council per resolution to distinguish between:

- assets in terms of Section 14 of Act 56 of 2003, as “prime land” where the general public may have an interest in – and with effect from 1 December 2004, including processes such as tender or auctions; OR
- assets earmarked for a specific use / development where the general public may NOT have a general interest in (RDP houses, etc) – and Section 14, 112 and 113 of Act 56 of 2003 or by means of other types of competitive bidding AND this policy;

**“competitive Bid”** means a bid in terms of a competitive bidding process;

**“disposal”** means to sell, exchange or donate, irrespective of whether such sale, exchange or donation is subject to a suspensive or resolute condition and “alienation” or allocation” has a corresponding meaning;

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

**“formal written price quotation”** means quotations referred to in paragraph 12 (1) (c) of this policy;

**“in the service of the state”** means to be-

- (a) a member of-
  - (i) any municipal council;
  - (ii) any provincial legislature ;or
  - (iii) the National Assembly or the National Council of Provinces;
- (b) a member of the board of directors of any municipal entity;
- (c) an official of the municipality or municipal entity;
- (d) an employee of any national or provisional department, national or provisional public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No. 1 of 1999);
- (e) a member of the accounting authority of any national or provisional public entity; or
- (f) an employee of Parliament or a provisional legislature;

**“incentives”** means with exclusion of “prime land” that the Municipal Manager as accounting officer may consider specific incentives with regard to the alienation or disposal of municipal assets / land for specific uses for identified categories of lower income groups in terms of his delegated powers and this policy;

**“leased asset”** means a lease whereby the-lessor conveys to the lessee in return for payment or serious of payments the right to use an asset for an agreed period of time;

**“leasehold site”** means a site or an identifiable and situated in a township and indicated on a diagram or General Plan and include a site appearing on a plan or

*aerial photograph contemplated in section 52 (5) of Act 4 of 1984 and identified by way of a certificate by a land surveyor;*

*“leases” means an agreement by which the Council as registered owner of land or buildings allows another to use it for a specific time in return for payment;*

*“lease of municipal assets” means*

- *that there is NO transfer of ownership of an asset as a result of a sale or a permanent disposal;*
- *a short term written agreement by which the Council as registered owner of land or-buildings; allows another to use it for a specific time, not exceeding 9 years and 11 months; or*
- *a long term written agreement by which the Council as registered owner of land or-buildings, allows another to use it for specific time, exceeding 9 years and 11 months, subject in registration against the title deed of the leased land;*
- *that the Lessee’s obligation is to pay the agreed amount of rent;*
- *that an economical rent refer to the rental value which the property will normally bring in, in the circumstances of the time as caused by a Valuator, or a figure not too far removed from that on which the parties agree;*
- *that a nominal rent refer to a rental value determined by Council;*
  - *to attract industry or.*
  - *to benefit old age home or informal settlements.*
- *“long term contract” means a contract with a duration period exceeding one year;*
- *“list of accredited prospective providers” means the list of accredited providers which a municipality or municipal entity must keep in terms of paragraph 14 of this policy;*
- *“municipality” means the “Local Municipality of Nketoana”*
- *“municipal assets” mean the assets, immovable property, rights, liabilities and obligations in so far as they were, immediately before 8<sup>th</sup> December 2000, predominantly deployed in respect of, or related to, the performance by the disestablished municipalities of the Greater Petrus Steyn TLC, Reitz TLC, Lindley*

*TLC and Arlington TLC which were transferred to the Local Municipality of Nketoana, who became the successor in law of the disestablished municipalities and depend on the assets, liabilities, rights and obligations, vested in it.*

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

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

**“prime Land”** means land with a high development potential:

- *due to its location and historical background\* to the property,*
- *existing zoning and future use,\*\*\**
- *market conditions, demand and supply of similar properties or,*
- *reasonable value which such property may realize if sold in the open market by willing seller to a willing buyer.*

**“regulations”** means the Local Government: Municipal Finance Management Act 2003, Municipal Supply Chain Management Regulations as published per Notice No. 868 in the Government Gazette of 30<sup>th</sup> May 2005, No. 27636 (Vol. 479);

**“securities”** means that the responsible Director will be accountable and responsible for all face value documentation under its control, such as original title deeds, servitudes agreements, bonds, guarantees, original delegated power approval of – minutes, etc and must ensure that it will be registered and safe guarded;

**“servitudes”** refer to:



- *Public servitudes in favour of the municipality under the control of the municipality which must protect and enforce the rights of the local community arising from those servitudes to be approved by the Municipal Manager as accounting officer in terms of this policy;*
  
- *Private servitudes in favour of private institutions over municipal land (such as Eskom power lines) effecting municipal assets to be approved by the Municipal Manager as accounting officer in terms of this Policy;*

**“site permit”** include a residential permit or hostel permit or a permit issued by the Municipal Manager as accounting office allowing a person to occupy a site set apart for allotment to a trader for trading, business or professional purposes.

**“specific use”** means:

- *Land demanded and earmarked for the poor or earmarked for public interest or;*
- *Identified or earmarked by Council for more flexible purposes where the selling price is below the market value to pre-qualified persons (such as low cost housing or community facility uses);*
- *Due to its location and historical background to the property, existing zoning and future use, market conditions, demand and supply of similar properties (such as un-utilized open spaces, thoroughfares, road reserves, etc); or*
- *Reasonable (incentive) value which such property may realize if sold in the open market by a willing seller to a willing buyer.*

**“street and public places”** include any street, road (or reserve) thoroughfare, sanitary passage, square of open spaces shown on a General Plan, of a township or settlement, and field in any deeds registry or Surveyor-General office, and all land (other than erven shown on the general plan) the “control” whereof is vested, to entire exclusion of the owner (if not the local authority), in the Local Municipality of Nketoana or to which the owners or erven in the township have a common right.

**“sub-division and consolidated”** involves an erf creation process recommended by the Municipal Manager as accounting officer and approved by the MEC Local Government and Housing.

**“temporary Uses”** means the short-term use of land for which permission must be obtained from the Municipal Manager as accounting office and includes circus sites, open air activities and amusement parks as well as any site made available or let by the Municipal Manager as accounting officer to clubs or youth organizations, or for temporary air fields or any other use which is dependant on a permit for legitimate use, in the absence of which the land will be returned to its original zoned use.

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

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

**“value of Property”** means a fair market value of un-improved or improved property caused by a person registered as a valuator or an associated valuator and:

- the economic and community value to be received in exchanged of the asset, as determined by the Municipal Manager as accounting officer;
- valued in accordance with generally recognized valuation practices, methods and standards;
- by the optional physical inspection of the property to be valued;
- comparative, analytical and other systems of techniques, including areal photography and computer assisted mass appraisal systems or techniques;
- the market value of the property can be defined as the “the most probable amount which such property with any improvements, would have realized or generated if sold in the open market when a willing and able buyer transacts with a willing and able seller (Council) as at date of valuation”
- if the available market related date of any category of property is not sufficient, such property may be valued in accordance with any mass may be appropriate in the circumstances; and
- the community value as determined by the Municipal Manager as or accounting officer may include incentives where the public interest or the plight of the poor demands otherwise.

“**written or verbal quotations**” means quotations referred to in paragraph 12 (1) (b) of this policy.

## CHAPTER 1

### ESTABLISHMENT AND IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY

#### 1. Scope

*This policy applies to all employees of the Municipality, potential, past and current suppliers and service providers of the municipality.*

#### 2. Supply chain management policy

- (1) *This document sets out ethical and sound procurement practices to be followed by all supply chain management staff involved in procurement of all goods and services to ensure value for money outcomes for the municipality.*
- (2) *This document sets out ethical and sound procurement practices to be followed by all supply chain management staff involved in procurement of all goods and services to ensure value for money outcomes for the municipality.*
- (3) *The municipality endeavours to procure goods and services that meet its needs in a manner that is cost-effective and at the same time pursue certain specific socio-economic objectives through a preference system that enables increased participation from the small business sector and Black Economic Empowerment (BEE) Enterprises.*
- (4) *The Municipal Manager is responsible to ensure that the Supply Chain Management (SCM) Policy is developed, implemented and executed in*

*accordance with the provisions contained in the MFMA, PPPFA regulations and the BBBEE Act.*<sup>1</sup>

### **3. Objectives**

The objectives of this policy are:

- (1) To transform the procurement and provisioning functions in the municipality into an integrated SCM function.
- (2) To create an understanding and interpretation of government's preferential procurement policy objectives; and
- (3) To promote consistency in respect of SCM policy and other related policy initiatives in government.
- (4) Council of the LOCAL MUNICIPALITY OF NKETOANA at its meeting held on \_\_\_\_ July 2008, per item .... Resolved in terms of Section 111 of Act 56 of 2003 and Municipal Supply Chain Management Regulations as published per Notice No. 868 in the Government Gazette of 30<sup>th</sup> May 2005, No. 27636 (Vol. 479), to have and implement this supply chain management policy.
- (5) The Municipality may not act otherwise than in accordance with this supply chain management policy when-
  - (a) procuring goods or services;
  - (b) disposing of goods no longer needed;
  - (c) selecting contracts to provide assistance in the provision of municipal services otherwise than in circumstances where Chapter 8 of the Municipal Systems Act applies ;or
  - (d) in the case of a municipality, selecting external mechanisms referred to in section 80 (1) (b) of the Municipal Systems Act for the provision of municipal services in circumstances contemplated in section 83 of that Act.

- (6) Subparagraphs (1) and (2) of this policy do not apply in the circumstances described in section 110 (2) of the Act except where specifically provided otherwise in this policy.

#### **4. Adoption and amendment of the supply chain management policy**

(1) The Municipal Manager as accounting officer must-

- (a) at least annually review the implementation of this policy; and
- (b) when the accounting officer considered if necessary, submit proposals for the amendment of this policy to the council

(2) The Municipal Manager as accounting officer of the municipality must in terms of section 62 (1)(f)(iv) of the Act take all reasonable steps to ensure that the municipality has and implements this supply chain management policy.

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

(1) The council hereby delegates such additional powers and duties to the Municipal Manager as accounting officer so as to enable the Municipal Manager as accounting officer-

- (a) to discharge the supply chain management responsibilities conferred on accounting officers in terms of-
  - (i) Chapter 8 or 10 of the Act; and
  - (ii) this supply chain management policy;
- (b) To maximize administrative and operational efficiency in the implementation of the supply chain management policy;
- (c) to enforce reasonable cost-effective measures for the prevention of fraud, corruption, favouritism and unfair and irregular practices in the implementation of the supply chain management policy; and

- (d) to comply with his or her responsibilities in terms of section 115 and other applicable provisions of the Act;
- (2) Sections 79 and 106 of the Act apply to the sub-delegation of powers and duties delegated to the Municipal Manager as accounting officer in terms of subparagraph (1) of this policy.
- (3) The council or Municipal Manager as accounting officer may not delegate or sub-delegate any supply chain management powers or duties to a person who is not an official of the municipality or to a committee which is not exclusively composed of officials of the municipality.
- (4) This paragraph may not be read as permitting an official to whom the power to make final awards has been delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in paragraph 26 of this policy.

## **6. Sub-delegations**

- (1) The Municipal Manager may sub-delegated any supply chain management powers and duties, including those delegated to the Municipal Manager as accounting officer in terms of this policy, but any such sub-delegation must be consistent with subparagraph (2) and paragraph 4 of this policy.
- (2) The power to make a final award-
  - (a) above R10 million (VAT included) may not be sub-delegated by the Municipal Manager ;
  - (b) above R2 million (VAT included), but not exceeding R10 million (VAT included), may be sub-delegated but only to-
    - (i) the chief financial officer;
    - (ii) a manager directly accountable to the municipal manager ;
    - (iii) a bid adjudication committee of which the chief financial officer or a manager directly accountable to the municipal manager is a member;

- (c) not exceeding R2 million (VAT included) may be sub-delegated but only to-
- (i) the chief financial officer;
  - (ii) a manager directly accountable to the chief financial officer or a senior manager of;
  - (iii) a bid adjudication committee.
- (3) An official or bid adjudication committee to which the power to make final awards has been sub-delegated in accordance with subparagraph (2) of this policy must within five days of the end of each month submit to the official referred to in subparagraph (4) of this policy a written report containing particulars of each final award made by such official or committee during that month, including-
- (a) the amount of the award;
  - (b) the name of the person to whom the award was made; and
  - (c) the reason why the award was made to that person.
- (4) A written report referred to in subparagraph (3) of this policy must be submitted-
- (a) to the Municipal Manager in the case of an award by-
    - (i) the chief financial officer;
    - (ii) a senior manager, or
    - (iii) a bid adjudication committee of which the chief financial officer or a senior manager is a member, or
  - (b) to the chief financial officer or the senior manager responsible for the relevant bid, in the case of an award by-
    - (i) a manager referred to in subparagraph (2)(c)(iii) of this policy; or
    - (ii) a bid adjudication committee of which the chief financial officer or senior manager is not a member.
- (5) Subparagraph (3) and (4) of this policy do not apply to procurements out of petty cash.

- (6) This paragraph may not be interpreted as permitting an official to whom the power to make final awards has been sub-delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in paragraph 26 of this policy.
- (7) No supply chain management decision-making powers may be delegated to an advisor or consultant.

#### **7. Oversight role of council**

- (1) The council must maintain oversight over the implementation of this supply chain management policy.
- (2) For the purposes of such oversight the accounting officer must whenever there are serious and material problems in the implementation of the supply chain management policy, immediately submit a report to the council.
- (3) The Municipal Manager as accounting officer must, within 10 days of the end of each quarter, submit a report on the implementation of the supply chain management policy to the Executive Committee.
- (4) The reports must be made public in accordance with section 21A of the Municipal Systems Act.

#### **8. Supply chain management unit**

- (1) The Municipal Manager as must establish a supply chain management unit to implement this supply chain management policy.
- (2) The supply chain management unit must, where possible, operate under the direct supervision of the chief financial officer or an official to whom this duty has been delegated in terms of section 82 of the Act.



## 9. Training of supply chain management officials

The training of officials involved in implementing the supply chain management policy should be in accordance with any Treasury guidelines on supply chain management training.

## CHAPTER 2

### FRAMEWORK FOR SUPPLY CHAIN MANAGEMENT

## 10. Format of supply chain management

This supply chain management policy provides systems for-

- (i) demand management;
- (ii) acquisition management;
- (iii) logistics management;
- (iv) disposal management;
- (v) risk management; and
- (vi) performance management.

#### *Part 1: Demand management*

## 11. System of demand management

In order ensure that the resources required to support the strategic and operational commitments are delivered at the correct time, at the right price and at the right location, and that the quantity and quality satisfy the needs, an effective system of demand management must include the following:

- (a) Planning for future requirements. Acquisition and disposals of all goods required to meet the strategic goals outlined in the **Integrated Development Plan** must be quantified, budgeted and planned to ensure timely and effective delivery, appropriate quality at a fair cost to meet the

needs of the municipality and community. Critical delivery dates must be determined and adhered to.

- (b) If the requirement is of a repetitive nature and there are benefits of economies of scale a contract for a specific should be arranged.
- (c) In order to compile the correct specifications an industry analysis / research should be undertaken to ensure future needs and technology benefits are maximized.

### ***Part 2: Acquisition management***

#### **12. System of acquisition management**

- (1) Through operational procedures, an effective system of acquisition management is established in this policy in order to ensure-
  - (a) that goods and services are procured by the municipality in accordance with authorized processes only;
  - (b) that expenditure on goods and services is incurred in terms of an approved budget;
  - (c) that the threshold values for the different procurement processes are complied with;
  - (d) that bid documentation, evaluation and adjudication criteria, and general conditions of a contract, are in accordance with any applicable legislation; and
  - (e) that any Treasury guidelines on acquisition management are properly taken into account;
  - (f) that on decision by Council and subject to the securing of funding that immovable property or rights in respect thereof be acquired by the Municipal Manager by purchase or lease; and
  - (g) that on decision by Council and subject to the provisions of Section 25 of the Constitution of South Africa, 1996 (Act 108

of 1996) or other applicable legislation and securing of funding, that the Municipal Manager be authorized to expropriate immovable property or rights in respect thereof;

- (h) that subject to the securing of funding and the provisions of Section 116 of the Local Government: Municipal Systems Act 2000 (Act 32 of 2000) or other applicable legislation, the public servitudes in favour of the municipality or rights in respect thereof be acquired or protected by the Municipal Manager and or to enforce the rights of the municipality arising from those servitudes;
  - (i) that considering paragraphs (1)(f) to (h), that the Municipal Manager be authorized to negotiate, determine conditions or finalise the acquisition of immovable property or rights in respect thereof;
  - (ii) This supply chain management policy, except where provided otherwise in the policy, does not apply in respect of the procurement of goods and services contemplated in section 110 (2) of the Act, including-
    - (a) water from the Department of Water Affairs or a public entity, another municipality entity and;
    - (b) electricity from Eskom or another public entity, another municipality or municipal entity.
- (3) The following information must be made public wherever goods or services contemplated in section 110 (2) of the Act are procured other than through the supply chain management system-
- (a) the kind of goods or services; and
  - (b) the name of the supplier.

### 13. Range of procurement processes\*

- (1) The procurement of goods and service through this policy is provided by way of-
  - (a) petty cash purchases, up to a transaction **value of R2 000 (VAT included) per item;**
  - (b) written or verbal quotations for procurements of a transaction **value over R2 000 up to R10 000 (VAT included) per item;**
  - (c) formal written price quotations for procurements of a transaction **value over R10 000 up to R200 000(VAT included) per item;** and
  - (d) a competitive bidding process for-
    - (i) procurements above a transaction **value of R200 000 (VAT included) per item;** and
    - (ii) the procurements of long term contracts
- (2) The Municipal Manager may, in writing- lower, but not increase, the different threshold values specified in subparagraph (1); or (b) direct that-
  - (i) written or verbal quotations be obtained for any specific procurement of a transaction **value lower than R2 000 per item;**
  - (ii) formal written price quotations be obtained for any specific procurement of a transaction **value lower than R10 000 per item;**
  - (iii) a competitive bidding process be followed for any specific procurement of a transaction **value lower than R200 000 per item;**
- (3) Goods or services may not deliberately be split into parts or items of a lesser value merely to avoid complying with the requirements of the policy. When determining transaction values, requirements for goods or services consisting of different parts or items must as far as possible be treated and dealt with as a single transaction.

#### 14. General preconditions for consideration of written quotations or bids

A written quotations or bid may not considered unless the provider who submitted the quotation or bid-

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

#### 15. Registration of accredited prospective providers

- (1) The Municipal Manager must-
  - (a) register and keep a list of accredited prospective providers of goods and services that must be used for the procurement requirements of the municipality through written or verbal quotations and formal written price quotation; and

- (b) at least once a year through newspapers commonly circulating locally, the websites and any other appropriate ways, invite prospective providers of goods or service to apply for evaluation, registration and listing as accredited prospective providers;
  - (c) disallow the registration and listing of any prospective provider whose name appears on the National Treasury's database as person prohibited from doing business with the public sector or has not complied with the Broad Based Black Economic Empowerment Act or Codes and or a Charters thereof.
- (2) The register of accredited service providers must be updated at least quarterly to include any additional prospective providers and any new commodities or types of services. Prospective providers must be allowed to submit applications for listing at any time.
- (3) The register must be compiled per commodity and per type of service.
- (4) Prospective Service Providers must comply with the following conditions prior to registration in the register of service providers:
- (a) comply with provisions of paragraph 13 (a) and (b);
  - (b) comply with Broad Based Black Economic Empowerment Policy of the Municipality;
  - (c) reasonably demonstrate knowledge and ability to deliver quality goods and services timeously and
  - (d) comply with any other conditions provided by the Municipal Manager in consultation with the CFO from time to time.

## 16. Petty Cash purchases

The conditions for the procurement of goods by means of petty cash purchase referred to in paragraph 12 (1) (a) of this policy, are as follows:

- (a) The **Municipal** Manager must establish the terms on which a manager may **be** delegated responsibility for petty cash to an official reporting to the manager;\*
- (b) The maximum petty cash purchases amounts per month for each manager is R10 000;\*
- (c) The Municipal Manager may exclude types of expenditure from petty cash purchases, should he deem this is necessary; and
- (d) A monthly reconciliation report from each manager must be provided to the chief financial officer, including-
  - (i) the total amount of petty cash purchases for the month; and
  - (ii) receipts and appropriate documents for each purchase.

#### 17. Written or verbal quotations

The conditions for the procurement of goods or services through written or verbal quotations, are as follows-

- (a) quotations must be obtained from at least three different providers preferably from, but not limited to, providers whose names appear on the list of accredited prospective providers of the municipality provided that if quotations are obtained from providers who are not listed, such providers must meet the listing criteria in the supply chain management policy required by 14 (1)(b) and (c) of this policy;
- (b) to the extent feasible, providers must be requested to submit such quotations in writing;
- (c) if it is not possible to obtain at least three quotations, the reasons must be recorded and reported quarterly to the Municipal Manager or another official designated by the accounting officer;
- (d) the Municipal Manager as accounting officer must record the names of the potential providers requested to provide such quotations with their quoted prices; and
- (e) if a quotation was submitted verbally, the order may be place only against written confirmation by the selected provider.

- (f) the municipality may place an advertisement on the internal notice board inviting written or verbal quotations from suppliers or service providers. Advertisements in terms of this paragraph should be placed for seven 1days. If it is not possible to obtain at least three quotations, the provisions of paragraph 16(c) may apply.

### **18. Formal written price quotations**

- (1) The conditions for the procurement of goods or service through forma written price quotations, are as follows:
  - (a) quotations must be obtained in writing from at least three different providers whose names appear on the list of accredited prospective providers of the municipality;
  - (b) quotations may be obtained from providers who are not listed, provided that such providers meet the listing criteria in the supply chain management policy required by paragraph 14 (1)(b) and (c);
  - (c) if it is not possible to obtain at least three quotations, the reasons must be recorded and approved by the chief financial officer or an official designated by the chief financial officer; and
  - (d) the Municipal Manager must record the names of the potential providers and their written quotations.
  - (e) the municipality may place an advertisement on the internal notice board inviting written quotations from suppliers or service providers. Advertisements in terms of this paragraph should be placed for seven days. If it is not possible to obtain at least three quotations, the provisions of paragraph 17(1)(c) may apply.
- (2) A designated official referred to in subparagraph (1)(c) must within three days of the end of each month report to the chief financial officer on any approvals given during that month by that official in terms of that subparagraph.



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

The operational procedures for the procurement of goods or service through written or verbal quotations or formal written price quotations, are as follows:

- (a) all requirements in **excess of R30 000 (VAT included)** that are to be procured by means of formal written price quotations must, in addition to the requirements of paragraph 17, be advertised for at least seven days on the website and an official notice board of the municipality;
- (b) when using the list of accredited prospective providers the Municipal Manager as accounting officer must promote ongoing competition amongst providers, including by inviting providers to submit quotations on a rotation basis;
- (c) the Municipal Manager must take all reasonable steps to ensure that the procurement of goods and services through written or verbal quotations or formal written price quotations is not abused;
- (d) the Municipal Manager or chief financial officer must on a monthly basis be notified in writing of all written or verbal quotations and formal written price quotations accepted by an official acting in terms of sub-delegated; and
- (e) requirements for paper record keeping.

**20. Competitive bidding process**

- (1) Goods or services above a transaction **value of R200 000 (VAT Included)** and long term contracts may only be procured through a competitive bidding process, subject to paragraph 11 (2) of this policy; and
- (2) No requirements for goods or services above an estimated transaction **value of R200 000 (VAT included)** may deliberately be spilt into parts or items of lesser value merely for the sake of procuring the goods or services otherwise than through a competitive bidding process.

## **21. Process for competitive bidding**

The procedures for a competitive bidding process are established in Part 2 of this policy for each of the following stages;

- (a) the compilation of bidding documentation;
- (b) the public invitation of bids;
- (c) site meetings or briefing sessions, if applicable;
- (d) the handling of bids submitted in response to public invitation;
- (e) the evaluation of bids;
- (f) the award of contracts;
- (g) the administration of contracts; and
- (h) proper record keeping.

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

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

- (a) take into account-
  - (i) the general conditions of contract;
  - (ii) any Treasury guidelines on bid documentation; and
  - (iii) the requirements of the Construction Industry Development Board, in the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure; and
  - (iv) black economic empowerment.
- (b) include evaluation and adjudication criteria, including any criteria required by other applicable legislation;
- (c) compel bidders to declare any conflict of interest they may have in the transaction for which the bid is submitted;

- (d) if the value of the transaction is expected to **exceed R10 million (VAT included)**, require bidders to furnish-
- (i) if the bidder is required by law to prepare annual financial statements for auditing, their audited annual financial statements-
    - (aa) for the past three years; or
    - (bb) since their establishment if established during the past three years;
  - (ii) a certificate signed by the bidder certifying that the bidder has no undisputed commitments for municipal services towards a overdue for more that 30 days;
  - (iii) particulars of any contracts awarded to the bidder by an organ of state during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract;
  - (iv) a statement indicating whether any portion of the goods or services are expected to be sourced from outside the Republic, and , if so what portion and whether any portion of payment from the municipality or municipal entity is expected to be transferred out of the Republic; and
- (e) Stipulate that dispute must settled by means of mutual consultation mediation (with or without legal representation), or when unsuccessful, in a South African court of law.

### 23. Public invitation for competitive bids

The procedure for the invitation of competitive bids, are as follows:

- (1) (a) Any invitation to prospective providers to submit bids must be by means of a public advertisement in newspapers commonly circulating locally, the website of the **municipality** or any other appropriate ways (which may include an advertisement in the Government Tender Bulletin);and

- (b) the information contained in a public advertisement, must include-
  - (i) the closure date for the submission of bids, which may not be less than 30 days in the case of transactions **over R10 million (VAT included)**, or which are of a long term nature, or 14 days in any other case, from the date on which the advertisement is placed in a newspaper, subject to subparagraph (2) of this policy;
  - (ii) a statement that bids may only be submitted on the bid documentation provided by the **municipality** and
  - (iii) date, time and venue of any proposed site meetings or briefing sessions.
- (2) The Municipal Manager may determine a closure date for the submission of bids which is less than 30 or 14 days requirements, 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.
- (3) Bids submitted must be sealed.
- (4) Where bids are requested in electronic format, such bids must be supplemented by sealed hard copies.
- (5) The Municipal Manager is authorized to determine applicable alienation conditions or processes for the disposal of immovable assets.

#### **24. Procedure for handling, opening and recording of bids**

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

- (a) Bids-
  - (i) must be opened only in public; and
  - (ii) must be opened at the same time and as soon as possible after the period for the submission of bids has expired;
- (b) Any bidder or member of the public has the right to request that the names of the bidders who submitted bids in time must be read out and, if practical, also each bidder's total bidding price; and

- (c) The Municipal Manager must-
  - (i) record in a register all bids received in time;
  - (ii) make the register available for public inspection; and
  - (iii) publish the entries in the register and the bid results on the website.

## **25. Negotiations with preferred bidders**

- (1) 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-
  - (a) does not allow any preferred bidder a second or unfair opportunity;
  - (b) is not to the detriment of any other bidder; and
  - (c) does not lead to a higher price than the bid as submitted.
- (2) Minutes of such negotiations must be kept for record purposes.

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

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

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

- (1) Generally the committee system for competitive bids should reflect a fair approach that includes avoidance to abuse of power, corruption and conflict of interest. The following committees are hereby established-
  - (a) a bid specification committee;
  - (b) a bid evaluation committee; and
  - (c) a bid adjudication committee.
- (2) The Municipal Manager is required to appoint the members of each committee but must exclude any councilor from membership of each committee and may not attend any such meetings actively or as observers.
- (3) The Municipal Manager is required to provide for an attendance or oversight process by a neutral or independent observer, appointed by the accounting officer, when this is appropriate for ensuring fairness and promoting transparency.
- (4) The Municipal Manager may apply the committee system to formal written price quotations.

## **28. Bid specification committee**

- (1) The bid specification committee must compile the specifications for each procurement of goods or services by the municipality
- (2) Specifications-
  - (a) must be drafted in an un-biassed manner to allow all potential suppliers to offer their goods or services;
  - (b) must take account of any accepted standards such as those issued by Standards South Africa, the International Standards Organization, or an authority accredited or recognized by the South African National Accreditation System with which the equipment or material or workmanship should comply;

- (c) where possible, be described in terms of performance required rather than in terms of descriptive characteristics for design;
  - (d) may not create trade barriers in contract requirements in the forms of specifications, plans drawings, designs, testing and test methods, packaging, marketing or labeling of conformity certification;
  - (e) may not make reference to any particular trade mark, name, patent, design, type, specific origin or producer unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the words “equivalent”.
  - (f) must indicate each specific goal for which points may be awarded in terms of the points system set out in the Preferential Procurement Regulations 2001; and
  - (g) must be approved by the Municipal Manager prior to publication of the invitation for bids in terms of paragraph 22 of this policy.
- (3) The bid specification committee must be composed of one or more officials of the municipality preferably the manager responsible for the function involved, and may, when appropriate, include external specialist advisors.
- (4) No person, advisor or corporate entity involved with the bid specification committee, or director of such a corporate entity, may bid for any resulting contracts.

## **29. Bid evaluation committee**

- (1) The bid evaluation committee must-
- (a) evaluate bids in accordance with-
    - (i) the specifications for a specific procurement; and
    - (ii) the points system set out in terms of paragraph 27 (2) (f)

- (b) evaluate each bidder's ability to execute the contract;
  - (c) check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not in arrears; and
  - (d) submit to the adjudication committee a report and recommendations regarding the award of the bid or any other related matter.
- (2) The Bid evaluation committee must as far as possible be composed of-
- (a) officials from department requiring the goods or services; and
  - (b) consider the report and recommendation of the bid evaluation committee; and
  - (c) either-
    - (i) depending on its delegations, make a final award or a recommendation to the Municipal Manager to make the final award; or
    - (ii) make another recommendation to the Municipal Manager how to proceed with the relevant procurement.
- (3) The bid adjudication committee must consist of a least four senior managers of the municipality which must include-
- (i) the chief financial officer or, if the chief financial officer is not available, another manager in the budget and treasury office reporting directly to the chief financial officer and designated by the financial officer; and
  - (ii) at least one senior supply chain management practitioner who is an official of the municipality and;
- (4) The Municipal Manager must appoint the chairperson of the committee. If the chairperson is absent from a meeting, the members of the committee who are present must elect one of them to preside at the meeting.



- (5) Neither a member of a bid evaluation committee, nor advisor or person assisting the evaluation committee, may be a member of a bid adjudication committee.
- (6) If the 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-
- (i) check in respect of the preferred bidder whether that bidder's municipal rates and taxes and municipal service charges are not in arrears; and
  - (ii) notify the Municipal Manager .
- (b) The accounting officer may-**
- (i) after due consideration of the reasons for the deviation, ratify or reject the decision of the bid adjudication committee referred to in paragraph (a);and
  - (ii) if the decision of the bid adjudication committee is rejected, refer the decision of the adjudication committee back to that committee for reconsideration.
- (7) The Municipal Manager as may at any stage of a bidding process, refer any recommendation made by the evaluation committee or the adjudication committee back to that committee for reconsideration of the recommendation.
- (8) The Municipal Manager as accounting officer must comply with section 114 of the Act within 10 working days.

### **30. Procurement of banking services**

- (1) Banking services-
- (a) must be procured through competitive bids;
  - (b) must be consistent with section 7 of 85 of the Act; and
  - (c) may not be for a period of more than five years at a time.
- (2) The process for procuring a contract for banking services must commence at least nine months before the end of an existing contract.

- (3) The closure date for the submission of bids may not be less than 60 days from the date on which the advertisement is placed in a newspaper in terms of paragraph 22 (1). Bids must be restricted to banks registered in terms of the Banks Act, 1990 (Act No. 94 of 1990).

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

- (1) The Municipal Manager may request the State Information Technology Agency (SITA) to assist with the acquisition of IT related goods or services through a competitive bidding process.
- (2) Both parties must enter into a written agreement to regulate the services rendered by, and the payments to be made to, SITA.
- (3) The Municipal Manager must notify SITA together with a motivation of the IT needs if-
  - (a) the transaction value of IT related goods or services required in any financial year will **exceed R50 million (VAT included)**; or
  - (b) the transaction value of a contract to be procured whether for one or more years **exceeds R50 million (VAT included)**.
- (4) If SITA comments on the submission and the **municipality** disagrees with such comments, the comments and the reasons for rejecting or not following such comments must be submitted to the council, the National Treasury, the relevant provincial treasury and the Auditor General.

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

- (1) The Municipal Manager may procure goods or services under a contract secured by another organ of state, but only if-
  - (a) the contract has been secured by that other organ of state by means of a competitive bidding process applicable to that organ of state;
  - (b) there is no reason to believe that such contract was not validly procured;

- (c) there are demonstrable discounts or benefits to do so; and
  - (d) that other organ of state and the provider have consented to such procurement in writing.
- (2) Subparagraph (1)(c) and (d) do not apply if-
- (a) a municipal entity procures goods or services through a contract secured by its parent municipality; or
  - (b) a municipal procures goods of services through a contract secured by a municipal entity of which it is the parent municipality.

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

- (1) The acquisition and storage of goods in bulk (other than water which necessitate special safety arrangements, including gasses and fuel, should be avoided where ever possible.
- (2) Where the storage of goods in bulk is justified, such justification must be based on sound reasons, including the total cost of ownership, cost advantages and environment impact and must be approved by the Municipal Manager as accounting officer.

### **34. Proudly SA Campaign**

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

- \* Firstly – suppliers and businesses within the municipality or district;
- \* Secondly – suppliers and businesses within the relevant province;
- \* Thirdly – suppliers and businesses within the Republic of South Africa.

### 35. Appointment of consultants

- (1) The Municipal Manager may procure consulting services provided that any Treasury guidelines in respect of consulting services are taken into account when such procurements are made.
- (2) Consultancy services must be procured through competitive bids if-
  - (a) the value of the contract **exceeds R20 000 (VAT included)**; or
  - (b) the duration period of the contract exceeds one year.
- (3) In addition to any requirements prescribed by this policy for competitive bids, bidders must furnish particulars-
  - (a) all consultancy services provided to an organ of state in the last five years;
  - (b) any similar consultancy services provided to an organ of state in the last five years.
- (4) The Municipal Manager must ensure that copyright in any document produced, and the patent rights or ownership in any plant, machinery, thing system or process designed or devised, by an consultant in the course of the consultancy service is vested in the **municipality**.

### 36. Deviation from, and ratification of minor breaches of, procurement processes

- (1) The Municipal Manager may-
  - (a) dispense with the official procurement processes established by this policy and to procure any required goods of services through any convenient process, which may include direct negotiations, but only-
    - (i) in an emergency;
    - (ii) if such goods or services are produced or available from a single provider only;

- (iii) for the acquisition of special works of art or historical objects where specifications are difficult to compile;
    - (iv) acquisition of animals for zoos and/or nature and game reserves; or
    - (v) in any other exceptional case where it is impractical or impossible to follow the official procurement processes; and
  - (b) ratify any minor breaches of the procurement processes by an official or committee acting in terms of delegated powers or duties which are purely of a technical nature.
- (2) The Municipal Manager must record the reasons for any deviations in terms of subparagraphs (1)(a) and (b) of this policy and report them to the next meeting of the council and includes as a note to the annual financial statements.
- (3) Subparagraph (2) does not apply to the procurement of goods and services contemplated in paragraph 11 (2) of this policy.

### **37. Unsolicited bids**

- (1) In accordance with section 113 of the Act there is no obligation to consider unsolicited bids received outside a normal bidding process.
- (2) The Municipal Manager may decide in terms of section 113 (2) of the Act to consider an unsolicited bid, only if;
  - (a) the product or service offered in terms of the bid is a demonstrably or proven unique innovative concept;
  - (b) the product or services will be exceptionally beneficial to, or have exceptional cost advantages;
  - (c) the person who made the bid is the 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.

- (3) If the Municipal Manager decides to consider an unsolicited bid that complies with subparagraph (2) of this policy, the decision must be made public in accordance with section 21A of the Municipal Systems Act, together with-
- (a) reasons as to why the bid should not be open to other competitors;
  - (b) an explanation of the potential benefits if the unsolicited bid were accepted; and
  - (c) an invitation to the public or other potential suppliers to submit their comments within 30 days of the notice.
  - (d) cancel a contract awarded to a person if-
    - (i) the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract or;
    - (ii) an official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of the contract that benefited that person; and
  - (e) rejected the bid of any bidder if that bidder or any of its directors-
    - (i) has abused the supply chain management system of the municipality or has committed and improper conduct in relation to such system;
    - (ii) has been convicted for fraud or corruption during the past five years;
    - (iii) has willfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years of;
    - (iv) has been listed in the Register for Tender Defaulters in terms section 29 of the Prevention and Combating of Corrupt Activities Act (No. 12 of 2004).
- (2) The Municipal Manager as accounting officer must inform the National Treasury and relevant provincial treasury in writing of any actions taken in terms of subparagraphs (1)(b)(ii), (e) or (f) of this policy.

### 38. Emergency Bids

- (1) It may become necessary, during the normal course of business, to procure goods or services as a matter of urgency. The normal bidding processes or procurement process may not be appropriate for such an eventuality. The Emergency Procurement Procedures should not be used in respect of the following:
  - (a) To circumvent normal procurement procedures;
  - (b) As a result of insufficient stock level for items that is used daily;
  - (c) As a result of working programmes not properly planned; and
  - (d) As a result of no or insufficient communication between buyer and the purchasing section.
  
- (2) Urgent request for procurement will be exercised by the SCM manager or his/ her delegated authority in unique circumstances, in order not to delay the purchase. Such purchases should be within thresholds prescribed by the accounting officer. In such a case the deviation from SCM policy should be reported to the accounting officer. Municipal Manager should be provided with a written motivation for such deviation. The motivation should be attached when processing payment and for bid audit query purposes,
  
- (3) The onus is with the Municipal Manager to prescribe *pro forma* standardised documentation for deviation of normal bid procedures.
  
- (4) The Municipal Manager or his delegation will use his/her discretion to make a decision based on the report taking into account risk and materiality on a case-by-case basis limited to R200 000.
  
- (5) Under no circumstances will the application be supported where it is evident that alternative action is proposed with the purpose of circumventing the bid committee and that urgency is due to negligence or bad planning.

(6) To promote consistency in evaluating cases that are not repetitive and where circumstance were unforeseen, the Bid Committee will evaluate the interpretation, transparency of information and evaluation criteria.

<b>Cases of Emergency</b>	<b>Requirements to satisfy support</b>
Unauthorised actions where emergency is pleaded.	Proof that action was in circumstances of: <ul style="list-style-type: none"> <li>• An emergency.</li> <li>• Was in the best interest of the municipality.</li> <li>• The municipality did not suffer negligence or damages.</li> <li>• Desirable outcomes or objectives were achieved.</li> </ul>
Cases of best interest	Submission should include: <ul style="list-style-type: none"> <li>• Clear motivation and reasons for urgent action.</li> <li>• Comparative explanation of negative result that may have occurred against the actual result.</li> </ul>
In a case of both emergency and best interest	Submissions should include: <ul style="list-style-type: none"> <li>• Time scales applicable at the time of action.</li> <li>• Attempts to obtain prior authorisation.</li> <li>• How invitation of price quotation and/or bid, placement of order and payment were done.</li> <li>• Compliance with conditions.</li> <li>• Price analysis in comparison with normal prices.</li> </ul>



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

#### **39. Logistics management**

An effective system of logistics management must include the following:

- (a) the coding of items to ensure that each item has a number for the purposes of monitoring spending patterns on types or classes of goods and services;
- (b) the setting of inventory levels that includes minimum and maximum levels and lead times wherever goods are placed in stock;
- (c) placing of mutual or electronic orders for all acquisitions other than petty cash;
- (d) certify that the goods and services are delivered or rendered on time;
- (e) before payment is approved, certify that the goods and services received are in accordance with the order, the general conditions of contract and specifications where applicable and that the price charged is as quoted / in terms of a contract;
- (f) ensure appropriate standards of internal control and warehouse management are in place to ensure goods placed in stores are secure and only used for the purposes they were purchased;
- (g) ensure that all assets including official vehicles are property managed, appropriately maintained and only used for official purposes; and
- (h) monitor and review vendors performance to ensure compliance with specifications and contract conditions for a particular good or service.

#### **40. Disposal management**

- (1) The criteria for the disposal or letting of assets, including unserviceable, redundant or obsolete assets, subjects to sections 14 and 90 of the Act, are as follows:
- (2) The disposal of assets must-

- (a) be by one of the following methods-
    - (i) transferring the asset to another organ of state in terms of a provision of the Act enabling the transfer of assets;  
value or, when appropriate, free of charge;
    - (iii) Selling the asset; or destroying the asset;
  - (b) provided that-
    - (i) 'immovable property may' be sold only at market related prices except when the public interest or the plight of the poor demands otherwise;
    - (ii) movable 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;
    - (iii) 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; and
  - (c) furthermore ensure that-
    - (i) immovable property is let at market related rates except when the public interest or the plight of the poor demands otherwise; and
    - (ii) all fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property are annually reviewed; and
  - (d) ensure that where assets are traded in for other assets, the highest possible trade-in price is negotiated.
- (3) The Council, in a meeting open to the public, shall:
- (a) decide on reasonable grounds that the immovable asset / land is not needed to provide the minimum level of basic municipal services; and

- (b) consider the fair market value of the movable asset or immovable asset / land and the economic and community value to be received in exchange for the asset; and
  - (c) decide on the category or method of disposal for all immovable assets / land to be disposed of;
- (4) The Municipal Manager as is authorized to:
- (a) consider applications for the disposal, alienation or allocation of immovable assets vested in the municipality or rights in respect thereof on a permanent or temporary basis, including servitudes or rights in respect thereof in line with by-laws and applicable and uses.
  - (b) consider determine conditions, conclude agreements or finalize transactions as referred to in (4)(a);
  - (c) determine guidelines or procedural manuals in line with former policies of the Council, for implementation of the supply chain management policy
- (5) The Municipal Manager shall ensure:
- (a) that immovable property be publicity advertised or that the community be notified through public notices informing them of the intention to dispose of land and to invite their comments thereon;
  - (b) that tenders be invited for prime land; or
  - (c) that prime land be disposed of at auctions;
  - (d) that unsolicited bids received for other uses outside the normal tendering processes be considered for public interest or where the public of the poor demands otherwise;
  - (e) that tenders / unsolicited bids for immovable property be evaluated in line with this supply chain management policy;
  - (f) that procedures and mechanisms for more flexible processes to pre-qualified persons or the previously disadvantaged communities be implemented which might

include that the value or a contract might be below the value of the property;

- (g) that guidelines and procedural manuals for the disposal of immovable assets be implemented to maximize administrative and operational efficiency and to provide for adequate checks and balances;
- (h) that where required thereto that a valuator be appointed to cause a valuation for the disposal of immovable assets on a permanent or temporary basis.

6. Read with section 195 (1) of the Constitution of the RSA, Act 108 of 1996, and in the interest of good governance and considering that market and economic values might change drastically it is also imperative that the municipal valuation roll need to be updated on regular basis and for this reason the municipal valuation roll cannot be regarded as a reflection of a fair market value of immovable property.

#### 41. Risk management

- (1) All procurement activities have an element risk. Risk should be reduced by managing it effectively in a systematic approach, i.e. identifying, analysing, controlling, monitoring and reporting it. In particular where projects are in excess of R200, 000 and are of an inherently complex or sensitive nature, the following should apply;

- (a) Identify risk and consequences
- (b) Evaluating the consequences
- (c) Controlling risk by implementing strategies to mitigate risk
- (d) Monitoring risk by reviewing on a continual basis
- (e) Reporting any deviations from the strategy

The Municipality's risk policy should be clearly enunciated in the bid documentation. The accounting officer is responsible for managing and limiting risk. Where risks are not

clearly attached to a single party, they should be appointed on a mutually agreed and documented basis. The costs incurred in managing risks should be commensurate with the benefit obtained. Likewise, the level of documentation required needs to be appropriate to the value, importance and type of purchase.

(2) The management of risks in a pro-active manner and the provision of adequate cover for residual risks; and

(3) The assignment of relative risks to the contracting parties through clear and unambiguous contract documentation.

#### **42. Performance management**

The Municipal Manager must establish an effective internal monitoring system in order to determine, on the basis of a retrospective analysis, whether the authorized supply chain management processes were followed and whether the objectives were achieved.

#### ***Part 4: Other matters***

#### **43. Prohibition on awards to persons whose tax matter are not in order**

- (1) The Municipal Manager must ensure that, irrespective of the procurement process followed, no award **above R15 000** is given to a person whose tax matters have not been declared by the South African Revenue Service to be in order.
- (2) Tax Clearance Certificates should be applicable to all transactions exceeding the threshold value of R30 000.00 (thirty thousand rand) (VAT included)
- (3) Before making an award to a person the Municipal Manager must first check with SARS whether that person's tax matters are in order.
- (4) If SARS does not respond within 7 days such person tax matters may for purposes of subparagraph (1) be presumed to be in order.

#### **44. Prohibition on awards to persons in the service of the state**

The Municipal Manager must ensure that irrespective of the procurement process followed, no award may be given to a person-

- (a) who is in the service of the state, province or municipality; or
- (b) if that person is not a natural person, of which any director, manager, principal shareholder or stakeholder is a person in the service of the state, province or municipality; or
- (c) who is an advisor or consultant contracted with the municipality.

The notes to the annual financial statements must disclose particulars of any award of more than R2000 to a person who is spouse, child or parent of a person in the services of the state, province or municipality, or has been in the service of the state, province or municipality in the previous twelve months, including-

- (a) the name of that person;
- (b) the capacity in which that person is in the service of the state; and
- (c) the amount of the award.

#### **45. Ethical standards**

- (1) A code of ethical standards is hereby established, in accordance with subparagraph (2), for officials and other role players in the supply chain management system in order to promote-
  - (a) mutual trust and respect; and
  - (b) an environment where business can be conducted with integrity and in a fair reasonable manner.
- (2) An official or other role player involved in the implementation of the supply chain management policy-

- (a) must treat all providers and potential providers equitably;
- (b) may not use his or her position for private gain or to improperly benefit another person;
- (c) may not accept any reward, gift favour, hospitality or other benefit directly or indirectly, including to any close family member, partner or associated of that person, of a value more than R1500 00;
- (d) Notwithstanding subparagraph (2)(c), 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;
- (e) 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;
- (f) 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;
- (g) must be scrupulous in his or her use of property belonging to municipality;
- (h) must assist the Municipal Manager in combating fraud, corruption, favouritism and unfair and irregular practices in the supply chain management system; and
- (i) must report to the Municipal Manager any alleged irregular conduct in the supply chain management system which that person may become aware of, including-
  - (i) any alleged fraud, corruption, favouritism or unfair conduct;
  - (ii) any alleged contravention of paragraph 47 (1) of this policy;  
or
  - (iii) any alleged breach of this code of ethical standards.

- (3) Declarations in terms of subparagraphs (2)(d) and (e)-
- (a) must be recorded in a register which the Municipal Manager must keep for this purpose;
  - (b) by the Municipal Manager must be made to the Mayor of the municipality who must ensure that such declarations are recorded in the register.
- (4) The National Treasury's code of conduct must also be taken into account by supply chain management practitioners and other role players involved in supply chain management.
- (5) A breach of the code of conduct adopted by the municipality must be dealt with in accordance with schedule 2 of the Local Government: Municipal Systems Act, 2000;
- (1) 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-
    - (a) any inducement or reward to the municipality for or in connection with the award of a contract; or
    - (b) any reward, gift, favour or hospitality to-
      - (i) any official; or
      - (ii) any other role player involved in the implementation of the supply chain management policy;
  - (2) The Municipal Manager must promptly report any alleged contravention of subparagraph (1) to the National Treasury for considering whether the offending person, and any representative or intermediary through which such person is alleged to have acted, should be listed in the National Treasury's database of persons prohibited from doing business with the sector.
  - (3) Subparagraph (1) does not apply to gifts **less than R1500.00** in value.



#### **47. Sponsorships**

The Municipal Manager as accounting officer must promptly disclose to the National Treasury and the relevant provincial treasury and sponsorship promised, offered or granted, whether directly or through a representative or intermediary, by any person who is-

- (a) a provider or prospective provider of goods or services; or
- (b) a recipient or prospective recipient of goods disposed or to be disposed.

#### **48. Objections and complaints**

Person 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.

#### **49. Resolution of disputes, objections, complaints and queries**

- (1) The Municipal Manager must appoint an independent and impartial person, not directly involved in the supply chain management processes-
  - (a) to assist in the resolution of disputes between the municipality and other persons regarding-
    - (i) any decisions or actions taken in the implementation of the supply chain management system; or
    - (ii) any matter arising from a contract awarded in the course of the supply chain management system; or
  - (b) to deal with objections, complaints or queries regarding any such decisions or

- (2) The Municipal Manager as accounting officer, or another official designated by the Municipal Manager as accounting officer, is responsible for assisting the appointed person to perform his or her functions effectively.
- (3) The person appointed must-
  - (a) strive to resolve promptly all dispute, obligations, complaints or queries received; and
  - (b) submit monthly reports to the Municipal Manager as on all disputes, obligations, complaints or queries received, attend to or resolved.
- (4) A dispute, obligations, complaints or query may be referred to the relevant provincial treasury if-
  - (a) the dispute, objection, complaint or query is not resolved within 60 days; or
  - (b) no response is forthcoming within 60 days.
- (5) 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.
- (6) This paragraph must not be read as effecting a person's rights to approach a court at any time.

## **50 Contracts providing for compensation based on turnover**

- (1) If a service provider acts on behalf of a 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-
  - (a) a cap on the compensation payable to the service provider; and
  - (b) that such compensation must be performance based.

## 51. Single Supplier

- (1) In general this practice is not supported, whilst on the other hand, requests for specific brand or trademark product may be submitted to the bid committee for consideration. This practice not only limits competition, but is also in conflict with transparency and fair treatment of prospective suppliers.
- (2) Single supplier practice without advertising is limited to specific products or services. The fresh fruit market is a key example of this practice, although due consideration should be given to increase market access. This strategy would also be followed, where it is not possible to ascertain the nature or extent of repairs of plants and equipment, the service required may only be procured from a panel of service providers approved by the municipality, whose services will be utilized on a rotational basis.
- (3) All bids, including single or selected supplier / service provider bids should be advertised as prescribed by this policy. Bid specification should clearly state that the specific requirement and that only suppliers complying with full specifications will be considered for acceptance.
- (4) The bid committee should consult the Municipal Manager where specific brand or trademark products are required.
- (5) A single supplier procurement request submitted to the bid committee should include:
  - (a) Motivation request
  - (b) Implications of calling for proposals
  - (c) List of previous suppliers / service providers, tender number as well as the dates and values of transactions.
  - (d) In the case of replacing or extending existing systems, the present value of equipment should be submitted.

- (e) Standardization needs to be motivated, including full values and details of previous contracts.

## **52. Increasing Employment Opportunities**

Construction bids can be used to contribute to the increase of employment opportunities. Bid documentation could specify the inclusion of:

- a. Labour friendly technology;
- b. Labour intensive methods of construction;
- c. Partnerships with initiatives such as Expanded Public Works programme; and
- d. Public Private Partnerships etc.

## **53. Classification of Construction Bids**

(1) The municipality will from time to time issue bids that largely targets marginalised groups such as women, youth and disabled people in its attempt to increase employment opportunities. Contracts are classified in terms of size, risk and specialization into the following categories:

- (a) Micro: Less than or equal to R200, 000
- (b) Small: Greater than R200, 000 but less than R500, 000
- (c) Medium: Greater than R500, 000 but less than R1, 500, 000
- (d) Large: Greater than R1, 500, 000

A benefit of classification is that it makes provision for levels of support, preference and supplier development programmes.

## **54. Sureties and Retention for Performance**

(1) To ensure contractors have the necessary skill and resources to deliver on construction, installation and maintenance contract, surety commensurate with

level of risk that the municipality is subjected to. The municipality fully understands that obtaining surety from financial institutions is a major constraint, preventing emerging enterprises from participating in the public sector procurement and has thus reduced and in the case of minor contracts waived such surety. The following sureties are required:

- (a) Micro: Nil
- (b) Small: 2, 5% of the bid price.
- (c) Medium: 5% of the bid price.
- (d) Large: 10% of the bid price.

(2) In the event that a contractor is unable to raise the required surety, for micro-, small- and medium projects up to the value of R100 000, the municipality may allow such sureties to be deducted in full or part from the first three payment certificates in equal amounts. In the case of large contracts the surety is required from a Bank or Insurance Company in accordance with the General Conditions of Contract.

(3) In the case of retentions, which is money withheld from a contract during the construction period. In order to support emerging contractors, where surety has been reduced or waived, 10% retention will apply.

(4) Retention is limited to the following limits for the above-mentioned categories:

- (a) **Micro, small & medium:** 10% of the value of the work, reduced to 5% for maintenance.
- (b) **Large:** 10% of the value of the work carried out up to a limit of 5% to the value of the contract.

## **55. Insurance**

Where applicable and necessary, Contractors are responsible for presenting proof of public liability insurance for the duration of a project as well as contributions to insurance for equipment and occupational health and safety act.

## **56. Cessions**

The municipality may at its discretion accept signed cessions by the SMMEs to suppliers so that payments for supplies can be paid directly from the municipality to the supplier to ensure continuous delivery of materials for the duration of the contract. Where cessions are accepted the utmost care should be taken to ensure that the municipality is indemnified against these cessionaries.

## **57. Penalties**

- (1) All construction, maintenance and installation related contracts are subject to penalty clause in order to ensure timely delivery of all contracts as well as to ensure compliance with empowerment percentages claimed. Contractors claim preference based on direct and indirect empowerment in proportion to the value of the respective contributors to the contract. Once the bid is accepted this percentage claimed becomes the contractual goal to which the contractor must comply. Main contractors can only replace with written permission from the Municipal Manager, sub-contractors, with alternative sub-contractor of similar direct empowerment percentages.
- (2) For small, medium and large contracts, bidders should claim preference points for their own enterprises including that of their sub-contractors, suppliers, manufacturers and / or service providers.

(3) In addition to penalties for compliance, the following penalties will apply for late performance of contracts within the categories:

- (a) Micro: 0, 02% of contract amount / day
- (b) Small: 0, 04% of contract amount / day
- (c) Medium: 0, 06% of contract amount / day
- (d) Large: 0, 1% of contract amount / day

## 58. Escalations

All prices are deemed fixed unless price adjustments have been stipulated in the bid document. For contract periods equal to or exceeding one year in duration, an industry contract price adjustment formula will be specified in the bid document.

## 59. Bids Management

### a. Charge of bid documents

The municipality may be charged a non-refundable charge for bids in accordance with the categories of bids. Amounts for charging may be annually reviewed by the Municipal Manager.

### b. Submission of Bids

2(1) Bids shall be submitted no later than the closing time and date to the specified address as stated in the directives in the bid document;

2(2) The name and address of the bidder, as well as the bid number shall be clearly stated on the envelope;

2(3) No bids received by telegram, telex, facsimile or similar apparatus will be considered; and

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(4) However, Photocopies of bids or Photostatted copies of facsimiles which are lodged in the prescribed way and in which the relevant forms and certificates are signed in ink, after being copied, are accepted as valid bids.

#### **c. Closing of bids**

- (1) Bids close at 12h00 on the date specified in the bid document;
- (2) Unless specified otherwise, bids close at least two weeks after the date of advertising;
- (3) Should the closing date fall on a Saturday, Sunday or public holiday, the closing date shall be the following working day; and
- (4) Extensions of the closing date may only be granted at the discretion of the accounting officer based on:
  - (i) Considerable circumstances justifying such extension.
  - (ii) The closing date can only be extended if there is sufficient time to publish an amendment notice, prior to the original closing date.

#### **d. Annual Bids**

It is permissible to invite formal bids for the supply of goods and professional services or engineering and construction works that is of an ad hoc or repetitive nature, for a predetermined period of time (commonly referred to as an annual bid). All such bids shall comply with provisions of the Municipal SCM Policy initiative in all respect. Acceptance of the bids (that is, of the rates provided) will not necessary guarantee the bidder any business with the Municipality. The practice of using annual bids to circumvent the formal bid process in respect of traditional project work is not permissible.

#### **60. Preference Points**



The preference point claim for B-BBEE status level in terms of the Preferential Procurement Regulations 2001 apply.

## **PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2011**

This preference form must form part of all bids invited. It contains general information and serves as a claim form for preference points for Broad-Based Black Economic Empowerment (B-BBEE) Status Level of Contribution

1.1 The following preference point systems are applicable to all bids:

- the 80/20 system for requirements with a Rand value of up to R1 000 000 (all applicable taxes included); and
- the 90/10 system for requirements with a Rand value above R1 000 000 (all applicable taxes included).

1.2 Preference points for this bid shall be awarded for:

- (a) Price; and
- (b) B-BBEE Status Level of Contribution.
- (c) Failure on the part of a bidder to fill in and/or to sign this form and submit a B-BBEE Verification Certificate from a Verification Agency accredited by the South African Accreditation System (SANAS) or a Registered Auditor approved by the Independent Regulatory Board of Auditors (IRBA) or an Accounting Officer as contemplated in the Close Corporation Act (CCA) together with the bid, will be interpreted to mean that preference points for B-BBEE status level of contribution are not claimed.
- (d) The purchaser reserves the right to require of a bidder, either before a bid is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the purchaser.

### **3. ADJUDICATION USING A POINT SYSTEM**

3.1 The bidder obtaining the highest number of total points will be awarded the contract.

3.2 Preference points shall be calculated after prices have been brought to a comparative basis taking into account all factors of non-firm prices and all unconditional discounts;

3.3 Points scored must be rounded off to the nearest 2 decimal places.

3.4 In the event that two or more bids have scored equal total points, the successful bid

must be the one scoring the highest number of preference points for B-BBEE.

3.5 However, when functionality is part of the evaluation process and two or more bids have

scored equal points including equal preference points for B-BBEE, the successful bid must be the one scoring the highest score for functionality.

3.6 Should two or more bids be equal in all respects, the award shall be decided by the

drawing of lots.

#### 4. POINTS AWARDED FOR PRICE

##### 4.1 THE 80/20 OR 90/10 PREFERENCE POINT SYSTEMS

A maximum of 80 or 90 points is allocated for price on the following basis:

**80/20**                      or                      **90/10**

$$P_s = 80 \left( 1 - \frac{P_t - P_{\min}}{P_{\min}} \right) \quad \text{or} \quad P_s = 90 \left( 1 - \frac{P_t - P_{\min}}{P_{\min}} \right)$$

Where

P<sub>s</sub> = Points scored for comparative price of bid under consideration

P<sub>t</sub> = Comparative price of bid under consideration

$P_{min}$  = Comparative price of lowest acceptable bid

**5. Points awarded for B-BBEE Status Level of Contribution**

5.1 In terms of Regulation 5 (2) and 6 (2) of the Preferential Procurement Regulations, preference points must be awarded to a bidder for attaining the B-BBEE status level of contribution in accordance with the table below:

<b>B-BBEE Status Level of Contributor</b>	<b>Number of points (90/10 system)</b>	<b>Number of points (80/20 system)</b>
1	10	20
2	9	18
3	8	16
4	5	12
5	4	8
6	3	6
7	2	4
8	1	2
Non-compliant contributor	0	0

5.2 Bidders who qualify as EMEs in terms of the B-BBEE Act must submit a certificate issued by an Accounting Officer as contemplated in the CCA or a Verification Agency accredited by SANAS or a Registered Auditor. Registered auditors do not need to meet the prerequisite for IRBA's approval for the purpose of conducting verification and issuing EMEs with B-BBEE Status Level Certificates.

5.3 Bidders other than EMEs must submit their original and valid B-BBEE status level verification certificate or a certified copy thereof, substantiating their B-BBEE rating issued by a Registered Auditor approved by IRBA or a Verification Agency accredited by SANAS.

5.4 A trust, consortium or joint venture, will qualify for points for their B-BBEE status level as a legal entity,

provided that the entity submits their B-BBEE status level certificate.

5.5 A trust, consortium or joint venture will qualify for points for their B-BBEE status level as an unincorporated

entity, provided that the entity submits their consolidated B-BBEE scorecard as if they were a group

structure and that such a consolidated B-BBEE scorecard is prepared for every separate bid.

5.6 Tertiary institutions and public entities will be required to submit their B-BBEE status level certificates in terms of the specialized scorecard contained in the B-BBEE Codes of Good Practice.

5.7 A person will not be awarded points for B-BBEE status level if it is indicated in the bid documents that

such a bidder intends sub-contracting more than 25% of the value of the contract to any other enterprise

that does not qualify for at least the points that such a bidder qualifies for, unless the intended sub-

- contractor is an EME that has the capability and ability to execute the sub-contract.

5.8 A person awarded a contract may not sub-contract more than 25% of the value of the contract to any other

enterprise that does not have an equal or higher B-BBEE status level than the person concerned, unless the

contract is sub-contracted to an EME that has the capability and ability to execute the

sub-contract.

**61. Commencement**

This policy takes effect on 01<sup>st</sup> July 2008.

**61. AUTHORITY**

Formulation Policy	:	Chief Financial Officer
Authorisation Policy	:	Council
Ownership and Maintenance Manager	:	Manager: Supply Chain