

DR KENNETH KAUNDA

DISTRICT MUNICIPALITY



SUPPLY CHAIN MANAGEMENT

POLICY

The Municipal Manager of the Dr Kenneth Kaunda District Municipality (hereinafter referred to as “the Municipality”), being responsible for managing the financial administration of the Municipality hereby, in terms of the provisions of section 62(1)(f)(iv), read with section 111 of the Local Government: Municipal Finance Management Act, Act 56 of 2003 (hereinafter referred to as the “MFMA”), and in order to give effect to section 217(1) of the Constitution of the Republic of South Africa, 1996 (hereinafter referred to as “the Constitution”), establishes the Supply Chain Management Policy of the Municipality (also hereinafter referred to as “the SCM Policy), as approved by its Council and which came into operation on and is to be implemented as such from the date of acceptance by the Council.

The SCM Policy of the Municipality will be one of the Municipality’s budget related policies, as referred to in the provisions of regulation 7 of the Municipal Budget & Reporting Regulations, 2008 and section 17(3)(e), section 21(1)(b)(ii)(bb), section 22(a)(i) and section 24(2)(c)(v) of the MFMA, and accordingly the Municipality will annually revise this policy and this policy, or any amendments thereto will be approved by the Council of the Municipality during the process in terms of which the Municipality adopts its budget, as described in section 24 of the MFMA.

THE DR KENNETH KAUNDA DISTRICT MUNICIPALITY: SUPPLY CHAIN MANAGEMENT POLICY

TABLE OF CONTENTS

(FOR EASE OF REFERENCE THE CORRESPONDING REGULATION NUMBER
IN THE “MUNICIPAL SUPPLY CHAIN MANAGEMENT REGULATIONS” –
WHERE APPLICABLE – HAS BEEN INSERTED IN BRACKETS BEHIND THE
“ITEM”)

CHAPTER 1

ESTABLISHMENT AND IMPLEMENTATION OF THE SCM POLICY

NO	ITEM	PAGE NO
1.	DEFINITIONS	10
2.	INTRODUCTION	24
3.	TITLE AND APPLICATION OF THE POLICY	25
4.	AIM AND PURPOSE OF THE SUPPLY CHAIN MANAGEMENT SYSTEM	26
5.	OBJECTIVES OF THIS POLICY	26
6.	DELEGATED AUTHORITY OF SUPPLY CHAIN MANAGEMENT POWERS AND DUTIES	28
	6.1 SUB-DELEGATIONS	30
	6.2 OVERSIGHT ROLE OF THE MUNICIPALITY	32
	6.3 SUPPLY CHAIN MANAGEMENT UNITS	33
7.	COMPETENCY AND TRAINING OF SUPPLY CHAIN MANAGEMENT OFFICIALS	33

8.	DUTIES AND RESPONSIBILITIES	34
	8.1 GENERAL RESPONSIBILITIES OF THE OFFICIALS OF THE MUNICIPALITY	34
	8.2 RESPONSIBILITIES OF THE MUNICIPAL MANAGER	34
	8.3 RESPONSIBILITIES OF THE DIRECTORS/MANAGER APPOINTED IN TERMS OF THE PROVISIONS OF SECTION 56 OF THE MSA	35
	8.4 RESPONSIBILITIES OF THE CHIEF FINANCIAL OFFICER	36
	8.5 RESPONSIBILITIES OF THE SUPPLY CHAIN MANAGEMENT UNIT	37
9.	COMMUNICATIONS	39

CHAPTER 2

FRAMEWORK OF THE SCM POLICY

10.	ESTABLISHMENT AND IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT SYSTEM	40
11.	DEMAND MANAGEMENT (REGULATION 10)	40
12.	ACQUISITION MANAGEMENT (REGULATION 11)	43
	12.1 RANGE OF PROCUREMENT PROCESSES (REGULATION 12)	46
	12.2 GENERAL PRECONDITIONS FOR CONSIDERATION OF WRITTEN QUOTATIONS OR BIDS (REGULATION 13)	47
	12.3 LISTS OF ACCREDITED PROSPECTIVE PROVIDERS (REGULATION 14)	48
	12.4 PETTY CASH PURCHASES (REGULATION 15)	50
	12.5 WRITTEN OR VERBAL QUOTATIONS (REGULATION 16)	51
	12.6 FORMAL WRITTEN PRICE QUOTATIONS (REGULATION 17)	52
	12.7 COMPETITIVE BIDS AND PROCESS FOR COMPETITIVE BIDS (REGULATION 19 & 20)	54
	12.7.1 BID DOCUMENTATION FOR COMPETITIVE BIDS (REGULATION 21)	55
	12.7.2 PUBLIC INVITATION FOR COMPETITIVE BIDS (REGULATION 22)	60
	12.7.3 ISSUING OF BIDS DOCUMENTS	62

	12.7.4 SITE INSPECTIONS	62
	12.7.5 TWO-STAGE (PREQUALIFICATION) BIDDING PROCESS (REGULATION 25)	63
	12.7.6 TWO-ENVELOPE SYSTEM	64
	12.7.7 VALIDITY PERIODS	64
	12.7.8 CONTRACT PRICE ADJUSTMENT	66
	12.7.9 PROVISIONAL SUMS AND PRIME COST ITEMS	66
	12.7.10 SAMPLES	66
	12.7.11 CLOSING OF BIDS	67
	12.7.12 COMMUNICATION WITH BIDDERS BEFORE BID CLOSING	68
	12.7.13 SUBMISSION OF BIDS	69
	12.7.14 LATE BIDS	70
	12.7.15 OPENING OF BIDS	71
	12.7.16 OPENING OF BIDS WHERE A TWO-ENVELOPE SYSTEM IS FOLLOWED	73
	12.7.17 INVALID BIDS	74
	12.7.18 BID SUM	74
	12.8 COMMITTEE SYSTEM FOR COMPETITIVE BIDS (REGULATION 26)	75
	12.9 BID SPECIFICATIONS	75
	12.10 BID SPECIFICATION COMMITTEE (REGULATION 27)	77
	12.11 BID EVALUATION	78
	12.12 BID EVALUATION COMMITTEE (REGULATION 28)	79
	12.13 BID ADJUDICATION	80
	12.14 BID ADJUDICATION COMMITTEE (REGULATION 29)	86
	12.15 TERM BIDS	88
	12.16 PROCUREMENT OF BANKING SERVICES (REGULATION 30)	89
	12.17 PROCUREMENT OF IT RELATED GOODS AND/OR SERVICES (REGULATION 31)	90
	12.18 PROCUREMENT OF GOODS AND SERVICES UNDER CONTRACTS SECURED BY OTHER ORGANS OF STATE (REGULATION 32)	91

	12.19 PROCUREMENT OF GOODS NECESSITATING SPECIAL SAFETY ARRANGEMENTS (REGULATION 33)	91
	12.20 PROUDLY SA CAMPAIGN (REGULATION 34)	92
	12.21 APPOINTMENT OF CONSULTANTS (REGULATION 35)	92
	12.22 DEVIATION FROM, AND RATIFICATION OF MINOR BREACHES OF PROCUREMENT PROCESSES (REGULATION 36)	94
	12.23 UNSOLICITED BIDS (REGULATION 37)	97
13.	LOGISTICS MANAGEMENT (REGULATION 39)	99
	13.1 SETTING OF INVENTORY LEVELS	99
	13.2 PLACING OF ORDERS	100
	13.3 RECEIVING AND DISTRIBUTION OF GOODS	100
	13.4 STORES AND WAREHOUSE MANAGEMENT	101
	13.5 EXPEDITING ORDERS	101
	13.6 TRANSPORT MANAGEMENT	101
	13.7 VENDOR PERFORMANCE	102
	13.8 CONTRACT MANAGEMENT (SECTION 116(3) MFMA)	102
	13.9 MAINTENANCE AND CONTRACT ADMINISTRATION	103
	13.10 CONTRACT ADMINISTRATION	103
	13.11 LEVELS OF CONTRACT ADMINISTRATION	104
	13.12 APPOINTING OF A CONTRACT MANAGER	105
	13.13 DUTIES AND POWERS OF A CONTRACT MANAGER	106
	13.14 CONTRACT GUIDELINES	107
	13.15 DELEGATING TO CONTRACT ADMINISTRATOR	107
	13.16 CONTRACT MANAGEMENT PROCESS	107
	13.17 DOCUMENT RETENTION	108
	13.18 GUIDELINES ON CONTRACT ADMINISTRATION	108
14.	DISPOSAL MANAGEMENT (REGULATION 40)	110
15.	RISK MANAGEMENT (REGULATION 41)	112
16.	PERFORMANCE MANAGEMENT (REGULATION 42)	113

CHAPTER 3**OTHER MATTERS**

17.	PROHIBITION ON AWARDS TO PERSONS WHOSE/WHICH TAX MATTERS ARE NOT IN ORDER (REGULATION 43)	116
18.	PROHIBITION ON AWARDS TO PERSONS IN THE SERVICE OF THE STATE (REGULATION 44)	116
19.	AWARDS TO CLOSE FAMILY MEMBERS OF PERSONS IN THE SERVICE OF THE STATE (REGULATION 45)	117
20.	CODE OF ETHICAL STANDARDS (REGULATION 46)	117
	20.1 INDUCEMENTS, REWARDS, GIFTS AND FAVOURS TO THE MUNICIPALITY, ITS OFFICIALS AND/OR OTHER ROLE-PLAYERS (REGULATION 47)	119
	20.2 SPONSORSHIPS (REGULATION 48)	120
	20.3 OBJECTIONS AND COMPLAINTS (REGULATION 49)	121
	20.4 RESOLUTION OF DISPUTES, OBJECTIONS, COMPLAINTS AND QUERIES (REGULATION 50)	122
	20.5 CONTRACTS PROVIDING FOR COMPENSATION BASED ON TURNOVER (REGULATION 51)	122

CHAPTER 4**COMBATING ABUSE OF THE SUPPLY CHAIN MANAGEMENT SYSTEM**

21.	COMBATING OF ABUSE OF THE SUPPLY CHAIN MANAGEMENT SYSTEM (REGULATION 38)	124
	21.1 MUNICIPALITY'S REGISTER OF TENDER AND CONTRACT DEFAULTERS	126
	21.2 AUTOMATIC REJECTION OF BID	127
	21.3 ADEQUATE NOTICE OF MANNER OF ABUSE OF SUPPLY CHAIN MANAGEMENT SYSTEM	128
	21.4 RIGHT OF ACCESS TO INFORMATION	129
	21.5 ADMINISTRATION OF HEARINGS	129
	21.6 RIGHT TO BE HEARD	130

	21.7	ORAL HEARINGS	131
	21.8	PROCEDURE AT ORAL HEARING	131
	21.9	ONUS OF PROOF	132
	21.10	RIGHT TO LEGAL REPRESENTATION	132
	21.11	RIGHT TO REQUEST REASONS	132
	21.12	CRIMINAL PROCEEDINGS	132
	21.13	INFORMING PROVINCIAL AND NATIONAL TREASURY	132

CHAPTER 5

PREFERENTIAL PROCUREMENT

22.	PLANNING AND STIPULATION OF PREFERENCE POINT SYSTEM TO BE UTILISED	133
23.	EVALUATION OF BIDDERS ON FUNCTIONALITY	133
24.	THE 80/20 PREFERENCE POINT SYSTEM FOR THE ACQUISITION OF GOODS AND/OR SERVICES UP TO A RAND VALUE OF R1 MILLION	134
25.	THE 90/10 PREFERENCE POINT SYSTEM FOR THE ACQUISITION OF GOODS AND/OR SERVICES WITH A RAND VALUE ABOVE R1 MILLION	135
26.	AWARD OF CONTRACTS TO BIDDERS NOT SCORING THE HIGHEST NUMBER OF POINTS	137
27.	CANCELLATION AND RE-INVITATION OF BIDS	137
28.	LOCAL PRODUCTION AND CONTENT	138
29.	B-BBEE STATUS LEVEL CERTIFICATE	139
30.	GENERAL CONDITIONS	140
31.	DECLARATIONS	142
32.	REMEDIES	143

CHAPTER 6

GENERAL PROVISIONS

33.	AVAILABILITY OF THIS POLICY	144
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34.	IMPLEMENTATION AND REVIEW OF THIS POLICY	144
35.	SHORT TITLE	145

CHAPTER 1

ESTABLISHMENT AND IMPLEMENTATION OF THE SUPPLY CHAIN MANAGEMENT POLICY

1. DEFINITIONS

In this policy, except where the context otherwise indicates or it is expressly stipulated otherwise, the following words, expressions and/or abbreviations shall have the respective meanings assigned to them hereunder and words or expressions to which a meaning has been assigned in terms of the provisions of section 1 of the MFMA will have the corresponding meaning assigned thereto in terms of such section. Some of these words, expressions and/or abbreviations may not occur in the Policy, but are included for the sake of completeness. All headings are included for convenience only and shall not be used in the interpretation of any of the provisions of this policy.

NO	WORD/EXPRESSION	DEFINITION
“A”		
1.1	“Accounting Officer”	The Municipal Manager of the Municipality as referred to the definition of “Accounting Officer” as defined in terms of the provisions of section 1 of the MFMA and referred to in section 60 of the MFMA and includes a person acting as an Accounting Officer, or the person to whom the Accounting Officer has delegated his/her authority to act. Also refer to the definition of Municipal Manager below.
1.2	“adjudication points”	The points referred to in the Preferential Procurement Policy Framework Act, Act 5 of 2000: Preferential Procurement Regulations, 2011, and the preferential procurement section of this policy, also referred to as “evaluation points” or “preference points”.

1.3	“all applicable taxes”	Includes value added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies.
1.4	“Auditor-General”	The person appointed as Auditor-General in terms of section 193 of the Constitution, and includes a person acting as Auditor-General, acting in terms of a delegation by the Auditor-General or designated by the Auditor-General to exercise a power or perform a duty of the Auditor-General.
1.5	“authority”	A right or power attached to a rank or position permitting the holder thereof to make decisions, to execute such decisions or to have such decisions executed, take command or to demand action by others.
“B”		
1.6	“B-BBEE”	The Broad Based Black Economic Empowerment as defined in terms of the provisions of section 1 of the Broad-Based Black Economic Empowerment Act, Act 53 of 2003.
1.7	“B-BBEE status level of contributor”	The B-BBEE status awarded to a measured entity based on its overall performance using the relevant scorecard contained in the Codes of Good Practice on Black Economic Empowerment, issued in terms of the provisions of section 9(1) of the Broad-Based Black Economic Empowerment Act, Act 53 of 2003.
1.8	“bid”	Includes a responsive tender, quotation, expression of interest, proposal, or any other proposition for doing business with the Municipality, whether solicited or not, or a written offer in a prescribed or stipulated form in response to an invitation by the Municipality for the provisions of goods and services.
1.9	“bidder”	Any person or entity submitting a bid.
“C”		

1.10	“capital asset”	Any immovable asset such as land, property or buildings or 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 economic or social benefit can be derived, such as plant, machinery and equipment.
1.11	“Chief Financial Officer”	A person appointed by the Council and designated by the Municipal Manager to manage the financial administration of the Municipality and who remains directly accountable to the Municipal Manager as contemplated in terms of the provisions of section 80(2)(a) read with section 1 and section 81 of the MFMA.
1.12	“close family member”	A spouse, child or parent of a person.
1.13	“closing time”	The time and date specified in bid documentation as the closing time for submission of bids after which no more bids may be submitted to or be accepted by the Municipality.
1.14	“community based vendor”	A supplier of goods and/or services who resides in a target area or community, who/which meets the criteria for community based vendors as determined by the Municipality from time to time, and who/which is registered on the list of the Municipality as an accredited prospective provider of goods and/or services.
1.15	“comparative price”	The price after the factors of a non-firm price and all unconditional discounts that can be utilised have been taken into consideration. A “non-firm price” means all prices other than a “firm price”.
1.16	“competitive bid”	A responsive bid in terms of a competitive bidding process.
1.17	“competitive bidding”	A competitive bidding process referred to in regulation

	process”	12(1)(d) of the SCMR and this policy.
1.18	“consortium or joint venture”	An association of persons or entities formed for the purpose of combining the expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract or contracts. The joint venture or consortium must be formalised by agreement between the parties thereto.
1.19	“Construction Industry Development Board” or “CIDB”	The Construction Industry Development Board established by section 2 of the Construction Industry Development Board Act.
1.20	“Construction Industry Development Board Act”	The Construction Industry Development Board Act, Act 38 of 2000.
1.21	“construction works”	The provision of a combination of goods and services arranged for the development, extension, installation, repair, maintenance, renewal, removal, renovation, alteration, dismantling or demolition of a fixed asset including building and engineering infrastructure.
1.22	“consultant”	A person or entity providing labour and knowledge based expertise which is applied with reasonable skill, care and diligence.
1.23	“contract”	A written agreement resulting from the acceptance of a bid or quotation from a bidder by the Municipality and as contemplated in the provisions of section 116 of the MFMA.
1.24	“contractor”	A person or entity whose/which bid or quotation has been accepted by the Municipality and “service provider” has a corresponding meaning.
1.25	“Council”	The Municipal Council of the Municipality, its legal successors in title and its delegates.
“D”		
1.26	“days”	Calendar days, unless the context indicates otherwise.

1.27	“demand management”	A system which insures that the resources required to support the strategic and 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.
1.28	“designated sector”	A sector, sub-sector or industry that has been designated by the Department of Trade and Industry in line with national development and industrial policies for local production, where only locally produced goods and/or services or locally manufactured goods meet the stipulated minimum threshold for local production and content.
1.29	“disability”	In respect of a person means a permanent impairment of a physical, intellectual or sensory function, which results in restricted, or lack of, ability to perform an activity in the manner or in the range considered normal for a human being.
1.30	“Disciplinary Regulations”	Local Government: Disciplinary Regulations for Senior Managers, published under GN 344 in GG 34213 of 21 April 2011
1.31	“disposal”	A process of preparing, negotiating and concluding a written contract which involves the alienation of a capital asset of the Municipality, including a capital asset no longer needed by the Municipality or rights in respect thereof, by means of a sale or a donation, and “dispose” has a similar meaning.
1.32	“disposal management”	The system of the Municipality for the disposal or letting of assets, including unserviceable, redundant or obsolete assets in a cost-effective, but transparent and responsible manner, and also entails the maintenance of records and documents.
“E”		
1.33	“engineering and	The provision of a combination of goods and services,

	construction works”	arranged for the development and provision of an asset including construction works and engineering infrastructure, or for the refurbishment of an existing asset.
1.34	“evaluation points”	Refer to “adjudication points” and/or “preference points”.
1.35	“exempted capital asset”	A municipal capital asset which is exempted by section 14(6) of the MFMA from the other provisions of that section, read with regulation 1 of the MATR.
“F”		
1.36	“final award”	The final decision on which bid or quote to accept.
1.37	“firm price”	The price that is only subject to adjustments in accordance with the actual increase or decrease resulting from the change in position, or abolition of customs or excise duty and any other duty, levy, or tax, which, in terms of a law or regulation, is binding on the contractor and demonstrably has an influence on the price of any supplies, or the rendering costs of any service, for the execution of a contract.
1.38	“formal written price quotation”	Quotations referred to in this policy and in regulation 12(1)(c) of SCMR and includes an electronic offer to the Municipality in response to an invitation to submit such a quotation.
1.39	“functionality”	The measurement according to predetermined norms and/or criteria, as set out in the bid documents, of a service or commodity that is designed to be practical and useful, working or operating, taking into account, among other factors, the quality, reliability, viability and durability of a service and the technical capacity and ability of a bidder.
“G”		
1.40	“general conditions of contract”	The general conditions of contract as set out in the bid documentation applicable to the said bid and not limited

		to the General Conditions of Contract for Construction Contracts, 2010 of the South African Institute of Civil Engineers.
1.41	“goods and/or services”	Apart from the normal grammatical meaning, also includes engineering and construction works and consultant works.
1.42	“green procurement”	Taking into account environmental criteria for goods and services to be purchased in order to ensure that the related environmental impact is minimised.
“H”		
1.43	“historically disadvantaged individual” or “HDI”	A South African citizen who, due to the apartheid policy that had been in place, had no franchise in national elections prior to the introduction of the Constitution or the Constitution of the Republic of South Africa, Act 200 1993 (“the Interim Constitution”); and/or who is a female, and/or who has a disability, provided that a person who obtained South African citizenship on or after the coming to effect of the Interim Constitution, is deemed not to be an HDI.
“I”		
1.44	“improper conduct”	Conduct which is tantamount to fraud, corruption, favouritism, unfair, irregular and unlawful practices, misrepresentation of information submitted in bid documents for the purposes of procuring a contract with the Municipality, misrepresentation regarding the contractor’s expertise and capacity to perform in terms of a contract procured via the Supply Chain Management System, breach of a contract procured via the Supply Chain Management System and failure to comply with the Supply Chain Management System.
1.45	“in the service of the state”	Means to be: (a) a member of: (i) any municipal council;

		<p>(ii) any provincial legislature; or</p> <p>(iii) the National Assembly or the National Council of provinces;</p> <p>(b) a member of the board of directors of any municipal entity;</p> <p>(c) an official of any municipality or municipal entity;</p> <p>(d) an employee of any national or provincial department, national or provincial public entity or constitutional institution with the meaning of the Public Finance Management Act, Act 1 of 1999;</p> <p>(e) a member of the accounting authority of any national or provincial public entity; or</p> <p>(f) an employee of Parliament or a provincial legislature.</p>
1.46	“information technology” or “IT”	The acquisition, processing, storage and dissemination of vocal, pictorial, textual and numerical information by a microelectronics-based combination of computing and telecommunications.
1.47	“Integrated Development Plan” or “IDP”	The plan envisaged in terms of the provisions of section 25 of the MSA.
“L”		
1.48	“list of accredited prospective providers”	The list of accredited prospective providers that a Municipality must keep in terms of regulation 14 of the SCMR.
1.49	“local business”	Service providers with active offices within the municipal area of the Municipality, which shall be interpreted on the basis of whether the offices are utilised for the goods and/or services to be procured, and whether the majority of staff is local.
1.50	“Local Government: Municipal Finance”	The Local Government: Municipal Finance Management Act, Act 56 of 2003.

	Management Act” or “MFMA”	
1.51	“Local Government: Municipal Systems Act” or “MSA”	The Local Government: Municipal Systems Act, Act 32 of 2000.
1.52	“Structures Act” or “MSTA”	The Local Government: Municipal Structures Act, Act 117 of 1998.
1.53	“long term contract”	A contract with a duration period exceeding 1 (one) year.
“M”		
1.54	“Municipal Asset Transfer Regulations” or “MATR”	The Asset Transfer Regulations, 2008, published under GN R878 in GG 31346 of 22 August 2008 (with effect from 1 September 2008) and promulgated in terms of the provisions of section 168 of the MFMA.
1.55	“Municipal Budget & Reporting Regulations, 2008”	The Municipal Budget & Reporting Regulations, 2008, published under GN R393 in GG 32141 of 17 April 2009 (with effect from 1 July 2009) and promulgated in terms of the provisions of section 168 of the MFMA
1.56	“municipal entity”	Means: (a) a private company referred to in section 86B(1)(a) of the MSA; (b) a service utility; or (c) a multi-jurisdictional service utility; as contemplated in terms of the provisions of the MSA.
1.57	“Municipality”	Means the DR KENNETH KAUNDA DISTRICT MUNICIPALITY (also referred to as “DKKDM”) a local government and legal entity with full legal capacity as contemplated in section 2 of the Systems Act read with the provisions of Chapter 7 of the Constitution and sections 12 and 14 of the Structures Act, with its main place of business and the offices of the Municipal Manager, as envisaged in terms of the provisions of

		<p>section 115(3) of the Systems Act, at: 4 Patmore Road, ORKNEY, NORTH WEST PROVINCE, and may, depending on the context, include:</p> <p>(a) its successor in title; or</p> <p>(b) a functionary, employee or official exercising a delegated power or carrying out an instruction, in the event of any power being delegated as contemplated in terms of the provisions of section 59 of the Systems Act, or exercising any lawful act in the furtherance of the Municipality's duties, functions and powers; or</p> <p>(c) an authorised service provider fulfilling a responsibility assigned to it by the Municipality through a service delivery agreement.</p>
1.58	“Municipal Manager”	The person appointed in terms of the provisions of section 54A of the MSA, and Accounting Officer of the Municipality.
1.59	“Municipal Public-Private Partnership Regulations”	The Municipal Public-Private Partnership Regulations, published under GN R309 in GG 27431 of 1 April 2005 (with effect from 1 April 2005) and promulgated in terms of the provisions of section 168 of the MFMA.
1.60	“Municipality’s Register of Tender and Contract Defaulters”	The list compiled by the Municipality for purposes of the combating of abuse of the Supply Chain Management System in terms of which the persons reflected on the list are prohibited from being awarded any contract by the Municipality for the specified period reflected on the list.
“N”		
1.61	“non-exempted capital asset”	A municipal capital asset which is not exempted in terms of the provisions of section 14(6) of the MFMA from the other provisions of that section.
“O”		

1.62	“obsolete”	As asset of the Municipality which is no longer in use or out of date, or which has become obsolete by reason of it being replaced with something new.
1.63	“official”	<p>In relation to the Municipality or municipal entity, means:</p> <p>(a) an employee of a Municipality or municipal entity;</p> <p>(b) a person seconded to a Municipality or municipal entity to work as a member of the staff of the Municipality or municipal entity; or</p> <p>(c) a person contracted by a Municipality or municipal entity to work as a member of the staff of the Municipality or municipal entity otherwise than as an employee.</p>
1.64	“organ of state”	<p>Means:</p> <p>(a) any department of state or administration in the national, provincial or local sphere of government; or</p> <p>(b) any other functionary or institution:</p> <p>(i) exercising a power or performing a function in terms of the Constitution or a provincial constitution; or</p> <p>(ii) exercising a public power or performing a public function in terms of any legislation, but does not include a court or a judicial officer.</p>
1.65	“other applicable legislation”	Any other legislation applicable to the supply chain management of the Municipality, including but not limited to the Preferential Procurement Policy Framework Act, the Broad-Based Black Economic Empowerment Act, the Construction Industry Development Board Act and the Consumer Protection Measures Act, Act 68 of 2008.
“P”		

1.66	“planned project work”	As opposed to term bids for the supply of goods and/or services that is of an ad-hoc or repetitive nature for a predetermined period of time.
1.67	“this policy”	This Supply Chain Management Policy of the Municipality.
1.68	“preference points”	Refer to “adjudication points” and/or “evaluation points”.
1.69	“Preferential Procurement Policy Framework Act” or “PPPFA”	The Preferential Procurement Policy Framework Act, Act 5 of 2000.
1.70	“Preferential Procurement Regulations” or “PPR”	The regulations published in terms of the provisions of section 5 of the PPPFA, specifically the Preferential Procurement Regulations, 2011 published under Government Gazette No. 34350 of 8 June 2011.
1.71	“Prevention and Combating of Corrupt Activities Act” or “PCCAA”	The Prevention and Combating of Corrupt Activities Act, Act 12 of 2004.
1.72	“prime contractor”	The person or entity with whom the Municipality contracts, as opposed to sub-contractors, suppliers, manufacturers or service providers who contract with the prime contractor.
1.73	“prime cost item(s)”	An item in a bid, the price of which cannot be fixed at the time of bidding, and which may only relate to the supply of materials and not to the carrying out of works.
1.74	“provisional sum(s)”	An amount allocated for specialised work, to be executed by a specialised service provider and for which the details are not available at the time of bidding.
1.75	“Promotion of Access to Information Act” or “PAIA”	The Promotion of Access to Information Act, Act 2 of 2000.

1.76	“Public-Private Partnership” or “PPP”	Refers to the definition of “public-private partnership” as defined in terms of the provisions of Regulation 1 of the Municipal Public-Private Partnership Regulations, published under GN R309 in GG 27431 of 1 April 2005 and promulgated in terms of the provisions of section 168 of the MFMA.
“Q”		
1.77	“quality”	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 the measure of the competency of a supplier.
“R”		
1.78	“rand value”	The total estimated value of a contract in South African Rands, calculated at the time of quotation and bid invitations and includes all applicable taxes and excise duties.
1.79	“Republic”	The Republic of South Africa.
1.80	“responsible agent”	Internal project managers being officials of the Municipality, or external consultants appointed by the Municipality to oversee the implementation of a project or contract.
1.81	“risk management”	The identification, measurement and economic control of risks that threaten the assets and income/earnings of person or entity or business or other enterprise.
“S”		
1.82	“single-source selection”	The procuring of services or goods from one single source as a result of the specialised or unique characteristics of the goods or services procured.
1.83	“SITA”	State Information Technology Agency.
1.84	“small, medium and micro enterprises” or “SMME”	Refers to “small enterprise” as defined in terms of the provisions of section 1 of the National Small Enterprise Act, Act 102 of 1996.

1.85	“sub-contract”	The agreement in terms of which or the act of a primary contractor appointing a sub-contractor.
1.86	“sub-contractor”	Any person or entity that is employed, assigned, or contracted by the prime contractor to carry out work in support of the prime contractor in the execution of a contract.
1.87	“Supply Chain Management Policy”	This Supply Chain Management Policy of the Municipality.
1.88	“Supply Chain Management Regulations” or “SCMR”	The Municipal Supply Chain Management Regulations, published under GN 868 in GG 27636 of 30 May 2005 and promulgated in terms of the provisions of section 168 of the MFMA.
1.89	“Supply Chain Management Unit” or “SCMU”	The Supply Chain Management Unit which functions under the management and control of the Municipal Manager of the Municipality, which unit is responsible for the implementation and management of this policy, as well as any and all other issues related to supply chain management which may be assigned to them by the Municipality.
“T”		
1.90	“tender”	Means bid in the context of procurement.
1.91	“term bid”	A 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 period.
1.92	“total cost of ownership” or “TCO”	The sum of direct spend, related spend, process spend and opportunity cost associated within a specific commodity and service to the owner.
1.93	“treasury guidelines”	Any guidelines on supply chain management issued by the Minister in terms of the provisions of section 168 of the MFMA.
1.94	“trust”	The arrangement through which the property of one

		person is made over of bequeathed to a trustee to administer such property for the benefit of another person.
“U”		
1.95	“unserviceable”	The condition of an asset which is no longer suitable for use and cannot be economically repaired.
1.96	“unsolicited bid”	An offer submitted by any person or entity at its own initiative, without having been invited by the Municipality to do so as envisaged by section 113 of the MFMA read together with Regulation 37 of the SCMR.

2. INTRODUCTION

- (1) Section 111 of the MFMA requires each Municipality to adopt and implement a Supply Chain Management Policy which gives effect to the requirements of the MFMA, and section 217(1) of the Constitution. In addition, the PPPFA requires an Organ of State to determine its preferential procurement policy and to implement it within the framework prescribed. These requirements are given effect to herein.
- (2) The Supply Chain Management System of the Municipality, contained in this policy, provides a mechanism to ensure fair, equitable, transparent, competitive and cost effective procurement and, sustainable and accountable supply chain management within the 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 “green procurement”;

- (c) to facilitate creation of employment and business opportunities for the people of the Municipality with particular reference to HDI's;
- (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; and
- (g) to promote joint venture or consortium partnerships.

3. TITLE AND APPLICATION OF THE POLICY

- (1) This policy shall be known as the Municipality's Supply Chain Management Policy, and shall be applicable to the municipal area of the Municipality as determined by the Municipal Demarcation Board, and promulgated in terms of the provisions of section 12(1) and section 12(3)(c) of the Structures Act.
- (2) This policy applies to:
 - (a) the procuring of goods and/or services;
 - (b) the disposal by Council of goods no longer needed;
 - (c) the selection of contractors to provide assistance in the provision of municipal services otherwise than in circumstances where Chapter 8 of the MSA applies; and
 - (d) the selection of external mechanisms referred to in section 80(1)(b) of the MSA for the provisions of municipal services in circumstances contemplated in section 83 of that Act.
- (3) Unless specifically stated otherwise herein or in the SCMR, this policy does not apply where the Municipality contracts with another organ of state for:
 - (a) the provision of goods and/or services to the Municipality; or

- (b) the provision of a municipal service or assistance in the provision of a municipal service; or
 - (c) the procurement of goods and services under a contract secured by that organ of state, provided that the relevant supplier has agreed to such procurement and the process is compliant to the provisions of this policy; or
- (4) Where the Municipality wishes to contract with another organ of state as envisaged in sub-paragraph (3), a report must nevertheless be submitted to the bid adjudication committee seeking authority to contract with another organ of state, including, water from the Department of Water Affairs or a public entity, another municipality or municipal entity and electricity from Eskom or another public entity, another municipality or municipal entity and approval must be given by the Municipal Manager in writing.
- (5) The Municipality and all private person/s and/or entities must adhere to the principles, provisions, rules and requirements contained in this policy when dealing with any matter connected with and/or contained herein.

4. AIM AND PURPOSE OF THE SUPPLY CHAIN MANAGEMENT SYSTEM

- (1) The aim and the purpose of the Supply Chain Management System is to have and maintain an efficient, fair, equitable, transparent, competitive and cost-effective supply chain system when sourcing and procuring goods and/or services, selling or letting of assets, which conforms to constitutional and legislative principles and maximises the benefits from the Municipality's consolidated buying power in the market place.
- (2) The Municipality must manage its financial and administrative resources in such a manner as to meet and sustain statutory or social obligations.

5. OBJECTIVES OF THIS POLICY

- (1) The objectives of this policy are to implement the legislative provisions relating to the supply chain management of the Municipality, that:
- (a) gives effect to:
 - (i) section 217 of the Constitution; and
 - (ii) Part 1 of Chapter 11 and other applicable provisions of the MFMA;
 - (b) is fair, equitable, transparent, competitive and cost effective;
 - (c) complies with:
 - (i) the regulatory framework prescribed in Chapter 2 of the SCMR; and
 - (ii) any minimum norms and standards that may be prescribed by means of regulations or guidelines as envisaged by the provisions of section 168 of the MFMA;
 - (d) is consistent with other applicable legislation;
 - (e) does not undermine the objective for uniformity in Supply Chain Management Systems between organs of state in all spheres; and
 - (f) is consistent with national economic policy concerning the promotion of investments and doing business with the public sector.
- (2) The Municipality may not act otherwise than in accordance with this Supply Chain Management Policy when:
- (a) procuring goods and/or services;
 - (b) disposing of goods no longer needed;
 - (c) selecting contractors to provide assistance in the provision of municipal services otherwise than in circumstances where Chapter 8 of the MSA applies; or

- (d) in the case of the Municipality selecting external mechanisms referred to in section 80(1)(b) of the MSA for the provision of municipal services in circumstances contemplated in section 83 of that Act.
- (3) To assure the creation of an environment where business can be conducted with integrity and in a fair, reasonable and accountable manner, this policy will ensure that the Municipal Manager and all officials of the Municipality involved in supply chain management activities must act with integrity, accountability, transparency and with the highest of ethical standards and free of favouritism, nepotism and corruption of any kind. The officials of the Municipality involved in supply chain management activities must adhere to the code of ethical standards contained in this policy, together with the Code of Conduct for Municipal Staff Members as contained in Schedule 2 of the MSA.

6. DELEGATED AUTHORITY OF SUPPLY CHAIN MANAGEMENT POWERS AND DUTIES

- (1) The Council has, in terms of its delegation of powers and functions in terms of the provisions of section 59 of the MSA, delegated such additional powers and duties to the Municipal Manager so as to enable the Municipal Manager:
- (a) to discharge the supply chain management responsibilities conferred on Accounting Officers in terms of:
 - (i) Chapter 8 of the MFMA; and
 - (ii) this policy;
 - (b) to maximise administrative and operational efficiency in the implementation of the Supply Chain Management System;
 - (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 System; and

- (d) to comply with his/her responsibilities in terms of section 115 and other applicable provisions of the MFMA.
- (2) Section 79 of the MFMA applies to the sub-delegation of powers and duties delegated to the Municipal Manager in terms of sub-paragraph (1) above.
- (3) Neither the Council, nor the Municipal Manager may delegate or sub-delegate any supply chain management powers or duties:
 - (a) to a person who is not an official of the Municipality; or
 - (b) to a committee which is not exclusively composed of officials of the Municipality; or
 - (c) other than as provided for in the Municipality's system of delegations.
- (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 this policy.
- (5) No decision-making in terms of any supply chain management powers and duties may be delegated or sub-delegated to an external advisor or consultant. Consultants may however be engaged to advise or assist the officials and any committee of the Municipality with any functions or advice.
- (6) Delegations and/or sub-delegations of authority:
 - (a) must be in accordance with pre-established levels of authority to ensure control and division of responsibility;
 - (b) must be in terms of the Municipality's system of delegations;
 - (c) must be in writing;

- (d) must be made to a specific position and not to a named individual;
 - (e) may be confirmed, varied or revoked by the person who made such delegation or sub-delegation, but no such variation or revocation may detract from any right which may have accrued as a result of the delegation or sub-delegation; and
 - (f) does not divest the Municipal Manager of the responsibility and/or accountability concerning the exercise of the delegated power or the performance of the delegated duty.
- (7) The Municipal Manager may confirm, vary or revoke any decision taken in terms of a delegation or sub-delegation, provided that no such variation or revocation may detract from any right which may have accrued as a result of such decision.
- (8) The Municipal Manager of the Municipality must develop and review, annually, a practical and efficient system of delegation and sub-delegation that will both maximise administrative and operational efficiency and provide adequate checks and balances in the financial administration of the Municipality.

6.1 Sub-delegations

- (1) The Municipal Manager may, in terms of the provisions of section 79 of the MFMA sub-delegate any supply chain management powers and duties, including those delegated to the Municipal Manager in terms of sub-paragraph 6(1) above, but any such sub-delegation must be consistent with the provisions of the MSA, the MFMA, the system of delegations adopted by the Municipality and this policy.
- (2) The power to make a final award:

- (a) above R10 million (including VAT) may not be sub-delegated by the Municipal Manager;
 - (b) above R2 million (including VAT), but not exceeding R10 million (including VAT), may be sub-delegated but only to:
 - (i) the Chief Financial Officer;
 - (ii) a director/senior manager, appointed in terms of the provisions of section 56 of the MSA; or
 - (iii) the bid adjudication committee of which the Chief Financial Officer or a director/senior manager is a member; or
 - (c) not exceeding R2 million (including VAT) may be sub-delegated but only to:
 - (i) the Chief Financial Officer;
 - (ii) a director/senior manager, appointed in terms of the provisions of section 56 of the MSA;
 - (iii) a manager directly accountable to the Chief Financial Officer or a director/senior manager; or
 - (iv) the 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 sub-paragraph (2) above, must within 5 (five) days of the end of each month submit to the official referred to in sub-paragraph (4) below, 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 sub-paragraph (3) above must be submitted:

- (a) to the Municipal Manager, in the case of an award by:
 - (i) the Chief Financial Officer;
 - (ii) a director/senior manager, appointed in terms of the provisions of section 56 of the MSA; or
 - (iii) the bid adjudication committee of which the Chief Financial Officer or a director/senior manager is a member; or
 - (b) to the Chief Financial Officer or the director/senior manager responsible for the relevant bid, in the case of an award by:
 - (i) a director/manager referred to in sub-paragraph (2)(c)(iii) above; or
 - (ii) the bid adjudication committee of which the Chief Financial Officer or a director/senior manager is not a member.
- (5) Sub-paragraphs (3) and (4) above 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 this policy.

6.2 Oversight role of the Municipality

- (1) The Council must maintain oversight over the implementation of this policy by the Municipal Manager.
- (2) For the purposes of such oversight the Municipal Manager must:
 - (a) (i) submit a report, as part of the annual report of the Municipality for a financial year and which shall be submitted

to the Council, as referred to in section 121 of the MFMA, on the implementation of this policy;

- (ii) whenever there are serious and material non-compliance, problems or deviations in the implementation of this policy, immediately submit a report on such matters to the Council.
- (3) The Municipal Manager must, within 10 (ten) days of the end of each quarter, submit a report on the implementation of this policy to the Executive Mayor of the Municipality.
 - (4) 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 MFMA. This role of the Executive Mayor is an oversight role only, and specifically excludes any interference or influence in or over a decision to award procurement contracts.

6.3 Supply Chain Management Units

- (1) The Municipality must establish a Supply Chain Management Unit to implement this 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 this paragraph.

7. COMPETENCY AND TRAINING OF SUPPLY CHAIN MANAGEMENT OFFICIALS

- (1) The Municipal Manager must ensure that all officials involved in the implementation of this policy meet the prescribed competency levels, and where necessary, shall provide or procure relevant training.
- (2) The training of officials involved in implementing this policy must be in accordance with any treasury guidelines on supply chain management training.

8. DUTIES AND RESPONSIBILITIES

8.1 General responsibilities of the officials of the Municipality

- (1) Each official must carry out their activities within his/her area of responsibility.
- (2) Each official must take appropriate steps to prevent any unauthorised, irregular, fruitless and wasteful expenditure in his/her area of responsibility.
- (3) Each official responsible for a task must carry it out in accordance with the various supply chain requirements contained in this policy.
- (4) Any matter not specifically delegated or sub-delegated to an official, must be referred to the Municipal Manager for proper allocation thereof.
- (5) Each official is responsible for all assets of the Municipality within his/her area of responsibility.

8.2 Responsibilities of the Municipal Manager

- (1) The Municipal Manager must:
- (a) ensure strict adherence and compliance with the provisions of this policy and all relevant legislation;
 - (b) implement and comply with the provisions of this policy;
 - (c) review the targets and this policy annually or cause the targets and Policy to be so reviewed;
 - (d) appoint the members of the Bid committees after personally ensuring the competency and suitability of such members for the position;
 - (e) ensure that the most favourable service providers are appointed in accordance with this policy and that any deviations from a proposal by the bid adjudication committee are, reported to the Council at the next available Council meeting;
 - (f) establish a Supply Chain Management Unit within the financial directorate in order to assist the Municipal Manager to implement this policy;
 - (g) review this policy at least annually or when the Municipal Manager considers it necessary, and submits proposals or amendments to this policy to the Council.

8.3 Responsibilities of the Directors/Manager appointed in terms of the provisions of section 56 of the MSA

- (1) Each director/manager of the Municipality, appointed in terms of the provisions of section 56 of the MSA, is responsible and accountable for:
- (a) exercising the powers, performing the functions and discharging the duties conferred or assigned to him in terms of this policy or any delegation from the Municipal Manager;

- (b) implementing this policy and any procedural and/or other prescripts issued in terms of this policy and within his/her area of responsibility;
- (c) ensure compliance with this policy and any procedural and/or other prescripts issued in terms of this policy and within his/her area of responsibility;
- (d) developing draft specifications, or causing draft specifications to be developed, for the procurement by his/her directorate of goods or services that exceed an amount of R1 000.00 (including VAT);
- (e) the management of asset utilisation in his/her area of responsibility;
- (f) planning for and, in as far as is possible, accurately estimating the costs for the provision of services, works or goods for which offers are to be solicited;
- (g) selecting the appropriate preference point system to be utilised in the solicitation and evaluation of bids;
- (h) assuring that objectives and targets are achieved with regard to procurements and/or disposals by the Municipality; and
- (i) proper contract and project management of every contract and/or project undertaken by his/her directorate.

8.4 Responsibilities of the Chief Financial Officer

The Chief Financial Officer is the custodian of this policy and is responsible for:

- (1) reporting to the Municipal Manager on the progress regarding the implementation of this policy;
- (2) recommending improvements on the practical implementation of this policy and possible amendments;
- (3) the conducting of procurement audits of the entire Supply Chain Management System to identify successes and/or failures and/or unauthorised, irregular, fruitless and wasteful expenditure and to report on

- any findings which are not in accordance with the provisions of this policy to the Municipal Manager;
- (4) management of the quotation and competitive bidding process from the solicitation thereof to processing invoice payment;
 - (5) promoting a corporate approach by encouraging standardisation of items purchased within the Municipality to realise and achieve economies of scale;
 - (6) providing supplier interface on supplier performance issues;
 - (7) ensuring that all procurement and/or disposals are effected in accordance with all relevant legislation;
 - (8) managing procurement and/or disposals in order to ensure that the Supply Chain Management System and this policy are complied with;
 - (9) ensuring that the procurement and/or disposal process followed by the Municipality adheres to the preference targets without compromising price, quality, service and developmental objectives;
 - (10) ensuring that the officials of the Municipality who are involved in the supply chain management process receive the necessary training and are properly qualified to support the implementation of this policy;
 - (11) specifying the amount to be paid by prospective service providers as a non-refundable deposit for enquiry documents issued by the Municipality;
 - (12) the verification of applications from prospective service providers for possible inclusion in the Register;
 - (13) submitting regular reports to the Municipal Manager and the relevant committee structure of the Municipality regarding progress and any matters of importance relating to this policy; and
 - (14) authorising and designating officials to distribute bid documentation, and when required notices regarding supply chain management matters.

8.5 Responsibilities of the Supply Chain Management Unit

- (1) The SCMU shall be subject to the management and control of, and accountable to the Chief Financial Officer.

- (2) The SCMU must consist of at least the following sections or designate persons responsible for:
 - (a) demand management;
 - (b) procurement/acquisition management;
 - (c) logistics;
 - (d) performance and contract management;
 - (e) disposal and asset management; and
 - (f) risk management.

- (3) The manager of the SCMU will be responsible and accountable for the day-to-day management of the SCMU.

- (4) The personnel of the SCMU are appointed by the Municipal Manager in consultation with the Chief Financial Officer.

- (5) The SCMU must issue, receive and finalise the appropriate documents for the procurement of goods and/or services by means of verbal, written or formal price quotations of a transaction value of over R2 000.00 (including VAT), up to R200 000.00 (including VAT), as well as all documents for procurement by means of a competitive bidding process of a transaction value of over R200 000.00 (including VAT).

- (6) All documents for the disposal of movable and/or immovable capital assets must be issued, received and dealt with by the SCMU.

9. COMMUNICATIONS

Any and all correspondence with regard to this policy must be addressed to the manager of the SCMU, and copied to the Municipal Manager.

CHAPTER 2

FRAMEWORK OF THE SCM POLICY

10. ESTABLISHMENT AND IMPLEMENTATION OF THE SUPPLY CHAIN MANAGEMENT SYSTEM

The Supply Chain Management System of the Municipality is an integrated system for the acquiring of goods, works and services on a fair, equitable, competitive and cost effective basis and consists of the following systems:

- (1) demand management system;
- (2) acquisition management system;
- (3) logistics management system;
- (4) disposal management system;
- (5) risk management system; and
- (6) performance management system.

11. DEMAND MANAGEMENT

- (1) Demand management provides for an effective system to ensure that the resources required to support the strategic and 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 satisfies the needs of the Municipality.
- (2) The Municipality's Integrated Development Plan (IDP) is a comprehensive strategy document setting out how the Municipality intends to address its development challenges in a financial year. The IDP determines how the resources of the Municipality will be allocated and is the planning device on which the budget is based.

- (3) In order to achieve effective demand management, the manager of the SCMU must continuously ensure:
- (a) 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;
 - (b) the establishment of uniformity in policies, procedures, documents and contract options and the implementation of sound systems of control and accountability;
 - (c) 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; and
 - (d) in dealing with suppliers and potential suppliers that the Municipality responds promptly, courteously and efficiently to enquiries, suggestions and complaints.
- (4) Demand management lies at the beginning of the supply chain and the major activities associated with identifying demand are:
- (a) establishing requirements;
 - (b) determining needs; and
 - (c) deciding on appropriate procurement strategies.
- (5) Demand management accordingly involves the following activities:
- (a) understanding the future needs;
 - (b) identifying critical delivery dates;
 - (c) identifying the frequency of the need;
 - (d) linking the requirement to the budget;

- (e) conducting expenditure analyses based on past expenditure;
 - (f) determining requirements;
 - (g) conducting commodity analysis in order to check for alternatives;
and
 - (h) conducting industry analysis.
- (6) Each director/manager, appointed in terms of the provisions of section 56 of the MSA, must during the preparation of his/her directorate's estimates for the budget year:
- (a) determine which functions must be performed;
 - (b) determine the products and services it must provide in the performance of those functions;
 - (c) conduct a condition assessment of the assets managed by his/her directorate;
 - (d) on the basis of the analysis in terms of the above, make recommendations and determine the financial needs during the budget year for:
 - (i) maintaining existing assets at an acceptable level calculated to ensure the continued productivity of the asset in question and minor repairs;
 - (ii) repairing existing assets;
 - (iii) refurbishing or renovating existing assets;
 - (iv) extensive repairing of existing assets;
 - (v) replacing existing assets; and
 - (vi) acquiring new assets.
- (7) The SCMU must, after consultation with each director/manager, compile a schedule of goods and services to be procured for capital projects in respect

of each financial year, which schedule must be attached to the Municipality's budget implementation plan.

- (8) During the consultations between the SCMU and the directors/managers, all reasonable steps must be taken in order to determine:
- (a) the desired date and time at which a specific contract must be awarded;
 - (b) the desired date and time when specific goods must be delivered, services rendered or work executed including key milestones and deliverables so that performance can be monitored and evaluated;
 - (c) the place where any goods to be supplied shall be delivered;
 - (d) the quantity of any goods to be supplied; and
 - (e) any other relevant matter.

12. ACQUISITION MANAGEMENT

- (1) The acquisition management system provides the general conditions and procedures which are applicable, as amended from time to time, to all procurement, contracts and orders of the Municipality.
- (2) The acquisition management system of the Municipality must ensure that:
- (a) goods and/or services are procured by the Municipality in accordance with authorised processes incorporated herein;
 - (b) expenditure on goods and/or services is incurred and managed in terms of an approved budget;
 - (c) the threshold values for the different procurement procedures are complied with;
 - (d) bid documentation, evaluation and adjudication criteria, and general conditions of a contract, are in accordance with the requirements of

- relevant legislation including the PPPFA and any conditions of the CIDBA (in as far as applicable); and
- (e) procurement guidelines issued by National Treasury or the Provincial Treasury are properly taken into account.
- (3) The Municipality must make public the details of the nature of goods and/or services together with the name/s of the provider/s where the Municipality procures such goods and/or services from another organ of state or a public entity.
- (4) The Municipality must make public the fact that it procures goods and/or services otherwise than through its Supply Chain Management System, including:
- (a) the kind/type of goods and/or services; and
- (b) the name of the supplier.
- (5) Where appropriate the Municipal Manager may appoint a neutral and/or independent observer in order to ensure fairness and transparency in the application of the acquisition management system, or to assist and advise the SCMU in the execution of their functions and duties.
- (6) The Municipality may not enter into any contract which will impose financial obligations beyond the 3 (three) years covered in the annual budget for that financial year unless the requirements of section 33(1) of the MFMA have been fully complied with or proper provision has been made in such contract to so comply.
- (7) The following applies where the Municipality procures public-private partnership agreements:

- (a) Part 2 of Chapter 11 of the MFMA; and
 - (b) section 33 of the same act where such agreement will have multi-year budgetary implications for the Municipality within the meaning of that section;
 - (c) the provisions of the Municipal Public-Private Partnership Regulations as published in terms of S 168 of the MFMA.
- (8) In respect of any contract relating to the publication of official and/or legal notices and/or advertisements in the press by or on behalf of the Municipality, a competitive bidding process need not be followed.
- (9) The manager of the SCMU 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 transaction amounts of a value less than R30 000.00 (including VAT).
- (10) This policy, save where the SCMR provides otherwise, does not apply in respect of the procurement of:
- (a) goods or services to the Municipality in terms of a contract with another organ of state;
 - (b) the provision of a municipal service in terms of a contract with another organ of state;
 - (c) goods and services under a contract secured by another organ of state provided that the supplier and that other organ of state has agreed and conserved in writing to such procurement and:
 - (i) the contract has been secured by that other organ of state by means of a competitive bidding process applicable to that organ of state;
 - (ii) the Municipality on [reasonable enquiry] has no reason to believe that such contract was not validly procured;

- (iii) there are demonstrable discounts or benefits for the Municipality to procure under such contract.

12.1 Range of procurement processes

- (1) The procurement of goods and services must be done through the range of procurement processes set out in this paragraph, which are:
 - (a) petty cash purchases up to, and including a transaction value of R2 000.00 (including VAT);
 - (b) written or verbal quotations for procurements of a transaction value exceeding R2 000.00, up to and including a transaction value of R10 000.00 (including VAT);
 - (c) formal written price quotations for procurements of a transaction value exceeding R10 000.00, up to and including a transaction value of R200 000.00 (including VAT); and
 - (d) a competitive bidding process for:
 - (i) procurements where the estimated transaction value exceeds R200 000.00 (including VAT); and
 - (ii) the procurement of a long terms contract (exceeding one year in duration).
- (2) The Municipal Manager of the Municipality may:
 - (a) lower, but not increase, the different threshold values specified in this acquisition management system; or
 - (b) direct that:
 - (i) written or verbal quotations be obtained for any specific procurement of a transaction value lower than R2 000.00;

- (ii) formal written price quotations be obtained for any specific procurement of a transaction value lower than R10 000.00; or
 - (iii) a competitive bidding process be followed for any specific procurement of a transaction value lower than R200 000.00.
- (3) Goods and/or services may not be deliberately divided into parts or items of a lesser value merely to avoid complying with the requirements of this policy and when transaction values are determined for procurements consisting of different parts or items it must, in as far as possible, be treated, dealt with and be calculated as a single transaction.

12.2 General preconditions for the consideration of written quotations or bids

- (1) The Municipality may not consider a written quotation or bid unless the provider who submitted the quotation or bid:
 - (a) has furnished the Municipality with that provider's:
 - (i) full name;
 - (ii) identification number or company or other registration number;
 - (iii) tax reference number;
 - (iv) VAT registration number, if any; and
 - (v) a certificate of attendance at a compulsory site inspection, where applicable.
 - (b) has submitted an original and valid tax clearance certificate from the South African Revenue Services (SARS) certifying that the provider's tax matters are in order;

- (c) has authorised the Municipality to obtain a tax clearance from the South African Revenue Services (SARS) certifying that the provider's tax matters are in order, if deemed necessary; and
 - (d) has indicated:
 - (i) whether he/she or it is in the service of the state, or has been in the service of the state in the previous 12 (twelve) months;
 - (ii) if the provider is not a natural person, whether any of its directors, managers, principal shareholders or stakeholder is in the service of the state, or has been in the service of the state in the previous 12 (twelve) months; or
 - (iii) whether a spouse, child or parent of the provider or of a director, manager, shareholder or stakeholder referred to in sub-paragraph (ii) above, is in the service of the state, or has been in the service of the state in the previous 12 (twelve) months.
- (2) Chapter 3 of this policy applies *mutatis mutandis* to this paragraph.

12.3 Lists of accredited prospective providers

- (1) The Municipal Manager must:
- (a) 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 quotations;
 - (b) at least once a year through newspapers commonly circulating locally, the website of the Municipality and any other appropriate ways, invite prospective providers of goods and/or services to apply for evaluation and listing as accredited prospective providers;

- (c) specify the listing criteria for accredited prospective providers; and
 - (d) disallow the listing of any prospective provider whose name appears on the National Treasury's database as a person prohibited from doing business with the public sector.
- (2) The list must be updated at least quarterly to include any additional prospective providers and any new commodities or types of services.
- (3) Prospective providers will be allowed to submit applications and amendments for listing at any time.
- (4) The list must be compiled per commodity and per type of service.
- (5) The listing criteria for accredited prospective providers which must be provided are the:
- (a) name of supplier/service provider;
 - (b) physical address;
 - (c) postal address;
 - (d) contact person;
 - (e) contact person in sales department, if any;
 - (f) relevant telephone numbers;
 - (g) relevant fax numbers;
 - (h) relevant cellular phone numbers;
 - (i) relevant e-mail addresses;
 - (j) VAT registration number, if applicable;
 - (k) bank details;
 - (l) type of industry and specific goods or services offered;

- (m) valid certification for specialised services;
 - (n) valid tax clearance certificate;
 - (o) CIDB registration if applicable; and
 - (p) valid certification of HDI status.
- (6) For quotations up to and including R200 000.00 (including VAT), bidders are required to be registered on the Municipality's list of accredited prospective providers on or before the closing date in order for their quotations to be responsive.
- (7) All parties to a consortium or joint venture must comply with the requirements of sub-paragraphs (6) and (7) above.

12.4 Petty cash purchases

- (1) Petty cash purchases may be made where goods and/or services which does not exceed a transaction value of R2 000.00 (including VAT) are required.
- (2) The Municipal Manager may delegate the petty cash procurement responsibilities to a manager reporting to the Municipal Manager on the terms and conditions set for delegations in this policy. The Manager may not in turn delegate the responsibility for petty cash purchases to any other official.
- (3) Each director/manager appointed in terms of the provisions of section 56 of the MSA must compile and submit a monthly reconciliation report to the Chief Financial Officer, which report must include the total amount of petty

cash purchases for that months accompanied by the receipts and appropriate documents for each purchase.

- (4) Dividing any purchases into lesser transaction values in order to circumvent the written price quotation and/or formal written price quotation processes is prohibited.
- (5) The total number of petty cash purchases per directorate is limited to 10 (ten) per month.

12.5 Written or verbal quotations

- (1) When the Municipality intends to procure by way of written or verbal quotations, goods and/or services which has a transaction value of over R2 000.00 (including VAT) up to and including R10 000.00 (including VAT), written price quotations must be obtained from at least 3 (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 so listed, such providers must meet the listing criteria in terms of the provisions of paragraph 12.3 above.
- (2) The Municipality must attempt to promote ongoing competition amongst providers of goods and/or services by inviting such providers to submit written or verbal quotations on a rotational basis.
- (3) To the extent feasible, providers must be requested to submit such quotations in writing.

- (4) If it is not possible to obtain at least 3 (three) written quotations, the reasons must be recorded and approved by the manager of the SCMU who must, within 3 (three) days before the end of each month, report to the Chief Financial Officer on any such approvals given in this regard.
- (5) The Municipal Manager must record the names of the potential providers requested to provide quotations, together with their quoted prices.
- (6) If a quotation was submitted verbally, the order may be placed only against written confirmation by the selected provider.
- (7) Dividing required purchases into lesser transaction values in order to circumvent the written price quotation process is not permissible.
- (8) The Municipal Manager must take all reasonable steps to ensure that the procurement of goods and services through written or verbal quotations is not abused and that full and complete records of all such procurements are kept including the date of the procurement, the goods or services procured, the selected provider, the details and prices of the other providers and any other relevant information.
- (9) The Municipal Manager and the Chief Financial Officer must, on a monthly basis, be notified in writing of all written or verbal price quotations accepted by an official acting in terms of a sub-delegation.

12.6 Formal written price quotations

- (1) When the Municipality intends to enter into any contract for the procurement of goods and/or services of a transaction value of over R10 000.00 (including

VAT) up to and including R200 000.00 (including VAT), a minimum of 3 (three) formal written price quotations must be obtained from providers who are suitably qualified and experienced, who/which have the necessary resources and who/which are registered and verified on the list of accredited prospective providers of the Municipality.

- (2) The Municipality must attempt to promote ongoing competition amongst providers of goods and services by inviting such providers to submit formal written price quotations on a rotational basis.
- (3) Formal written price quotations may be obtained from providers who are not listed, provided that if quotations are obtained from providers who are not so listed, such providers must meet the listing criteria in terms of the provisions of paragraph 12.3(5) above.
- (4) Requests to submit formal written price quotations which are likely to be in excess of R30 000.00 (including VAT), must be advertised for at least 7 (seven) days on the official website of the Municipality as well as the official notice board of the Municipality.
- (5) If it is not possible to obtain at least 3 (three) formal written price quotations, the reasons must be recorded and approved by the Chief Financial Officer who must, within 3 (three) days before the end of each month, report to the Municipal Manager on any such approvals given in this regard.
- (6) The Municipal Manager must record the names of the potential providers requested to provide formal written price quotations, together with their quoted prices.

- (7) Notwithstanding the provisions of this paragraph, if formal written price quotations have been invited on the official website of the Municipality, no additional quotes need be obtained where the number of responses thereto are less than 3 (three).
- (8) The Municipal Manager must take all reasonable steps to ensure that the procurement of goods and services through formal written price quotations are not abused.
- (9) The Municipal Manager and the Chief Financial Officer must, on a monthly basis, be notified in writing of all formal written price quotations accepted by an official acting in terms of a sub-delegation.

12.7 Competitive bids and process for competitive bids

- (1) Competitive bids must be called for any procurement of goods and/or services above a transaction value of R200 000.00 (including VAT), and/or for any long term contracts.
- (2) No requirement for goods and/or services above an estimated transaction value of R200 000.00 (VAT included), may be deliberately divided into parts or items of lesser value merely for the sake of circumventing the competitive bidding process and/or procuring such goods and/or services otherwise than through a competitive bidding process.
- (3) Goods and/or services to be procured which consist of different parts or items must, in as far as possible, be treated, dealt with and be calculated as a single transaction.

12.7.1 Bid documentation for competitive bids

(1) In addition to the contents of paragraph 12.2 of this policy, the compilation of bid documentation by the Municipality must:

- (a) take into account and contain, where applicable:
 - (i) the General Conditions of Contract of National Treasury (July 2010, or as amended from time to time);
 - (ii) any treasury guidelines on bid documentation;
 - (iii) the requirements of the CIDB, including the general conditions of contract, in the case of a bid relating to construction works, upgrading or refurbishment of buildings or infrastructure;
 - (iv) supply chain management guidelines of National Treasury or the Provincial Treasury in respect of goods and/or services;
 - (v) the General Conditions & Procedures of the State Tender Board;
 - (vi) the general conditions of contract, in as far as applicable; and

in as far as the contents of the above referred to documents are in accordance and amplification of this policy, but in the event of any conflict between the contents of these documents and this policy, the provisions of this policy will prevail.

- (b) include evaluation and adjudication criteria, including any criteria required by other applicable legislation, and in instances where functionality forms part of such criteria ensure that the bid documentation complies with the conditions set pertaining to functionality as set out in the PPR and National Treasury's SCM Circular 53;
- (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 (including VAT), require bidders to furnish:
 - (i) their audited annual financial statements, if the bidder is required by law to prepare annual financial statements for auditing:
 - (aa) for the past 3 (three) years; or
 - (bb) since their establishment, if the bidder was established during the past 3 (three) years;
 - (ii) a certificate signed by the bidder certifying that the bidder has no undisputed commitments for municipal services towards a Municipality or other service provider in respect of which payment is overdue for more than 30 (thirty) days;
 - (iii) particulars of any contracts awarded to the bidder by an organ of state during the past 5 (five) years, including particulars of any material non-compliance or dispute concerning the execution of such contract; and
 - (iv) a statement indicating whether any portion of the goods and/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;
- (e) stipulate that disputes, objections, complaints and queries must be dealt with as prescribed in terms of this policy and the SCMR;
- (f) a clear indication of 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;
- (g) an appropriate contract and/or delivery period specification for all contracts;
- (h) the requirements of the preferential procurement paragraph of this policy (Chapter 5) and be clearly set out in the bid documentation.

- (2) Bid documentation and evaluation criteria may 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 paragraph of this policy.
- (3) Bid documentation must compel a bidder to furnish the following:
- (a) full name/s;
 - (b) identification number, company or other registration number;
 - (c) tax reference number;
 - (d) VAT registration number, if any;
 - (e) an original tax clearance certificate from SARS stating that the bidder's tax matters are in order;
 - (f) proof that the bidder's account and that of any member or director of the bidder for municipal rates and taxes and municipal service charges are not in arrears, or where the bidder does not have such an account, the person(s) managing or in control of the bidder; and
 - (g) disclosure as to whether:
 - (i) the bidder is listed on any government database of persons prohibited from doing business with the public sector; or
 - (ii) has failed to perform satisfactorily on a previous contract with the Municipality or any other municipality or any other organ of state after written notice was given to that bidder that performance was unsatisfactory;
 - (iii) the bidder or any of its members or directors has committed a corrupt or fraudulent act in competing for the particular contract;
 - (iv) the bidder or any of its members or directors:

- (aa) has abused the Supply Chain Management System of the Municipality or has committed any improper conduct in relation to such system;
 - (bb) has been convicted of fraud or corruption during the past five years;
 - (cc) has wilfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past 5 years; or
 - (dd) has been listed in the Register for Tender Defaulters in terms of S29 of the Prevention and Combating of Corrupt Activities Act, Act 12 of 2004.

- (4) A provision for the termination/cancellation of the contract in the case of no or under-performance must be included in the bid documentation.

- (5) Unless otherwise indicated in the bid documents, the Municipality will not be liable for any expenses incurred in the preparation and/or submission of a bid.

- (6) Bid documentation must state that the Municipality is not be obliged to accept the lowest bid, any alternative bid or any bid.

- (7) Bid documentation must compel bidders to declare any conflict/s of interest they may have in the transaction for which the bid is submitted.

- (8) The bid documentation must require bidders to disclose:
 - (a) whether he or she is in the service of the state, or has been in the service of the state within the previous 12 (twelve) months;

- (b) 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 12 (twelve) months; or
 - (c) whether a spouse, child or parent of the bidder or of a director, manager, shareholder or stakeholder referred to in sub-paragraph (8)(b) above, is or has been in the service of the state within the previous 12 (twelve) months.
- (9) Bid documentation for consultant services must require bidders to furnish to the Municipality particulars of all consultancy services, and any similar services (to the services being bid for) provided to an organ of state in the last 5 (five) years.
- (10) 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.
- (11) 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.
- (12) Where provided for in the bid documentation, an alternative bid must be submitted on a separate complete set of bid documents and must clearly be marked "Alternative Bid", in order to distinguish it from the unqualified bid.
- (13) Bid documentation must state that the Municipality will not be bound to consider alternative bids.

- (14) Bid documentation must provide the validity period of the bid.
- (15) Unless the Municipal Manager directs otherwise, bids are invited within the Republic only.
- (16) The laws of the Republic will apply and govern contracts of the Municipality arising from the acceptance of bids.
- (17) Bid documentation must also state that:
 - (a) the Municipality may award the bid to the bidder who has not scored the highest points if objective criteria, in addition to the criteria set out in section 2(1)(d) and section 2(1)(f) of the PPPFA, justify the award of the bid to another bidder; and
 - (b) where a bid appears to be unrealistic and the Municipal Manager has satisfied himself on enquiry with the bidder that the bid cannot be completed on the terms or for the price so bid, that such bid may be excluded.

12.7.2 Public invitation for competitive bids

- (1) A notice of invitation to prospective providers to submit bids must be by means of a public advertisement in newspapers commonly circulating within the municipal area of the Municipality in English, the website of the Municipality, the official notice board of the Municipality or any other appropriate ways (which may include an advertisement in the Government Tender Bulletin).
- (2) The notice of invitation contemplated in sub-paragraph (1) above, must contain the following advertisement information:

- (a) the closure date and time for the submission of bids, which may not be less than 30 (thirty) days in the case of transactions over R10 million (including VAT), or which are of a long term nature, 14 (fourteen) days in any other case, from the date on which the advertisement is placed in a newspaper, subject to sub-paragraph (3) below;
 - (b) a statement that bids may only be submitted on the bid documentation provided by the Municipality;
 - (c) the title of the proposed contract and the bid or contract reference number;
 - (d) such particulars of the proposed contract as the Municipality deems fit;
 - (e) the date, time and location of any site inspection, if applicable;
 - (f) the place where the bid documentation is available for collection and the times between which bid documentation may be collected;
 - (g) the place where bids must be submitted;
 - (h) the required CIDB contractor grading for construction works, if applicable; and
 - (i) the validity period of the bid.
- (3) The Municipal Manager may determine a closure date for the submission of bids which is less than the 30 (thirty) or 14 (fourteen) days requirement provided in sub-paragraph (2) above, but only if such shorter period can be justified on the grounds of an emergency, urgency or any exceptional case where it is impractical or impossible to follow the official procurement process.
- (4) The bid notice may require payment of a non-refundable tender fee by bidders wanting to collect bid documents, which tender fee will be determined by the Chief Financial Officer in terms of paragraph 8.4 above.

- (5) Bid documentation will be available for collection until the closing date and time of bids.
- (6) Bids submitted to the Municipality must be sealed.
- (7) Where bids are requested in electronic format, such bids must be supplemented by sealed hard copies.

12.7.3 Issuing of bid documents

- (1) Bid documents and any subsequent notices may only be issued by officials authorised and designated by the Chief Financial Officer as stipulated in paragraph 8.4 above.
- (2) 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.
- (3) 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.

12.7.4 Site inspections

- (1) In general and where applicable, site inspections will not be compulsory unless otherwise stated in the bid documents.

- (2) A site inspection may however be made compulsory if the requirements of the bid justifies such an action, provided that the minimum bid periods referred to in this policy are extended by at least 7 (seven) days.
- (3) If site inspections are compulsory and to be held, this fact, as well as full details of the site inspection must be included in the bid notice.
- (4) Where site inspections are made compulsory, the date for the site inspection must be at least 14 (fourteen) days after the bid has been advertised, and a certificate of attendance signed by the responsible agent must be submitted with the bid.
- (5) 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 sub-paragraph 12.7.12 below of this policy.

12.7.5 *Two-stage (prequalification) bidding process*

- (1) This process may be applied to bids for:
 - (a) large complex projects of a specialist or long term nature; or
 - (b) where there are legislative, speciality 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;
 - (c) projects where it may be undesirable to prepare complete detailed technical specifications; or
 - (d) long term projects with a duration exceeding 3 (three) years.

- (2) In the first stage of a bid (prequalification) bidding process, bidders are, invited to firstly prequalify in terms of predetermined criteria, without being required to submit detailed technical proposals and/or a financial offer. In the first stage bidders may be invited to submit technical proposals on conceptual design or performance specifications or other matters.
- (3) In the second stage, all bidders that qualify in terms of the predetermined criteria will be shortlisted and invited to submit final technical proposals and priced bids.
- (4) The notice inviting bidders to pre-qualify must comply with the provisions for the public invitation of competitive bids as provided in paragraph 12.7.2 above.
- (5) Once bidders have pre-qualified for a particular project, they must be given no less than 7 (seven) days to submit a final technical proposal and/or a financial offer.

12.7.6 *Two envelope system*

- (1) 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.
- (2) The financial offers will only be opened once the technical proposals have been evaluated.
- (3) The manager of the SCMU will enter into a register details of all bidders and when the prices are known, the price submitted by each bidder.

12.7.7 *Validity periods*

- (1) The period for which bids are to remain valid and binding must be indicated in the bid documents. If no bidder has been appointed during the validity period, or the extended validity period as referred to below, the bid will lapse.
- (2) 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.
- (3) This period of validity may be extended by the chairperson of the bid evaluation committee, provided that:
 - (a) the original validity period of the bid has not already expired;
 - (b) all the bidders who have submitted bids have been requested to consent to the extension of the validity period and to confirm that their prices and terms will remain as initially stated until expiry of the extended validity period;
 - (c) all the bidders who have submitted bids have agreed in writing to the extension of the validity period of the bid and to their price and terms remaining valid for the extended period; and
 - (d) the validity period of a bid may only be extended once.
- (4) If bidders are requested to extend the validity period of their bids as referred to in sub-paragraph (3) as a result of an objection or complaint being lodged:
 - (a) it must be made clear to bidders that this is the reason for the request for the extension of the validity period; and
 - (b) the responsible official must ensure that all bidders are requested to extend the validity period and terms of their bids where necessary in order to ensure that the bids remain valid throughout the objection or complaint period or until the objection or complaint is finalised.

12.7.8 Contract price adjustment

- (1) For all contract periods equal to or exceeding 1 (one) year, an appropriate contract price adjustment formula must be specified in the bid documents.
- (2) In general, if contract periods do not exceed 1 (one) year, the bid shall be a fixed price bid and not subject to contract price adjustment.
- (3) If, however, as a result of any extension of time granted or extension of the bid validity period, the duration of a fixed price contract exceeds 1 (one) year, the contract will automatically be subject to contract price adjustment for that period by which the extended contract period exceeds such 1 (one) year.

12.7.9 Provisional sums and prime cost items

- (1) If monetary allowances in excess of R200 000.00 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 subcontractors/suppliers, then a competitive bidding process shall be followed in respect of these sums/items.
- (2) When monetary allowances of less than R200 000.00 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 subcontractors/suppliers, the contractor must be required to obtain a minimum of 3 (three) written quotations for approval by the responsible agent.

12.7.10 Samples

- (1) 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 must be delivered separate from the bid to the addressee mentioned in the bid documents.
- (2) Bids may not be included in parcels containing samples.
- (3) 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.
- (4) Samples must be supplied by a bidder at his/her own expense and risk.
- (5) The Municipality will not be obliged to pay for such samples or compensate for the loss thereof, unless otherwise specified in the bid documents, and reserves the right not to return such samples and to dispose of them at its own discretion.
- (6) 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.
- (7) All goods/materials supplied shall comply in all respects to that contract sample.

12.7.11 Closing of Bids

- (1) Bids shall close on the date and at the time stipulated in the bid notice inviting the bids.

- (2) Save in instances as contemplated in paragraph 12.7.2(3) above, the bid closing date may not be less than the periods as prescribed in terms of paragraph 12.7.2(2)(a) above.
- (3) For banking services, the bid closing date must be at least 60 (sixty) days after publication of the notice.
- (4) For proposal calls using a two envelope system, the bid closing date must be at least 30 (thirty) days after publication of the notice.
- (5) The bid closing date may be extended prior to the original bid closing date by the manager of the SCMU, if circumstances justify such an extension, provided that the closing date may not be extended unless a notice is published in the press where the bid was originally advertised, which notice must also be posted on the official notice boards designated by the Municipal Manager.
- (6) The Municipal Manager may determine a closing date for the submission of bids which is less than any of the periods specified in this paragraph, but only if such shorter period can be justified on the grounds of an emergency, urgency or any exceptional case where it is impractical or impossible to follow the official procurement process.

12.7.12 *Communication with bidders before bid closing*

- (1) The manager of the SCMU may, if necessary, communicate with prospective bidders and/or bidders prior to bids closing.

- (2) Such communication shall be in the form of a notice issued to all prospective bidders and/or bidders who have already submitted bids, or indicated the intention to do so by the manager of the SCMU by either e-mail, facsimile, or registered post, as may be appropriate.
- (3) A copy of the notice together with a transmission verification report/proof of posting shall be kept for record purposes.
- (4) Notices should be issued at least one week prior to the bid closing date, where possible.
- (5) Notwithstanding a request for acknowledgement of receipt of any notice issued, the prospective bidders and/or bidders who have already submitted bids, or indicated the intention to do so will be deemed to have received such notice if the procedures in sub-paragraphs (2), (3) and (4) above, have been complied with.

12.7.13 Submission of bids

- (1) Bids must be submitted before the closing date and time, at the address and in accordance with the directives in the bid documents.
- (2) Each bid must be in legible writing using non-erasable black ink and must be submitted on the official form of bid/offer issued with the bid documents.
- (3) 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.

- (4) The envelope may not contain documents relating to any bid other than that shown on the envelope.
- (5) Only sealed bids will be accepted.
- (6) 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.
- (7) Postal bids will not be accepted for consideration.
- (8) No bids forwarded by telegram, facsimile or similar apparatus may be considered.
- (9) Photostat copies of bids or facsimiles which are submitted in the prescribed manner will, however, be considered, provided the original forms of bid/offer can be shown to have been posted or couriered prior to the close of bids.
- (10) Electronic bids will not be accepted.
- (11) The bidder shall choose a *domicilium citandi et executandi* within the Republic and unless notice of the change thereof has duly been given in writing, it shall be the address stated in the bid.
- (12) No person may amend or tamper with any bids or quotations after their submission.

12.7.14 Late bids

- (1) A bid is late if it is not placed in the relevant bid box by the closing time for such bid.
- (2) A late bid will not be admitted for consideration and where feasible, but without any obligation to do so whatsoever, will be returned unopened to the bidder with the reason for the return thereof endorsed on the envelope.

12.7.15 Opening of bids

- (1) At the specified closing time on the closing date, the applicable bid box must be closed in public.
- (2) The bid box must be opened in public as soon as practical after the closing time.
- (3) Immediately after the opening of the bid box, all bids must be opened in public and at the same time checked for physical and outward compliance as to whether the bid was contained in a sealed envelope.
- (4) The official opening the bids must in all cases read out the name of the bidder and, where practical, the amount of the bid.
- (5) As soon as a bid or technical proposal has been opened the Municipal Manager must ensure that:
 - (a) all bids received in time must be recorded in the bid opening record;
 - (b) the bid/proposal must be stamped with the official stamps, and endorsed with the opening official's signature;
 - (c) the name of the bidder, and where possible, the bid sum must be recorded in the bid opening record kept for that purpose;

- (d) the responsible official who opened the bid shall forthwith place his/her signature on the bid opening record;
 - (e) the bid opening record must be made public for inspection; and
 - (f) the entries in the bid opening record must be published on the website of the Municipality.
- (6) There shall be no obligation on the Municipality to re-direct bids found to have been inadvertently placed in the incorrect bid box. Bids shall not be re-directed unless the applicable bids either closed on the same day at the same time, or are still open. The Municipality disclaims any responsibility for seeing that the bids are in fact lodged in the correct bid box.
- (7) A record of all bids placed in an incorrect box must be kept and such record must contain details of the official who discovered the bid in the incorrect bid box.
- (8) 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 where possible. In this regard:
- (a) a bid which was in the correct bid box will be read out;
 - (b) a bid which is found to be in the incorrect bid box, may be redirected provided that the applicable bids either closed on the same day at the same time, or are still open; and
 - (c) where 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.
 - (d) where the bid number or title cannot be ascertained from an examination of the bid documents, the bid may be declared invalid.

- (9) The Municipality however disclaims any responsibility for seeing that the bid is in fact lodged in the correct box.

12.7.16 *Opening of bids where a two-envelope system (consisting of a technical proposal and a financial proposal) is followed*

- (1) Where a two-envelope system is followed, only the technical proposal will be opened at the bid opening.
- (2) The unopened envelope containing the financial proposal shall be stamped and endorsed with the opening official's signature, and be retained by the SCMU for safekeeping.
- (3) When required the financial offers/bids corresponding to responsive technical proposals, must be opened by the opening official in accordance with paragraph 12.7.15(4) and 12.7.15(5) above.
- (4) All bidders who submitted responsive technical proposals must be invited to attend the opening of the financial offers/bids.
- (5) 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.
- (6) After being recorded in the bid opening record, the bids/technical proposals must be handed over to the official responsible for the supervision of the processing thereof and that official must acknowledge receipt thereof by signing the bid opening record.

12.7.17 Invalid bids

- (1) Bids will be invalid and be endorsed and recorded as such in the bid opening record by the responsible official appointed by the manager of the SCMU to open the bid, in the following instances:
 - (a) where the bid is not sealed;
 - (b) where the bid, including the bid price/tendered amount, where applicable is not submitted on the official form of bid/offer;
 - (c) where the bid is not completed in non-erasable ink;
 - (d) where the form of bid/offer has not been signed;
 - (e) where the form of bid/offer is signed, but the name of the bidder is not stated, or is indecipherable;
 - (f) where in a two-envelope system, the bidder fails to submit both a technical proposal and a separate sealed financial offer/bid; or
 - (g) where the bid envelope does not contain the title of the bid and bid number and these cannot be ascertained from an examination of the bid documents.

- (2) When bids are declared invalid at the bid opening, the bid sum of such bids may not be read out, however, the name of the bidder and the reason for the bid having been declared invalid must be announced and recorded in the bid opening record.

12.7.18 Bid sum

- (1) 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 must be read out at the bid opening and this will be the price upon which the bid is evaluated.

- (2) All rates, with the exception of rates set out in rate only bids, and proprietary information are confidential and may not be disclosed.

12.8 Committee system for competitive bids

- (1) The committee system of the Municipality for competitive bids provides for:
- (a) a bid specification committee;
 - (b) a bid evaluation committee; and
 - (c) a bid adjudication committee.
- (2) The Municipal Manager of the Municipality:
- (a) must appoint the members of each committee and, in doing so, must take into account section 117 of the MFMA;
 - (b) may, when appropriate, appoint a neutral or independent observer in order to ensure fairness and transparency in the application of this acquisition management system; and
 - (c) may apply the committee system to formal written price quotations.

12.9 Bid specifications

- (1) The bid specification committee must compile the specifications for each procurement of goods and/or services by Municipality.
- (2) The specifications:
- (a) must be drafted in an unbiased manner to allow all potential suppliers to offer their goods and/or services;

- (b) must take account of any accepted standards such as those issued by Standards South Africa, the International Standards Organisation, South African Bureau of Standards or an authority accredited or recognised 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, marking or labelling 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;
- (g) must reserve the Municipality’s right to reject any bid which is unrealistic or which if accepted may expose the Municipality to unacceptable risk provided that the Municipality has first, after consultation with the bidder, satisfied itself that the bid is indeed unrealistic and would expose the Municipality to unacceptable risk if accepted;
- (h) must wherever professional services or construction or specialist services are procured, provide for a suitable mechanism to verify the expertise and ability of the bidder to undertake to execute the bid at an appropriate standard. This may include providing for pre-qualification criteria, previous track record or any other appropriate method; and
- (i) must be approved by the Municipal Manager prior to publication of the invitation for bids.

- (3) Where specifications are based on standard documents available to bidders, a reference to those documents is sufficient and if the bid specifications also contain extracts from such standard documents, then unless the specifications expressly provide otherwise, the entire document referred to shall be incompetent and the reference to extracts therefrom in the specifications shall not exclude those terms not expressly quoted.

12.10 Bid specification committee

- (1) All bid specifications and bid documentation must be compiled by the bid specification committee of the Municipality. An ad hoc bid specification committee may be constituted for a project or procurement activity.
- (2) The bid specification committee shall be comprised of at least 3 (three) officials of the Municipality, an appointed chairperson, a responsible official and at least 1 (one) supply chain management practitioner of the Municipality.
- (3) Where appropriate a representative of internal audit department/division and/or legal services department/division and/or an external specialist advisor may form part of this committee provided that no person, advisor or competent entity involved with the bid specification committee, or director of such corporate entity, may bid for any resulting contracts.
- (4) Green procurement must be incorporated as far as reasonable possible, for all specifications of goods and/or services.
- (5) In the development of bid specifications, innovative mechanisms should be explored to render the service or product more resource and energy efficient.

- (6) The Municipal Manager, or his delegated authority, must adhere to the provisions of section 117 of the MFMA when appointing the members of the bid specification committees.
- (7) Bid specification committee meetings must be conducted in accordance with the applicable Rules of Order/Standing Rules regulating the conduct of meetings of the Municipality and must be fully minuted.

12.11 Bid evaluation

- (1) The Municipality shall not be obliged to accept any bid.
- (2) The Municipality shall have the right to accept the whole or part of a bid or any item or part of an item of a bid or to accept more than one bid for goods and services.
- (3) The bid evaluation committee must:
 - (a) evaluate bids in accordance with:
 - (i) the specifications which were set for the bid; and
 - (ii) the points system as prescribed by the PPPFA, and if functionality forms a part of the evaluation criteria of the bid, then compliance with the applicable provisions of the PPR and National Treasury's SCM Circular 53 pertaining to functionality must be ensured;
 - (b) evaluate each bidder's ability to execute the contract;
 - (c) check for responsiveness and compliance with the prescribed formalities and requirements as set out in the bid documentation i.e. whether municipal rates and taxes and municipal service charges are not in arrears and tax matters in order; and

- (d) submit to the adjudication committee a report and recommendations regarding the award of the bid or any other related matter.

- (4) The bid evaluation committee must as far as possible be composed of:
 - (a) officials from departments requiring the goods and/or services; and
 - (b) at least one supply chain management practitioner of the Municipality.

- (5) The responsible agent, if applicable, must carry out a preliminary evaluation of all valid bids received and submit a draft bid evaluation report to the bid evaluation committee for consideration. The bid evaluation committee may engage independent external experts to provide reports or guidance to assist the bid evaluation committee in their evaluations provided that only the bid evaluation committee may exercise discretion and make any decisions and provided further that no such external person, advisor or entity involved with the bid evaluation committee, or director or member of such corporate entity, may bid for any resulting contracts.

- (6) Any evaluation of a bid must consider the bids received and note for inclusion in the evaluation report all details of a bidder:
 - (a) whose bid was endorsed as being invalid by the responsible official at the bid opening;
 - (b) whose bid does not comply with the provisions of the Prevention and Combating of Corrupt Activities Act;
 - (c) whose bid does not comply with the general conditions applicable to bids and quotations of this policy;
 - (d) whose bid is not in compliance with the specifications for the bid or does not meet the pre-qualification criteria or who is otherwise excluded by the bid specifications or conditions;

- (e) whose bid does meet the minimum points for functionality, if applicable;
 - (f) whose bid is not in compliance with the terms and conditions of the bid documentation;
 - (g) whose bid does not comply with any minimum points and goals stipulated in terms of the preferential procurement paragraph of this policy and the PPPFA;
 - (h) who is not registered and listed on the list of accredited providers of the Municipality;
 - (i) who, in the case of construction works acquisitions, does not comply with the requirements of the CIDBA regarding registration of contractors;
 - (j) who has failed to submit an original and valid tax clearance certificate from SARS, certifying that the taxes of the bidder are in order or that suitable arrangements have been made with SARS.
- (7) Bids shall be evaluated according to the following, as applicable:
- (a) functionality;
 - (b) bid price and specific goals as per the applicable provisions of the PPPFA (corrected, if applicable and brought to a comparative level where necessary);
 - (c) the unit rates and prices;
 - (d) the bidder's ability to execute the contract;
 - (e) any qualifications to the bid;
 - (f) the bid ranking obtained in respect of preferential procurement as required by this policy;
 - (g) the financial standing of the bidder, including its ability to furnish the required institutional guarantee, where applicable; and
 - (h) any other criteria specified in the bid documents.

- (8) 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 and at the bid price.
- (9) Additional information or clarification of bids may be called for if required but only in writing and as stipulated in terms of this policy.
- (10) Alternative bids may be considered, provided that a bid free of qualifications and strictly in accordance with the bid documents is also submitted and the alternate is clearly marked as such.
- (11) Where 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.
- (12) The bidder obtaining the highest number of points must be recommended for acceptance unless there are objective criteria in addition to the criteria mentioned in section 2(1)(d) and section 2(1)(e) of the PPPFA justifying the award of the bid to another bidder.
- (13) Where, after bids have been brought to a comparative level, 2 (two) or more score equal total adjudication points, the recommended bidder shall be the one scoring the highest preference points.
- (14) Where 2 (two) or more bids are equal in all respects, the bid evaluation committee will 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.

- (15) All disclosures of a conflict of interest must be considered by the bid evaluation committee and shall be reported to the bid adjudication committee.
- (16) The bid evaluation committee must, having considered the responsible agent's draft report (if any), submit a report, including recommendations regarding the award of the bid or any other related matter, to the bid adjudication committee for award.

12.12 Bid evaluation committee

- (1) An ad-hoc bid evaluation committee must be constituted for each project or procurement activity to evaluate bids received.
- (2) The bid evaluation committee shall be comprised of at least 3 (three) officials of the Municipality, 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.
- (3) Where appropriate, a representative of internal audit department/division and/or legal services department/division may form part of this committee, which may also include other internal specialists/experts as necessary.
- (4) External specialists/experts may advise the bid evaluation committee, as required.
- (5) The Municipal Manager, or his delegated authority, must, taking into account section 117 of the MFMA, appoint the members of the bid evaluation committees.

- (6) Bid evaluation committee meetings must be conducted in accordance with the applicable Rules of Order/Standing Orders regulating the conduct of meetings of the Municipality.

12.13 Bid adjudication

- (1) The bid adjudication committee must:
 - (a) consider the report and recommendations of the bid evaluation committee; and
 - (b) either:
 - (i) depending on its delegations, make a final award or make a recommendation to the Municipal Manager regarding the making of a final award; or
 - (ii) make another recommendation to the Municipal Manager on how to proceed with the relevant procurement.
- (2) Where it holds the delegated power to do so in terms of the Municipality's system of delegations, the bid adjudication committee may make an award to a preferred bidder, subject to the Municipal Manager negotiating with the preferred bidder, provided that such negotiation is in accordance with the conditions set out in sub-paragraph (3) below, which apply *mutatis mutandis*.
- (3) 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;
 - (c) does not lead to a higher price than the bid as submitted; and

- (d) minutes of such negotiations must be kept for record purposes; and overall
 - (e) does not materially affect the bid in a manner which compromises the integrity of the bidding process.

- (4) If a bid other than the one recommended in the normal course of implementing this policy is approved, then the Municipal Manager must, within 10 (ten) working days and in writing, notify the Auditor-General, the Provincial Treasury and the National Treasury of the reasons for deviating from such recommendation.

- (5) 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.

- (6) A person aggrieved by a decision or action taken in the execution of this policy may lodge within 14 (fourteen) days of such a decision or action a written objection or complaint to the Municipality against the decision or action as set out in paragraph 20.3 below of this policy.

- (7) Bid documents must state that any objection or complaint in terms of this policy must be submitted in writing to the Municipal Manager at the address stated, and must contain the following:
 - (a) reasons and/or grounds for the objection or complaint;
 - (b) the way in which the objector or complainant's rights have been affected; and
 - (c) the remedy sought by the objector or complainant.

- (8) No bid may be formally accepted until either the expiry of the 14 (fourteen) day objection or complaint period, confirmation in writing before the expiry of the 14 (fourteen) day objection or complaint period that none of the affected parties intend to object or complain or confirmation of the satisfactory resolution of any objection or complaint.
- (9) If the bid adjudication committee or the Municipal Manager has resolved that a bid be accepted, the successful bidder must be notified in writing of this decision.
- (10) The successful bidder must, in addition, be advised of the 14 (fourteen) day objection or complaint period, and be notified that no rights accrue to him/her until the bid is formally accepted in writing.
- (11) Every notification of decision must 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 which must be kept for record purposes.
- (12) Where it becomes necessary to cancel or re-advertise formal bids, a report to this effect must be submitted to the bid adjudication committee for decision.
- (13) Where bids have been cancelled, all bidders must be notified of such cancellation in writing.
- (14) It is not necessary to notify original bidders when new bids are invited and advertised.

- (15) No bid may be re-advertised before the expiry of the validity period of the original bid or any extended validity period.
- (16) Notwithstanding sub-paragraph (14) above and where no valid bids are received or all bidders have indicated in writing that they have no objection to the re-advertisement of the bid, then the bid may forthwith be re-advertised.
- (17) In the case of bids for construction works, and where the bid adjudication committee resolved that there were no responsive bids received, then the bid may forthwith be re-advertised.

12.14 Bid adjudication committee

- (1) The bid adjudication committee must consist of at least 4 (four) senior managers of the Municipality which must include:
- (a) the Chief Financial Officer or, if the Chief Financial Officer is not available, another manager in the budget and treasury office reporting directly to the Chief Financial Officer and designated by the Chief Financial Officer;
 - (b) at least one senior supply chain management practitioner who is an official of the Municipality; and
 - (c) a technical expert in the relevant field who is an official of the Municipality, if the Municipality has such an expert.
- (2) The Municipal Manager must appoint the chairperson of the committee. When 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.

- (3) Neither a member of a bid evaluation committee, nor an advisor or person assisting the evaluation committee, may be a member of a bid adjudication committee.
- (4) Where 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:
 - (a) ensure that the preferred bid is in all respects responsive and compliant and verify that the preferred bidder's municipal rates and taxes and municipal service charges are not in arrears;
 - (b) notify the Municipal Manager, who may:
 - (i) after due consideration of the reasons for the deviation, ratify or reject the decision of the bid adjudication committee; 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.
- (5) The Municipal Manager 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.
- (6) The Municipal Manager must comply with the procedure set out in section 114 of the MFMA within 10 (ten) working days if a bid other than the one recommended in the normal course of implementing this policy is approved.

12.15 Term bids

- (1) Term bids are for the supply of goods and/or services that are of an *ad-hoc* or repetitive nature for a predetermined period of time and where awarded will entitle, but not oblige, the Municipality to purchase the specified goods or services at the bid price from the successful bidder for the duration of the term.
- (2) The Municipality may invite term bids.
- (3) The general acquisition procedure for term bids must comply with procedures contained in the acquisition management system for competitive bids.
- (4) Where applicable, bid documentation must state that the acceptance of term bids based on a schedule of rates will not necessarily guarantee the bidder any business with the Municipality.
- (5) The practice of using term bids to circumvent the bid process in respect of what should be planned project work is not permissible.
- (6) Unless expressly stated in the bid documents, the award of the term bid shall not confer any exclusivity on the successful bidder nor prevent the Municipality from providing the same or similar services elsewhere.
- (7) Material for repairs and maintenance can be purchased on a term bid where circumstances warrant it.
- (8) Additional items included in a term bid by any bidder, which are clearly not an alternative to any of the items specified in the bid documents, will not be considered.

- (9) The process for considering term bids must be in terms of the evaluation and adjudication procedures for conventional competitive bids.
- (10) Subsequent to an award where different selections of items are required in terms of the same term bid, and where it is not possible or practical to separate orders for different items from different suppliers, service providers or contractors, then and in that instance, a selection process must be carried out in respect of each application by the responsible agent. Individual orders must be placed on the basis of the highest total evaluation points received, per application.
- (11) Where 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, the bidder with the next highest valuation points (re-calculating the bid scores excluding the successful bidder) must be selected.

12.16 Procurement of banking services

- (1) A contract for the provision of banking services to the Municipality:
 - (a) must be procured through competitive bids;
 - (b) must be consistent with section 7 of the MFMA and regulation 30 of the SCMR; and
 - (c) may not be for a period of more than 5 (five) years at a time.
- (2) The process for procuring a contract for banking services must commence at least 9 (nine) months before the end of an existing contract.

- (3) The closure date for the submission of bids may not be less than 60 (sixty) days from the date on which the advertisement is advertised.
- (4) Bids must be restricted to banks registered as such in terms of the Banks Act, Act 94 of 1990.

12.17 Procurement of IT related goods and/or services

- (1) The Municipal Manager may request the SITA to assist the Municipality with the acquisition of IT related goods and/or services through a competitive bidding process.
- (2) The 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 of the Municipality where:
 - (a) the transaction value of IT related goods and/or services required by the Municipality in any financial year will exceed R50 million (including VAT); or
 - (b) the transaction value of a contract to be procured by the Municipality whether for one or more years exceeds R50 million (including VAT).
- (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 of SITA must be submitted to the Council, the Provincial and National Treasury and the Auditor General prior to awarding the bid.

12.18 Procurement of goods and services under contracts secured by other organs of state

- (1) The Municipal Manager may procure goods and/or services for the Municipality 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) the Municipality has no reason to believe that such contract was not validly procured;
 - (c) there are demonstrable discounts or benefits for the Municipality to do so; and
 - (d) that other organ of state and the relevant provider have consented to such procurement in writing.

12.19 Procurement of goods necessitating special safety arrangements

- (1) Goods, other than water, which necessitate special safety arrangements, may not be acquired or stored in bulk and in excess of immediate requirement, including gasses and fuel, unless sound justification therefore exists.
- (2) Where the storage of goods in bulk is justified, such justification must be based on sound reasons, including the total cost of ownership and cost advantages for the Municipality and the Municipal Manager may then authorise the same, in writing.

12.20 Proudly SA campaign

The Municipality supports the Proudly SA Campaign and may identify, as a specific goal the promotion of South African owned enterprises in its procurement processes.

12.21 Appointment of consultants

- (1) The Municipal Manager may procure consulting services provided that National Treasury, Provincial Treasury and CIDB guidelines in respect of consulting services are taken into account when such procurements are made.
- (2) A contract for the provision of consultancy services to the Municipality must be procured through competitive bids where:
 - (a) the value of the contract exceeds R200 000.00 (including VAT); or
 - (b) the duration period of the contract exceeds 1 (one) year.
- (3) In addition to the requirements prescribed for competitive bids in this policy, bidders must furnish the Municipality with particulars of:
 - (a) all consultancy services provided to an organ of state in the last 5 (five) years; and
 - (b) any similar consultancy services provided to an organ of state in the last 5 (five) years.
- (4) Dividing the transaction values of required consultant appointments into lesser transaction values in order to circumvent the competitive bidding process is not permitted.
- (5) Where the estimated value of consultant fees is less than or equal to R200 000.00 (including VAT) and the duration of the appointment is less than 1 (one) year, the selection of a consultant to provide the required

service must follow a written price quotation or a formal written price quotation procedure as provided for in this policy.

- (6) Responsible agents must endeavour to ensure that there is rotation in respect of inviting suitably qualified consultants to submit quotes.
- (7) A price/preference points system, contained in the preferential procurement paragraph of this policy, must be applied to such quotations.
- (8) 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 irrespective of the estimated value of the consultant fees.
- (9) The Municipality must ensure that copyright in any document produced, and the patent rights or ownership in any plant, machinery, thing, system or process designed or devised, by a consultant in the course of the consultancy service is vested in the Municipality.
- (10) The Municipality may only consider single-source selection where it is in line with the exceptional cases provided in treasury guidelines the justification for single-source selection is examined in the context of the overall interests of the Municipality and the project.
- (11) Single-source selection may be appropriate only if it presents a clear advantage over a competitive process:
 - (a) for services that represent a natural continuation of previous work carried out by the consultant, and continuity of downstream work is considered essential;

- (b) where rapid selection is essential;
 - (c) for very small appointments;
 - (d) when only one consultant is qualified, or has experience of exceptional worth for the project.
- (12) Single source selection may also be justified in instances where the type of consultant services required are of a *sui generis* nature and based on a specific type of relationship of expertise, privilege, confidentiality, the utmost good faith and trust.
- (13) 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 000.00 (including VAT) or less, such award must be approved by the manager of the SCMU.
- (14) Single source shall be regarded as a deviation in terms of paragraph 12.22 below, and must comply therewith.

12.22 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 and/or services through any convenient process, which may include direct negotiations, but only:
 - (i) in an emergency;
 - (ii) if such goods and/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) for the acquisition of animals for zoos and nature reserve;
 - (v) for the acquisition of special works of art or historical objects where specifications are difficult to compile; and
 - (vi) in any other exceptional case where it is impractical or impossible to follow the official procurement processes;
 - (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 sub-paragraph (1)(a) and (1)(b) above, and report them to the next meeting of the Council and must be included as a note to the annual financial statements. This sub-paragraph does not apply to the procurement of goods and services contemplated in paragraph 3(3) of this policy.
- (3) The conditions relating to the procurement of contracts relating to an emergency, as referred to in sub-paragraph (1)(a)(i) above 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.

- (4) 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.

- (5) Where interim measures to alleviate the immediate situation are appropriate, these should be considered to give time to procure a permanent solution.

- (6) Emergency dispensation will not be granted in respect of circumstances other than those contemplated in sub-paragraph (3) above.

- (7) Where possible, in an emergency situation, 3 (three) quotes in accordance with general acquisition management principles should be obtained and a report submitted to the Municipal Manager for approval. Where, however, time is of the essence, the emergency must be immediately addressed, and the process formalised in a report to the Municipal Manager as soon as possible thereafter.

- (8) The Municipal Manager may, upon recommendation of the bid adjudication committee, and only if good cause exists condone any expenditure incurred in contravention of, or that is not in accordance with, a requirement of this policy, provided that:
 - (a) this power may not be sub-delegated by the Municipal Manager;
 - (b) such condonation will not preclude the taking of disciplinary steps against the responsible official; and

- (c) the Municipal Manager record the reasons for the condonation in writing, and report them to the next meeting of the Council and must be included as a note to the annual financial statements.
- (9) In the event where the Municipal Manager refuses to condone any expenditure referred to in sub-paragraph (7) above, such expenditure will be deemed to be irregular expenditure as defined in terms of the provisions of section 1 of the MFMA, and must be treated as such by the Municipal Manager according to the relevant provisions provided therefore in the MFMA.

12.23 Unsolicited bids

- (1) The Municipality is not obliged to consider any unsolicited bids received outside a normal bidding process.
- (2) The Municipality may only consider an unsolicited bid if:
 - (a) the product or service offered in terms of the bid is a demonstrably or proven unique innovative concept;
 - (b) the product or service will be exceptionally beneficial to, or have exceptional cost advantages for the Municipality;
 - (c) the person or entity who made the bid is the sole provider of the product or service; and
 - (d) the reasons for not going through the normal bidding processes are found to be sound by the Municipal Manager.
- (3) Where the Municipal Manager decides to consider an unsolicited bid that complies with sub-paragraph (2) above, the Municipality must make its decision public in accordance with section 21A of the MSA, together with:

- (a) its reasons as to why the bid should not be open to other competitors;
 - (b) an explanation of the potential benefits for the Municipality were it to accept the unsolicited bid; and
 - (c) an invitation to the public or other potential suppliers to submit their written comments within 30 (thirty) days of the notice.
- (4) Once the Municipality has received written comments pursuant to subparagraph (3) above, it must submit such comments, including any responses from the unsolicited bidder, to the National Treasury and the relevant Provincial Treasury for comment.
- (5) The Municipality's adjudication committee must consider the unsolicited bid and may award the bid or make a recommendation to the Municipal Manager, depending on its delegations.
- (6) A meeting of the adjudication committee to consider an unsolicited bid must be open to the public.
- (7) When considering the matter, the adjudication committee must take into account:
 - (a) any comments submitted by the public; and
 - (b) any written comments and recommendations of the National Treasury or the relevant Provincial Treasury.
- (8) Where any recommendations of the National Treasury or Provincial Treasury are rejected or not followed, the Municipal Manager must submit to the Auditor General, the relevant Provincial Treasury and the National Treasury the reasons for rejecting or not following those recommendations.

- (9) Such submission must be made within 7 (seven) days after the decision on the award of the unsolicited bid is taken, but no contract committing the Municipality to the bid may be entered into or signed within 30 (thirty) days of the submission.

13. LOGISTICS MANAGEMENT

Logistics management provides an effective logistic management system for the setting of inventory levels, placing of orders, receiving and distribution of goods, stores and warehouse management, expediting orders, transport management, vendor performance, maintenance and contract administration, as set out below:

13.1 Setting of inventory levels

- (1) Levels must be determined.
- (2) Stock items must be systematically replenished using the re-order point planning strategy in conjunction with minimum and maximum levels.
- (3) Open reservations must be taken into account during the replenishment run.

13.2 Placing of orders

- (1) Purchase orders must be created with reference to requisitions where the supply source is by means of a contract or verbal, written or formal quotations.
- (2) 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.

- (3) A proper record of all purchase orders must be kept by the manager of the SCMU and a copy thereof must be submitted to the Chief Financial Officer on a monthly basis.
- (4) Standing orders will be utilised in cases where a longer term arrangement, such as after hour services and copier contracts, are required.
- (5) Purchase order approvals must be system based and will involve the procurement department only.
- (6) The assets (for asset creation) and the insurance section (for claims) must be informed after approval of any purchase orders.

13.3 Receiving and distribution of goods

- (1) Goods will be received on the Municipality's inventory system with specific reference to purchase orders.
- (2) No over-receipt of stock may be allowed. The purchase order must be kept open for under-receipts for the outstanding delivery quantity.
- (3) Goods must be issued from stock with reference to reservations.
- (4) Goods may be issued for consumption against internal orders, cost centres, projects and assets under construction.

13.4 Stores and warehouse management

- (1) The stores and warehousing function must be decentralised in different areas and will operate under the jurisdiction of the SCMU.
- (2) The SCMU 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.

13.5 Expediting orders

- (1) The purchasing expeditor is required to monitor and expedite outstanding purchase orders.
- (2) Reminder letters must be faxed automatically to vendors based on the reminder levels prior to the delivery due date which is set in the purchase order.

13.6 Transport management

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

13.7 Vendor performance

- (1) The Municipality must have a system which is able to evaluate a vendors' performance with regard to certain pre-determined criteria.

- (2) The information will be available for contract negotiations and regular feedback to the vendors.

13.8 Contract management

- (1) The Municipal Manager must take all reasonable steps to ensure that contracts procured through this policy are properly implemented and enforced. To this end the Municipal Manager shall devise a system to ensure that he is given, monthly, all relevant details regarding the performance of each contract and details of defaults.
- (2) The performance of contractor under the contract procured through this policy must be monitored on a monthly basis.
- (3) All contracts must be administered by a designated official(s), having the necessary competencies to ensure effective management of the contract. The responsibility of managing a contract falls on the specific directorate to which such a contract relates together with and in co-operation with the SCMU.
- (4) The Municipal Manager must regularly report to the Council on the management of contracts and the performance of contractors.

13.9 Maintenance and contract administration

- (1) Contracts relating to the procurement of goods and/or services will be captured on the Municipality's contract administration system in the form of a price schedule.

- (2) Value (where the maximum value of the contract is restricted) and volume (where the maximum units procured are restricted) based contracts must be utilised in as far as possible.
- (3) The use of fixed price and fixed term contracts must be promoted and expenditure will be driven towards such contracts as opposed to once-off purchases.
- (4) Consolidated procurement volumes must be utilised to drive down negotiated contract prices.
- (5) Contract price adjustments may only be processed in accordance with contract terms and conditions and must accord with the provisions of this policy.

13.10 Contract administration

- (1) Contract administration is the last stage of the procurement and contract cycle, and includes all administrative duties associated with a contract after it is executed, including contract review.
- (2) The effectiveness of contract administration depend on how thoroughly the earlier steps were completed as changes can be made far more readily early in the tendering cycle than after contract management has commenced.
- (3) Some of the key early stages, which influence the effectiveness of contract administration and which the Municipality must properly implement, include:
 - (a) defining the outputs by writing specifications which identify what the aims and outputs of a contract will be;

- (b) assessing risk;
- (c) researching the market place, including conducting pre-tender briefings;
- (d) formulating appropriate terms and conditions of contract;
- (e) identifying appropriate performance measures and benchmarks so that all parties know in advance what is expected, and how it will be tested;
- (f) actively creating competition, so the best possible suppliers bid for contracts; and
- (g) evaluating bids competently, to select the best contractor, with a strong customer focus and good prospects of building a sound relationship.

13.11 Levels of contract administration

- (1) There are three levels of contract administration, being:
 - (a) the first operational level for standard contracts for goods and services. Day to day contract administration should become no more than the execution of performance monitoring, record keeping and price adjustment authorisation functions;
 - (b) the second or intermediate level is for more complex contracts for services. This type of contract requires a more active role for the contract manager in developing the relationship between the Municipality and the contractor and includes the functions set out as part of the first operational level;
 - (c) the third level is for strategic contracts involving complex partnerships and outsourcing arrangements. These contracts require more active management of the business relationships between the supplier and the users, for example to manage outputs

and not the process and include the functions set out in the first operational level and the second level, as referred to above.

13.12 Appointing a contract manager

- (1) A contract manager must be appointed by the Municipal Manager together with the director in charge of the project prior to the execution of the contract.
- (2) Where it is practical to do so, the contract manager must be involved at the earliest stage of the acquisition, which is the time of writing the specifications for the contract.
- (3) Contract administration arrangements must be identified and planned including, delegations, reporting requirements and relationships and specific task responsibilities.
- (4) Departments are responsible for ensuring that contract managers:
 - (a) prepare the contract administration plan;
 - (b) monitor the performance of the contract;
 - (c) are appointed with appropriate responsibility and accountability;
 - (d) are adequately trained so that they can perform and exercise the responsibility; and
 - (e) act with due care and diligence and observe all accounting and legal requirements.

13.13 Duties and powers of a contract manager

- (1) The contract manager's duties and powers are governed by the conditions of contract and the applicable legal principles and statutes.
- (2) The contract manager must monitor the performance of the contract on a monthly basis and must report to the Municipal Manager on the performance of the contractor and the progress of the contract on a monthly basis.
- (3) The contract manager is also required to form opinions and make decisions, and in doing so is expected to be even-handed, prudent and to protect the interests of the Municipality.
- (4) The SCMU is responsible for notifying the contract manager 90 (ninety) days prior to the expiry of each contract in order to allow the contract manager sufficient time in order to decide whether to renew a contract or efficiently conclude a new contract.
- (5) The contract manager must ensure that the contractor duly performs according to the specifications of the contract in delivering goods and/or services on time, in the correct manner and/or quantity and to the required standard.
- (6) Regular meetings and site inspections must be held by the contract manager and the contractor to inspect the progress, deliverables, identify possible problems and/or possible remedial action during the contract period.

13.14 Contract guidelines

- (1) A guideline, which provides a description of the roles and responsibilities of a contract manager during the contract administration stage, must be documented.
- (2) The provisions of this paragraph 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.

13.15 Delegating to contract administrator

- (1) Where appropriate, a contract manager may delegate some contract administration duties to a contract administrator.
- (2) The contract administrator will be required to perform duties related to processes for record keeping, authorising payment and collecting data on contractor performance.
- (3) The contract manager will however remain ultimately responsible and accountable for the performance of the contract.

13.16 Contract management process

- (1) The contract manager must ensure that the contractor fulfils its obligations and complies with its liabilities under the contract and must also ensure that contractors are treated fairly and honestly. Any non-compliance with the terms of the contract and any non-delivery or anticipated non-delivery or breaches must be reported to the Municipal Manager in writing immediately.

- (2) Both parties adhering to the agreed terms will result in:
 - (a) value for money;
 - (b) timeliness;
 - (c) cost effectiveness; and
 - (d) proper contract performance.

- (3) In the event of non-compliance with any contract, the contractor must be placed in default in writing approved by the Municipality's legal advisors and a complete record of all written notices of non-compliance or nature of breach, as the case may be, must be kept on record.

13.17 Document retention

- (1) 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.

- (2) Proper records regarding all aspects of the contract must accordingly be maintained. The contract manager shall be responsible for ensuring that the Municipality has, on the appropriate control sheet, copies of all procurement documents, bids, awards, notices and other written communications.

13.18 Guidelines on contract administration

- (1) The responsibilities of a contract manager may include the following:
 - (a) establishing a contract management plan for the execution of the contract, especially for contracts pertaining to construction and land development projects;

- (b) reviewing the contract management process (including the contract management plan) on a regular basis;
- (c) providing a liaison between internal managers and users, and suppliers to pre-empt, 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 that insurance policy 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;
- (n) pursuing remedies in the event of any breach of the contract;
- (o) reporting on performance/non performance to the Municipal Manager on a monthly basis; and

- (p) the Municipal Manager must establish capacity and a system to ensure effective contract management.

14. DISPOSAL MANAGEMENT

- (1) The disposal management system of the Municipality provides an effective system for the transfer of ownership, disposal or letting of assets, including unserviceable, redundant or obsolete assets, subject to section 14 of the MFMA and the MATR in as far as capital assets are concerned.
- (2) Every disposal by the Municipality must comply with the relevant and applicable provisions of the MFMA and MATR in as far as capital assets are concerned.
- (3) The manner in which assets may be disposed of by the Municipality includes, but is not limited to, the following:
 - (a) transferring an asset to another organ of state in terms of a provision of the MFMA enabling the transfer of assets;
 - (b) transferring the asset to another organ of state at market related value or, when appropriate, free of charge;
 - (c) selling the asset; or
 - (d) destroying the asset.
- (4) Immovable property may be sold only at market related prices except when the public interest or the plight of the poor demands otherwise and in accordance with the provisions of the Disposal Policy of the Municipality.

- (5) 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 to the Municipality.
- (6) In the case of the free disposal of computer equipment, the provincial department of education must first be approached to indicate within 30 (thirty) days whether any of the local schools are interested in the equipment.
- (7) In the case of the disposal of firearms, the National Conventional Arms Control Committee must approve any sale or donation of firearms to any person or institution within or outside the Republic.
- (8) Immovable property must be let at market related rates except when the public interest or the plight of the poor demands otherwise.
- (9) All fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property must be reviewed annually.
- (10) Where assets are traded in for other assets, the highest possible trade-in price must be negotiated.
- (11) As far as possible, assets to be disposed of must be subjected to recycling. Disposal to landfill is not allowed unless there are no available recycling options.
- (12) Non-exempted capital assets must be transferred or permanently disposed of strictly in accordance with section 14 of the MFMA read with Chapter 2 of the MATR.

- (13) Exempted capital assets must be transferred strictly in accordance with Chapter 3 of the MATR.
- (14) The granting of rights by the Municipality to use, control or manage municipal capital assets, where section 14 of the MFMA do not apply, must be executed strictly in accordance with Chapter 4 of the MATR.

15. RISK MANAGEMENT

- (1) The risk management system of the Municipality provides for an effective system to identify, consider and avoid potential risks in the Supply Chain Management System.
- (2) The management of risks pertaining to supply chain management must at all times comply with the criteria laid down in the Risk Management Policy of the Municipality.
- (3) Managing risk must be part of the philosophy, practices and business plans of the Municipality and should not be viewed and practiced as a separate activity in isolation but must be integrated in the systems and functions of the Municipality. 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.
- (4) Risk management includes, but is not limited to:
 - (a) early and systematic identification of risks on a case-by-case basis, analysis and assessment of risk, including conflicts of interest and the development of plans for handling the same;
 - (b) the allocation and acceptance of the responsibility of risk to the party best suited and placed to manage such risk;

- (c) acceptance of the cost of the risk where the cost of transferring the risk is greater than that of retaining it;
 - (d) the management of risk in a pro-active manner and the provision of adequate cover for residual risk;
 - (e) the assignment of relative risk to the contracting parties through clear and unambiguous contract documentation;
 - (f) ensuring that the costs incurred in managing risk are commensurate with the importance of the purchase and the risk to the operations of the Municipality; and
 - (g) taking appropriate professional advice from the appropriate officials or service providers to identify appropriate processes, procedures, outcomes, controls and other pertinent factors prior to undertaking activities with high levels of risk.
- (5) The risk management process must be applied to all stages of supply chain management, be it the conceptual stage, project definition, specification preparation, acquisition approval or implementation to completion.
- (6) Appropriate risk management conditions must therefore be incorporated in contracts and monitored.

16. PERFORMANCE MANAGEMENT

- (1) The performance management system of the Municipality provides for an effective internal monitoring system in order to determine, on the basis of a retrospective analysis, whether the authorised supply chain management processes are being, or were followed, and whether the desired objectives of this policy are being, or were achieved.

- (2) The Municipal Manager must establish and implement the system contemplated in sub-paragraph (1) above.

- (3) Performance management must contain a monitoring process together with a process of retrospective analysis to determine whether:
 - (a) value for money has been attained;
 - (b) proper processes have been followed;
 - (c) desired objectives have been achieved;
 - (d) there is an opportunity to improve the process and limit similar risk in future;
 - (e) suppliers have been assessed and the results of the assessment; and
 - (f) there has been deviation from procedures and, if so, what the reasons for such deviation are.

- (4) The performance management system must accordingly focus on, amongst others outcomes, the:
 - (a) achievement of goals;
 - (b) compliance to norms and standards and applicable legislation;
 - (c) savings generated;
 - (d) cost variances per item;
 - (e) non-compliance with contractual conditions and requirements; and
 - (f) cost efficiency of the procurement process itself.

CHAPTER 3

OTHER MATTERS

17. PROHIBITION ON AWARDS TO PERSONS WHOSE/WHICH TAX MATTERS ARE NOT IN ORDER

- (1) The Municipality may not under any circumstances, irrespective of the procurement process followed, make an award above R15 000.00 to any person or entity whose/which tax matters have not been declared to be in order by The South African Revenue Services.
- (2) Before making an award to a person or entity, the Municipality must first check with the South African Revenue Services whether that person's or entities' tax matters are in order.
- (3) If the South African Revenue Services does not respond within 7 (seven) days such person's or entities' tax matters may for purposes of subparagraph (1) above, be presumed to be in order.

18. PROHIBITION ON AWARDS TO PERSONS IN THE SERVICE OF THE STATE

The Municipality may not under any circumstances, irrespective of the procurement process followed, make an award to a person or entity:

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

19. AWARDS TO CLOSE FAMILY MEMBERS OF PERSONS IN THE SERVICE OF THE STATE

The Municipal Manager must ensure that the notes to the annual financial statements of the Municipality disclose the particulars of any award of more than R2 000.00 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 12 (twelve) months, including:

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

20. CODE OF ETHICAL STANDARDS

- (1) In addition to this code of ethical standards, the codes of conduct for councillors and municipal staff members as set out in Schedule 1 and Schedule 2 to the MSA shall apply in the implementation of this policy.
- (2) The code of ethical standards for officials and all other role-players in the Supply Chain Management System which is established hereby seeks to promote:
 - (a) mutual trust and respect; and
 - (b) an environment where business can be conducted with integrity and in a fair, honest and reasonable manner.
- (3) An official and/or other role-player involved in the implementation of this 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 associate of that person of more than R350.00 in value;
- (d) notwithstanding sub-paragraph (c) above, 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 the Municipality;
- (h) must assist the Municipal Manager in combating fraud, corruption, favouritism, 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 Regulation 47 of the SCMR; or
 - (iii) any alleged breach of the code of ethical standards.

- (4) All declarations in terms of sub-paragraph 20(3)(d) and 20(3)(e) above, must be recorded by the Municipal Manager in a register which the Municipal Manager must keep for this purpose.
- (5) All declarations by the Municipal Manager must be made to the Executive Mayor of the Municipality, who must ensure that such declarations are recorded in the register.
- (6) The Municipal Manager is responsible to ensure that appropriate steps are taken against any official or other role-player who commits a breach of any provision of this code of ethical standards, and Council must ensure that the same measures are enforced where a breach has been committed by the Municipal Manager.
- (7) A breach of the code of ethical standards and any adopted code/s of conduct must be dealt with in accordance with Schedule 1 or Schedule 2 of the MSA, depending upon the circumstances, or the Disciplinary Regulations.
- (8) This Municipal Manager must, in his/her implementation of this policy, take into account, adopt and apply the National Treasury's Code of Conduct for Supply Chain Management Practitioners (Practise Note SCM 4 of 2003). This code of conduct is binding on all officials and other role-players involved in the implementation of this policy and a copy thereof is available on the website www.treasury.gov.za/mfma located under "legislation".

20.1 Inducements, rewards, gifts and favours to the Municipality, its officials and/or other role-players

- (1) No person who is a provider or prospective provider of goods and/or services to the Municipality, or a recipient or prospective recipient of goods

disposed or to be disposed of by the Municipality, 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 any official of the Municipality or any other role-player involved in the implementation of this policy of the Municipality.
- (2) The Municipal Manager of the Municipality must promptly report any alleged contravention of sub-paragraph (1) above 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.
 - (3) Sub-paragraph (1) above does not apply to gifts less than R350.00 in value.
 - (4) The Municipal Manager must, on becoming aware that any reasonably suspected crime has been committed involving any procurement or disposal process or contract, report same to the SAPS, Council and the Provincial and National Treasuries. The Municipality may offer assistance to the SAPS and the National Prosecuting Authorities to ensure the effective prosecution of wrongdoers.
 - (5) The Municipality has a “zero tolerance” approach to criminal wrongdoing.

20.2 Sponsorships

The Municipal Manager of the Municipality must promptly disclose to the National Treasury and the relevant Provincial Treasury any sponsorship promised, offered or granted to the Municipality or any of its officials, whether directly or through a representative or intermediary, by any person who is:

- (a) a provider or prospective provider of goods and/or services to the Municipality; or
- (b) a recipient or prospective recipient of goods disposed or to be disposed of by the Municipality.

20.3 Objections and complaints

Persons aggrieved by decisions or actions taken by the Municipality in the implementation of this policy, may lodge within 14 (fourteen) days of the decision or action, a written objection or complaint against the decision or action.

20.4 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 of the Municipality:
 - (a) to assist in the resolution of disputes between the Municipality and other persons regarding:
 - (i) any decisions or actions taken by the Municipality in the implementation of its Supply Chain Management System; or
 - (ii) any matter arising from a contract awarded in the course of its Supply Chain Management System; or
 - (b) to deal with objections, complaints or queries regarding any such decisions or actions or any matters arising from such contract.

- (2) 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.
- (3) The person appointed by the Municipal Manager in terms of sub-paragraph (1) above must:
 - (a) strive to resolve promptly all disputes, objections, complaints or queries received; and
 - (b) submit monthly reports to the Municipal Manager on all disputes, objections, complaints or queries received, attended to or resolved.
- (4) A dispute, objection, complaint or query may be referred to the relevant Provincial Treasury if:
 - (a) the dispute, objection, complaint or query is not resolved within 60 (sixty) days; or
 - (b) no response is received from the Municipality within 60 (sixty) 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 affecting a person's rights to approach a court at any time.

20.5 Contracts providing for compensation based on turnover

Where 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:

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

CHAPTER 4

COMBATING ABUSE OF THE SUPPLY CHAIN MANAGEMENT SYSTEM

21. COMBATING OF ABUSE OF THE SUPPLY CHAIN MANAGEMENT SYSTEM

- (1) The terms of reference of this paragraph of this policy ensure compliance with Regulation 38 of the SCMR.

- (2) The Municipal Manager shall take all reasonable steps to prevent abuse of the Supply Chain Management System and to investigate any allegations of improper conduct against the concerned official, councillor, or other role player and when justified may:
 - (a) take, or ensure that appropriate steps are taken, against such official, councillor or other role player; and/or
 - (b) inform the Speaker of any allegations against any councillor involved in contraventions of the Supply Chain Management System; and/or
 - (c) report any alleged criminal conduct to the South African Police Service and/or other recognised state authority dealing with criminal investigations.

- (3) The steps referred to in sub-paragraph (2) above which the Municipal Manager may take include registering the affected person in the Municipality's Register of Tender and Contract Defaulters as well as:
 - (a) rejection or withdrawal of recommendations, or invalidation of decisions that were unlawfully or improperly made or influenced, including recommendations or decisions that were made or in any way influenced by:
 - (i) councillors in contravention of item 5, 6 or 9 of the Code of Conduct for Councillors set out in Schedule 1 of the MSA; or

- (ii) municipal staff members in contravention of item 4, 5 or 8 of the Code of Conduct for Municipal Staff Members set out in Schedule 2 of the MSA;
 - (iii) the unlawful or improper conduct of a bidder or its representatives in competing for the particular contract;
- (b) rejection of the bid of an affected person if that person or any of its representatives (including partners, directors of members):
- (i) has failed to pay municipal rates and taxes or municipal service charges and such rates, taxes and charges are in arrears for a period longer than 3 (three) months, as at the date of the submission of the bid;
 - (ii) has abused the Supply Chain Management System or has committed any improper conduct in relation to the Supply Chain Management System;
 - (iii) has been convicted of fraud or corruption during the 5 (five) year period immediately preceding the invitation of bid in question;
 - (iv) is listed:
 - (aa) in the Register for Tender and or Contract Defaulters in terms of the provisions of section 29 of the Prevention and Combating of Corrupt Activities Act;
 - (bb) on the National Treasury's database as a person prohibited from doing business with the public sector or;
 - (cc) on the Municipality's Register of Tender and Contract Defaulters.
 - (v) who, during the last 5 (five) year period immediately preceding the invitation of the bid in question, failed to perform satisfactorily on a previous or current contract with the Municipality or other organ of state after written notice

was given to the affected person that such person's performance was unsatisfactory; and/or

- (vi) wilfully neglected and/or breached any government, municipal or other public sector contract during the 5 (five) year period immediately preceding the invitation of the bid in question;
- (c) cancellation of a contract awarded to a person if that person:
 - (i) committed a fraudulent act during the procurement process or the execution of the contract;
 - (ii) incited or participated in any corrupt or fraudulent act, by an official, councillor or other role player during the procurement process or in the execution of that contract and the person who committed the corrupt or fraudulent act benefited there from.

21.1 Municipality's register of tender and contract defaulters

- (1) The Municipal Manager shall, subject to the procedures prescribed in this policy, be entitled to list a person or any of its representatives, where applicable, on the Municipality's Register of Tender and Contract Defaulters for a period not exceeding 5 (five) years in any of the circumstances listed in terms of this policy.
- (2) In the circumstances referred to in paragraph 21(3)(c)(i) and 21(3)(c)(ii) above, the person convicted of the relevant offence shall automatically also be listed on the Municipality's Register of Tender Contract Defaulters by the Municipal Manager.
- (3) In circumstances where a preference in terms of the PPPFA has been obtained on a fraudulent basis or any specific goals are not attained in the

performance of the contract, the affected person may be listed on the Municipality's Register of Tender and Contract Defaulters for a period not exceeding 10 (ten) years.

- (4) Any listing in terms of paragraph 21(3) above shall, at the discretion of the Municipal Manager, also be applicable to any other enterprise or any partner, manager, director or other person who wholly or partly exercises or exercised or may exercise control over the enterprise of the first mentioned person, and with which enterprise or person the first-mentioned person, is, or was, in the opinion of the Municipal Manager, actively associated.
- (5) A person who has been listed on the Municipality's Register of Tender and Contract Defaulters shall not be entitled to be awarded any contract by the Municipality for the duration of the period reflected on such register.
- (6) The Municipal Manager may, on good cause shown, remove a person from the Municipality's Register of Tender Contract Defaulters or reduce the period for which a person is prohibited from being awarded any contract by the Municipality. The reasons therefor shall be disclosed at the next opportunity to Council.

21.2 Automatic rejection of bid

The Municipal Manager may, after written verification with a person, automatically reject the bid of such a person if the person:

- (a) has been convicted of fraud or corruption during the past 5 (five) year period immediately preceding the invitation of the bid in question; and/or
- (b) is listed on the:

- (i) Register for Tender Defaulters in terms of the provisions of section 29 of the Prevention and Combating of Corrupt Activities Act;
- (ii) National Treasury's database as a person prohibited from doing business with the public sector; and/or
- (iii) Municipality's Register of Tender and Contract Defaulters.

21.3 Adequate notice of manner of abuse of Supply Chain Management System

- (1) Once the Municipality has obtained *prima facie* evidence which it deems to be sufficient to initiate proceedings to take steps against the affected person as contemplated in paragraph 21(2) and 21(3) of this policy, the Municipality must give the affected person adequate written notice of the manner in which it is alleged that the affected person abused the Supply Chain Management System
- (2) In order to constitute adequate notice of the manner in which it is alleged that the affected person abused the Supply Chain Management System the notice must:
 - (a) outline the grounds on which it is alleged that the affected person abused the Supply Chain Management System, with sufficient particulars to enable the affected person to respond to the allegations stipulated in the notice;
 - (b) refer to the applicable provisions of this policy in terms of which steps may be taken in the event where it is proved that the affected person abused the Supply Chain Management System;
 - (c) stipulate that the affected person must make written representations in response to such allegations of abuse of the Supply Chain Management System within 14 (fourteen) calendar days of the date

when the notice was served by a duly authorised person, acting on behalf of the Municipality, on the affected person;

- (d) state that written submissions received after the due date for such submissions shall be disregarded, unless good cause is shown by way of a request for condonation for the late lodgement of the submissions and only when the condonation would not lead to unnecessary delays or otherwise prejudice the public interest;
- (e) state the name, official title, postal address, street address, telephone number and fax number of the official of the Municipality to whom written submissions or any correspondence in terms of this policy must be sent.

21.4 Right of access to information

- (1) When furnishing the affected person with the notice referred to in paragraph 21.3 above, the Municipality shall furnish the affected person with access to all documents upon which the Municipality relies in respect of the allegations against the affected person.
- (2) The affected person shall be furnished by the Municipality with any such additional information as the affected person is entitled to in terms of PAIA on the same terms provided therein.
- (3) Where further information is requested, the Municipality may, in its sole discretion and upon a written request to do so, appropriately extend the time period contemplated in paragraph 21.3(2)(c) so that the affected person is granted adequate time to consider any information provided pursuant to such request prior to the due date for such submissions.

21.5 Administration of hearings

- (1) The Municipal Manager shall appoint an independent and impartial person, who may be an official of the Municipality, to preside and adjudicate on allegations of abuse of the Supply Chain Management System against an affected person.
- (2) The Presiding Officer will adjudicate on the matter based on the written notice and written response and will inform all relevant parties accordingly should the matter, or part thereof be referred for an oral hearing.

21.6 Right to be heard

- (1) An affected person shall, in accordance with and subject to, the procedures in terms of this policy, be granted the right to be heard upon receiving notice as contemplated in terms of paragraph 21.3 above, and prior to the Municipal Manager taking any of the steps listed in paragraph 21(2) and 21(3) above.

21.7 Oral hearings

- (1) An affected person does not have an automatic right to an oral hearing but may submit an application to the presiding officer to have the matter set down for an oral hearing in instances where the presiding officer decided to entertain the matter without oral evidence being heard, or not to refer the matter for an oral hearing.
- (2) The presiding officer may grant such an opportunity in its discretion where the affected person has provided sufficient grounds to the presiding officer to refer the matter for an oral hearing

- (3) The presiding officer shall take any relevant factor into account when deciding whether or not to grant an application referred to in sub-paragraph (2) above by an affected person.
- (4) The presiding officer must ensure that notice of an oral hearing shall be served by a duly authorised person on all relevant parties within 7 (seven) days of receipt of their presentations referred to in paragraph 21.3(2)(c) above, and must:
 - (a) set the date of the oral hearing;
 - (b) inform the affected person of their right to legal representation; and
 - (c) include any other information which the presiding officer may deem relevant or necessary to be included in the notice.
- (5) The Municipality must be appropriately represented at these hearings by a natural person to lead the evidence against the affected person.

21.8 Procedure at oral hearing

- (1) The procedure to be followed at an oral hearing shall be determined by the presiding officer.
- (2) Witnesses must testify under oath.
- (3) Affected person(s) or their representatives shall have the right to present their case and to cross-examine any witnesses who testify at the hearing.

- (4) Witnesses called by the affected person(s) shall be subjected to cross examination by any party who may have an interest at the hearing.

21.9 Onus of proof

The onus is on the Municipality to prove any allegations of abuse of the Supply Chain Management System which proof shall be on a balance of probabilities.

21.10 Right to legal representation

An affected person shall have a right to legal representation.

21.11 Right to request reasons

An affected person shall be informed of the right to request written reasons in terms of the provisions of section 5 of PAIA in respect of any decision taken by the Municipality in terms of this policy.

21.12 Criminal proceedings

The Municipal Manager shall institute criminal proceedings where there is *prima facie* proof of abuse of the Supply Chain Management System that constitutes a criminal offence of corruption or fraud.

21.13 Informing Provincial and National Treasury

The Municipal Manager must inform the Provincial and National Treasury of any actions taken in terms of this paragraph.

CHAPTER 5

PREFERENTIAL PROCUREMENT

22. PLANNING AND STIPULATION OF PREFERENCE POINT SYSTEM TO BE UTILISED

The Municipality must, prior to making an invitation for bidders:

- (1) properly plan for, and, as far as possible, accurately estimate the costs of the provision of goods and/or services for which an invitation for bids is to be made;
- (2) determine and stipulate the appropriate preference point system to be utilised in the evaluation and adjudication of the bids; and
- (3) determine whether the goods and/or services for which an invitation for bids is to be made have been designated for local production and content in terms of paragraph 28 below.

23. EVALUATION OF BIDDERS ON FUNCTIONALITY

- (1) The Municipality must indicate in the invitation to submit a bid if such a bid will be evaluated for functionality.
- (2) The evaluation criteria for measuring functionality must be objective and clearly stated.
- (3) When evaluating bids on functionality, the:
 - (a) evaluation criteria for measuring functionality;
 - (b) weight of each criterion;
 - (c) applicable values; and

- (d) minimum qualifying score for functionality;
must be clearly specified in the invitation to submit a bid.
- (4) No bid must be regarded as an acceptable bid if such bid fails to achieve the minimum qualifying score for functionality as indicated in the bid invitation.
- (5) Bids which have achieved the minimum qualification score for functionality must be evaluated further in terms of the preference point system prescribed in paragraphs 24 and 25 below.

24. THE 80/20 PREFERENCE POINT SYSTEM FOR THE ACQUISITION OF GOODS AND/OR SERVICES UP TO A RAND VALUE OF R1 MILLION

- (1) (a) The following formula must be utilised to calculate the points for price in respect of bids (including price quotations) with a rand value equal to, or above R30 000.00 and up to a rand value of R1 million (all applicable taxes included):

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

Where:

P_s = Points scored for comparative price of bid or offer under consideration;

P_t = Comparative price of bid or offer under consideration; and

P_{\min} = Comparative price of lowest acceptable bid of offer.

- (b) The Municipality may apply the formula in sub-paragraph (1)(a) above for price quotations with a value less than R30 000.00, where and when appropriate.

- (2) Subject to sub-paragraph (3) below, points must be awarded to a bidder for attaining the B-BBEE status level of contributor in accordance with the following table:

B-BBEE Status Level of Contributor	Number of Points
1	20
2	18
3	16
4	12
5	8
6	6
7	4
8	2
Non-compliant contributor	0

- (3) A maximum of 20 (twenty) points may be allocated in accordance with sub-paragraph (2) above.
- (4) The points scored by a bidder in respect of B-BBEE contribution contemplated in sub-paragraph (2) above, must be added to the points scored for price as calculated in accordance with sub-paragraph (1) above.
- (5) Subject to paragraph 26 below, the prospective contract must be awarded to the bidder who scores the highest total number of points.

25. THE 90/10 PREFERENCE POINT SYSTEM FOR THE ACQUISITION OF GOODS AND/OR SERVICES WITH A RAND VALUE ABOVE R1 MILLION

- (1) The following formula must be utilised to calculate the points for price in respect of bids with a rand value above R1 million (all applicable taxes included):

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

Where:

P_s = Points scored for comparative price of bid or offer under consideration;

P_t = Comparative price of bid or offer under consideration; and

P_{\min} = Comparative price of lowest acceptable bid of offer.

- (2) Subject to sub-paragraph (3) below, points must be awarded to a bidder for attaining their B-BBEE status level of contributor in accordance with the following table:

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

- (3) A maximum of 10 (ten) points may be allocated in accordance with sub-paragraph (2) above.

- (4) The points scored by a bidder in respect of the level of B-BBEE contribution contemplated in sub-paragraph (2) above, must be added to the points scored for price as calculated in accordance with sub-paragraph (1) above.
- (5) Subject to paragraph 26 below, the prospective contract must be awarded to the bidder who scores the highest total number of points.

26. AWARD OF CONTRACTS TO BIDDERS NOT SCORING THE HIGHEST NUMBER OF POINTS

A contract may be awarded to a bidder who/which did not score the highest total number of points, but only if objective criteria in addition to those contemplated in section 2(1)(d) and section 2(1)(e) of the PPPFA justify the award to another tenderer.

27. CANCELLATION AND RE-INVITATION OF BIDS

- (1)
 - (a) When, in the application of the 80/20 preference point system as stipulated in the bid documents, **all** bids received exceed the estimated rand value of R1 million, the bid invitation must be cancelled.
 - (b) Where 1 (one) or more of the acceptable bids received are within the prescribed threshold of R1 million, all bids received must be evaluated on the 80/20 preference point system.
- (2)
 - (a) When, in the application of the 90/10 preference point system as stipulated in the bid documents, **all** bids received are equal to, or below R1 million, the bid must be cancelled.

- (b) Where 1 (one) or more of the acceptable bids received are above the prescribed threshold of R1 million, all bids received must be evaluated on the 90/10 preference point system.
- (3) Where the Municipality cancels a bid invitation as contemplated in sub-paragraphs (1) and (2) above, the Municipality must re-invite bidders and must stipulate in the bid documents the correct preference point system to be applied.
- (4) The Municipality may, prior to the award of a bid, cancel such a bid when:
 - (a) due to changed circumstances, there is no longer a need for the requested goods and/or services;
 - (b) funds are no longer available to cover the total envisaged expenditure of the bid; or
 - (c) no acceptable bids are received.
- (5) The decision to cancel a bid in terms of sub-paragraph (4) above must be published in the Government Tender Bulletin or the media in which the original bid invitation was advertised.

28. LOCAL PRODUCTION AND CONTENT

- (1) The Municipality must, in the case of designated sectors, where local production and content is of critical importance in the award of bids, advertise such bids with a specific bid condition that only locally produced goods and/or services or locally manufactured goods, with a stipulated minimum threshold for local production and content will be considered.

- (2) The instructions, circulars and guidelines issued by the National Treasury with specific reporting mechanisms to ensure compliance with sub-paragraph (1) above, must be taken into account by the Municipality when applying this paragraph.
- (3) Where there is no designated sector, the Municipality may include, as a specific bid condition, that only locally produced goods and/or services or locally manufactured goods with a stipulated minimum threshold for local production and content will be considered, provided that such prescript and threshold(s) are in accordance with the specific directives issued for this purpose by the National Treasury in consultation with the Department Trade and Industry.
- (4) Every bid issued in terms of this paragraph must be measurable and audited.
- (5) Where necessary, for bids referred to in sub-paragraphs (1) and (3) above, a two-stage bidding process may be followed, where the first stage involves functionality and minimum threshold for local production and content and the second stage price and B-BBEE with the possibility of price negotiations only with the short-listed bidder(s).

29. B-BBEE STATUS LEVEL CERTIFICATE

- (1) Bidders with an annual total revenue of R5 million or less qualifies as exempted micro enterprises in terms of the B-BBEE and must submit a certificate issued by a registered auditor, accounting officer (as contemplated in section 60(4) of the Close Corporation Act, Act 69 of 1984) or an accredited verification agency.

- (2) Bidders other than exempted micro enterprises must submit their original and valid B-BBEE status level verification certificate or a certified copy thereof, substantiating their B-BBEE rating.
- (3) The submission of such certificates must comply with the requirements of instructions and guidelines issued by the National Treasury and be in accordance with notices published by the Department of Trade and Industry in the Government Gazette.
- (4) The B-BBEE status level attained by the bidder must be utilised to determine the number of points allocated in terms of paragraphs 24(2) and 25(2) above.

30. GENERAL CONDITIONS

- (1) Only bidders who/which have completed and signed the declaration part of the bid documentation may be considered for such bid.
- (2) The Municipality must, when calculating comparative prices, take into account any discounts which have been offered unconditionally as reflected in the bid.
- (3) A discount which has been offered conditionally must, despite not being taken into account for evaluation purposes, be implemented when payment is effected.
- (4) Points scored must be rounded off to the nearest 2 (two) decimal places.

- (5) In the event that 2 (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:
- (a) When, however, functionality is part of the evaluation process and 2 (two) or more bids have scored equal points including equal preference points for B-BBEE, the successful bidder must be the one scoring the highest score for functionality.
 - (b) Where 2 (two) or more bids are equal in all respects, the award will be decided by the drawing of lots.
- (6) A trust, consortium or joint venture will qualify for points for its B-BBEE status level as a legal entity, provided that such entity submits its B-BBEE status level certificate.
- (7) A trust, consortium or joint venture will qualify for points for its B-BBEE status level as an unincorporated entity, provided such entity submit its consolidated B-BBEE scorecard as if the entity is a group structure and that such a consolidated B-BBEE scorecard is prepared for every separate bid.
- (8) A person may not be awarded any points for B-BBEE status level where the bid documents indicates that such a bidder who/which intends to sub-contract more than 25% of the value of the contract to any other enterprise that does not qualify for at least the same amount of points of the bidder, unless the intended sub-contractor is an exempted micro enterprise which has the capacity and ability to execute the sub-contract.
- (9) A person to whom/which a contract has been awarded may not sub-contract more than 25% of the value of the contract to any other enterprise which does not have an equal to or higher B-BBEE status level than the person concerned, unless the contract is sub-contracted to an exempted micro enterprise which has the capacity and ability to execute the sub-contract.

- (10) A person to whom/which a contract has been awarded in relation to a designated sector, may not sub-contract in such a manner that the local production and content of the overall value of the contract is reduced below the stipulated minimum threshold.
- (11) When the Municipality is in need of services which is provided by tertiary institutions only, such services must be procured through a bidding process from the tertiary institutions identified.
- (12) The tertiary institutions referred to in sub-paragraph (11) must be required to submit its B-BBEE status in terms of the specialised scorecard contained in the B-BBEE codes of good practice.
- (13) Where the Municipality require services which can only be provided by 1 (one) or more tertiary institutions or public entities and enterprises from the private sector, the appointment of a contractor must be done by means of a bidding process.
- (14) Public entities must be required to submit its B-BBEE status in terms of the specialised scorecard contained in the B-BBEE codes of good practice.

31. DECLARATIONS

- (1) A bid must, in the manner stipulated in the bid document, compel a bidder to declare that:
- (a) the information provided is true and correct;
 - (b) the signatory to the bid is duly authorised; and
 - (c) documentary proof regarding any bid issue must, when required, be submitted to the satisfaction of the Municipality.

32. REMEDIES

- (1) The Municipality must act against a bidder or a person to whom/which a contract has been awarded, upon detecting that:
 - (a) the B-BBEE status level of contribution has been claimed or obtained on a fraudulent basis; or
 - (b) any of the conditions of the contract have not been fulfilled.

- (2) The Municipality may, in addition to any other remedy it may have against a bidder or person contemplated in sub-paragraph (1):
 - (a) disqualify the bidder or person from the bidding process;
 - (b) recover all costs, losses or damages which it has suffered as a result of such bidder or person's conduct;
 - (c) cancel and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
 - (d) restrict the bidder or contractor, its shareholders and/or directors who acted on a fraudulent basis, from obtaining business from any organ of state for a period which does not exceed 10 (ten) years, after the *audi alteram partem* (hear the other side) rule has been applied; and
 - (e) forward the matter for criminal prosecution.

CHAPTER 6

GENERAL PROVISIONS

33. AVAILABILITY OF THIS POLICY

- (1) A copy of this policy shall be included in the Municipality's Municipal Code as required by the provisions of section 15 of the MSA.
- (2) The Municipality shall take all required legal steps to inform consumers, debtors, owners and occupiers of the content of this policy.
- (3) A copy of this policy shall be available for inspection at the offices of the Municipality at all reasonable times.
- (4) A copy of this policy may be obtained from the Municipality against payment of an amount as determined by the Council.

34. IMPLEMENTATION AND REVIEW OF THIS POLICY

- (1) This policy shall be implemented once approved by Council as part of the budgetary policies of the Municipality, as referred to in the provisions of regulation 7 of the Municipal Budget & Reporting Regulations, 2008, and section 17(3)(e), section 21(1)(b)(ii)(bb), section 22(a)(i) and section 24(2)(c)(v) of the MFMA.
- (2) In terms of the provisions of section 17(1)(e) of the MFMA this policy must be reviewed on annual basis and the reviewed policy tabled to Council for approval as part of the budget process.

35. SHORT TITLE

This policy shall be called the Supply Chain Management Policy of the Dr Kenneth Kaunda District Municipality.