

SUPPLY CHAIN MANAGEMENT POLICY 2021

LATEST COUNCIL RESOLUTION:

1. That cognisance be taken that the Public Participation process with regard to the proposed Supply Chain Management Policy 2021 has been completed and no comments were received.
2. That the current Supply Chain Management Policy be repealed and replaced with the **attached** Supply Chain Management Policy 2021.
3. That Council repeal the Supply Chain Management By-laws published in Provincial Gazette 6739 dated 2010-03-11.

SUPPLY CHAIN MANAGEMENT POLICY 2021/...



**JB MARKS
LOCAL MUNICIPALITY**

SUPPLY CHAIN MANAGEMENT POLICY 2021

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SUPPLY CHAIN MANAGEMENT POLICY 2021

POLICY STATEMENT

Introduction

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

Goal

- ✓ The goal of this Policy is to provide a mechanism to ensure sound, sustainable and accountable supply chain management within the **JB Marks Local Municipality**, whilst promoting black economic empowerment, which includes general principles for achieving the following socio-economic objectives:
 - a. to stimulate and promote local economic development in a targeted and focused manner;
 - b. to promote resource efficiency and greening;
 - c. to facilitate creation of employment and business opportunities for the people of **JB Marks Local Municipality**;
 - d. to promote the competitiveness of local businesses;
 - e. to increase the small business sector access, in general, to procurement business opportunities created by Council;
 - f. to increase participation by small, medium and micro enterprises
 - i. (SMME's); and
 - g. to promote joint venture partnerships.

PREAMBLE

Section 111 of the Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003) requires each municipality and municipal entity to adopt and implement a Supply Chain Management Policy, which gives effect to the requirements of the Act.

In addition, the Preferential Procurement Policy Framework requires an organ of state to determine its Preferential Procurement Policy and to implement it within the framework prescribed. This requirement is given effect to in the preferential procurement section of this Policy.

OBJECTIVES OF THE POLICY

The principal objective of the Supply Chain Management Policy is to provide a mechanism to ensure sound, sustainable and accountable supply chain management of the Municipality, whilst promoting black economic empowerment, "local content" which will be defined to specify businesses operating within the municipal boundaries which includes but not solely confined to achieving the following socio-economic principles:

- (a) To stimulate and promote local economic development in a targeted and focused manner.
- (b) To promote resource efficiency and greening.
- (c) To facilitate creation of employment and business opportunities for the people living within the Municipality with particular reference to Historical Disadvantaged Individuals (HDIs) as cited in section 217 (2) of the Constitution of the Republic of South Africa, 1996 (Act 106 of 1996).
- (d) To promote local content and the competitiveness of local businesses operating within the Municipality.
- (e) To increase the small business sector access, in general, to procurement business opportunities created by the Municipality.
- (f) To increase participation by small, medium and micro enterprises (SMMEs), including cooperatives.
- (g) To promote joint venture partnerships/subcontracting with businesses operating within the Municipality.

1. DEFINITIONS

In this policy, unless the context otherwise indicates, the following words or expression to which a meaning has been assigned in the Act or the Regulations has the same meaning as in the Act or the Regulations:

- 1.1 "Accounting Officer" means the Municipal Manager or his delegate.
- 1.2 "Adjudication points" means the points for price and points for B-BBEE contribution referred to in the Preferential Procurement Regulations, 2011 and the Preferential Procurement section of this policy, also referred to as "evaluation 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 “Artificial person” means a legal entity, not a human being, recognized as a person in law to whom certain legal rights and duties may be attached, e.g. a body corporate.
- 1.5 “Asset” means a tangible or intangible resource capable of ownership.
- 1.6 “B-BBEE Status Level of Contributor” means the B-BBEE status received by 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 section 9(1) of the Broad-Based Black Economic Empowerment Act.
- 1.7 “Bid” means a written offer in a prescribed or stipulated form in response to an invitation by the Municipality for the provision of goods, services or construction works through price quotations, advertised competitive bidding processes or proposals.
- 1.8 “Bidder” means any person submitting a competitive bid or a quotation.
- 1.9 “Broad-Based Black Economic Empowerment (BBBEE) Act” means the Broad-Based Black Economic Empowerment Act, 2003 (Act 53 of 2003) and Codes of Good Practice pertaining thereto.
- 1.10 “Capital Asset” means -
- (a) any immovable asset such as land, property or buildings; or
 - (b) any movable asset that can be used continuously or repeatedly for more than one year in the production or supply of goods or services, for rental to others or for administrative purposes, and from which future benefit can be derived, such as plant, machinery and equipment.
- 1.11 “Council” means the Council of a municipality referred to in section 18 of the Municipal Structures Act.
- 1.12 “Chief Financial Officer” means a person designated in terms of section 80 (2) (a) of the Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003).
- 1.13 “Closing Time” means the time and day specified in the bid documents for the receipt of bids and the official watch will be that of the Municipality or municipal official.
- 1.14 “Community Based Vendor” means a supplier of goods, services and/or construction works who resides in a target area or community, who meets the criteria for community based vendors as determined by the Manager: Supply Chain Management from time to time, and who is registered as such on the Municipality’s supplier database.
- 1.15 “Comparative Price” means the price after the factors of a non-firm price and all unconditional discounts that can be utilized, have been taken into consideration.
- 1.16 “Competitive bid” means a bid in terms of a competitive bidding process.
- 1.17 “Competitive bidding process” means a call for supply of goods and services, the receipt of offers for supply thereof from qualifying vendors and the evaluation of offers received.

- 1.18 "Construction Industry Development Board (CIDB) Act" means the Construction Industry Development Board Act, 2000 (Act 38 of 2000) and includes the regulations pertaining thereto.
- 1.19 "Construction Works" means any work in connection with -
- (a) the erecting, maintenance, alteration, renovation, repair, demolition or dismantling of or addition to a building or any similar structure;
 - (b) the installation, erecting, dismantling or maintenance of a fixed plant;
 - (c) the construction, maintenance, demolition or dismantling of any bridge, dam, canal, road, railway, sewer or water reticulation system or any similar civil engineering structure; or
 - (d) the moving of earth, clearing of land, the making of an excavation, piling or any similar type of work.
- 1.20 "Consortium" also referred to as a "Joint Venture".
- 1.21 "Consultant" means a person or entity providing services requiring knowledge based expertise and includes professional service providers.
- 1.22 "Contract" means the agreement which is concluded when the Municipality accepts, in writing, a bid or quote submitted by a provider.
- 1.23 "Contractor" means any person or entity whose bid or quote has been accepted by the Municipality.
- 1.24 "Contract participation goal" means the value of the participation of a specific target group that a contractor must achieve in the performance of a contract expressed as a percentage of the bid sum less provisional sums, contingencies and VAT.
- 1.25 "Co-operative" means a group of people acting together to meet the common needs and aspirations of its members, sharing ownership and profit making decisions democratically as espoused by national government to give work to such formation.
- 1.26 "Day(s)" means calendar days unless the context indicates otherwise.
- 1.27 "Delegated Authority" means any person or committee delegated with authority by the Council in terms of the provisions of the MFMA.
- 1.28 "Designated sector" means a sector, subsector 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 services, works or goods or locally manufactured goods meet the stipulated minimum threshold for local production and content.
- 1.29 "Emergency" means a situation which is life threatening and/or if there is death and/or serious damage to property and/or serious imminent loss to Council.
- 1.30 "Evaluation of Bids" in respect of bids that exceed R200 000, shall be deemed to take place when the Bid Evaluation Committee meets to make a recommendation to the Bid Adjudication Committee.
- 1.31 "Evaluation Points" are also referred to as "Adjudication Points".

- 1.32 “Exempted Capital Asset” means a municipal capital asset which is exempted by section 14(6) or 90(6) of the MFMA from the other provisions of that section.
- 1.33 “Exempted Micro Enterprise” means a bidder with an annual total revenue of R5 million or less (in terms of the Broad-Based Black Economic Empowerment Act).
- 1.34 “Final award” in relation to bids or quotations submitted for a contract, means the final decision on which bid or quote to accept.
- 1.35 “Firm Price” means the price that is only subject to adjustments in accordance with the actual increase or decrease resulting from the change, imposition or abolition of customs or excise duty and any other duty, levy, or tax, which, in terms of the 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 the contract.
- 1.36 “Formal written price quotation”, “Written price quotation”, “Quotation” or “Quote” means a written or electronic offer to the Municipality in response to an invitation to submit a quotation.
- 1.37 “Functionality” is the measure, according to predetermined criteria which must be measurable of the suitability of a proposal, design or product for the use for which it is intended, and may also include a measure of the competency of a supplier. “Functionality” is also referred to as “Quality”.
- 1.38 “Granting of Rights” means the granting by the Municipality of the right to use, control or manage capital assets in circumstances where sections 14 and 90 of the MFMA and Chapters 2 and 3 of the Municipal Asset Transfer Regulations do not apply. In other words, where the granting of such rights does not amount to “transfer” or “disposal” of the asset and which includes leasing, letting, hiring out, etc., of the capital asset.
- 1.39 “Green Procurement” is defined as taking into account environmental criteria for goods and services to be purchased in order to ensure that the related environmental impact is minimized.
- 1.40 “Imported Content” means that portion of the bid price represented by the cost of components, parts or materials which have been or are still to be imported (whether by the supplier or its subcontractors) and which costs are inclusive of the costs abroad, plus freight and other direct importation costs, such as landing costs, dock dues, import duty, sales duty or other similar tax or duty at the South African port or entry.
- 1.41 “In the service of the state” means to be a member of –
- (a) any municipal council;
 - (b) any provincial legislature; or
 - (c) the National Assembly or the National Council of Provinces;
 - (d) a member of the board of directors of any municipal entity;
 - (e) an official of any municipality or municipal entity;
 - (f) an employee of any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act 1 of 1999);

- (g) a member of the accounting authority of any national or provincial public entity; or
 - (h) an employee of Parliament or a provincial legislature.
- 1.42 “Joint venture or consortium” means an association of persons/companies/close corporations/firms formed for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract or contracts. The joint venture must be formalised by agreement between the parties.
- 1.43 “Local content” means that the portion of the bid price which is not included in the imported content, provided that the local manufacture does not take place. This determines whether the services, works or goods for which an invitation is terms of Regulation 9 of the Preferential Procurement Regulations that will entail the inclusion of a specific condition in the bid documents that only locally produced services, works or goods or locally manufactured goods with a stipulated minimum threshold for local production and content will be considered. This will subsequently have a direct impact on the evaluation of the bid to be made has been designated for local production and content.
- 1.44 “Local business enterprise or local supplier” means a service provider who permanently reside within the municipal boundaries or enterprise that is permanently based within the municipal boundaries.
- 1.45 “Long term contract” means a contract with a duration period exceeding one year.
- 1.46 “List of accredited prospective providers” means the list of accredited prospective providers which is maintained by the Municipality in terms of clause 14 of this policy.
- 1.47 “Municipal Asset Transfer Regulations” means the Municipal Asset Transfer Regulations published in Government Gazette 31346 of 22 August 2008.
- 1.48 “Municipal entity” means an entity as defined in the Systems Act.
- 1.49 “Municipal Manager” means a person appointed in terms of section 82 (1) (a) or (b) of the Municipal Structures Act.
- 1.50 “Municipality” -
- (a) when referred to as a corporate body, means a municipality as described in section 2 of the Municipal Systems Act; or
 - (b) when referred to as a geographic area, means a municipal area determined in terms of the Local Government: Municipal Demarcation Act, 1998 (Act 27 of 1998);
- 1.51 “Municipal Finance Management Act” (MFMA) means the Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003).
- 1.52 “Non-compliant contributor” means a person who does not meet the minimum score to qualify as a status level 8 B-BBEE Contributor, or a person who is not verified in terms of the required Sector Charter.
- 1.53 “Non-exempted capital asset” means a municipal capital asset which is not exempted by section 14(6) or 90(6w) of the MFMA, from the other provisions of that section.

- 1.54 “Non-firm Prices” means all prices other than “firm” prices.
- 1.55 “Natural person” means a natural person is a human being. The person is not a natural person in terms of the Companies Act, 2008 (Act 71 of 2008), section 69. If a person was disqualified or found to be an un-rehabilitated insolvent or has been removed from an office of trust on the grounds of misconduct involving dishonesty or convicted of fraud, theft or forgery or any conduct involving fraud, misrepresentation or dishonesty. This includes flouting statutes like the Insolvency Act, Close Corporation Act, Competition Act, Financial Intelligence Centre Act, Securities Act or Prevention and Combating of Corrupt Activities Act.
- 1.56 “Other applicable legislation” means any other legislation applicable to municipal supply chain management, including –
- (a) the Preferential Procurement Policy Framework Act, 2000 (Act 5 of 2000);
 - (b) the Broad-Based Black Economic Empowerment Act, 2003 (Act 53 of 2003); and
 - (c) the Construction Industry Development Board Act, 2000 (Act 38 of 2000).
- 1.57 “Person” includes a natural or juristic entity.
- 1.58 “Policy” means this Supply Chain Management Policy as amended from time to time.
- 1.59 “Preference points” means the points for preference referred to in this policy.
- 1.60 “Preferential Procurement Policy Framework Act” (PPPFA) means the Preferential Procurement Policy Framework Act, 2000 (Act 5 of 2000).
- 1.61 “Preferential Procurement Regulations” means the Regulations pertaining to the PPPFA.
- 1.62 “Prime Contractor” shall have the same meaning as “contractor”.
- 1.63 “Promotion of Administrative Justice Act” means the Promotion of Administrative Justice Act, 2000 (Act 3 of 2000).
- 1.64 “Quality” also referred to as “functionality” (see clause 1.37 above).
- 1.65 “Rand value” means the total estimated value of a contract in South African currency, calculated at the time of bid invitations and includes all applicable taxes, and excise duties.
- 1.66 “Regulation” means the Local Government: Municipal Finance Management Act, 2003, Municipal Supply Chain Management Regulations published by Government Notice 686 of 2005.
- 1.67 “Republic” means the Republic of South Africa.
- 1.68 “Responsible agent” means those internal project managers being Council officials or external consultants appointed by the Council responsible for the administration of a project or contract.
- 1.69 “SARS” means the South African Revenue Services.
- 1.70 “Small, Medium and Micro Enterprises (SMMEs)” bears the same meaning assigned to this expression in the National Small Enterprise Act, 1996 (Act 102 of 1996).

- 1.71 “Stipulated minimum threshold” means that portion of local production and content as determined by the Department of Trade and Industry.
- 1.72 “Subcontract” means the prime contractor’s assigning, leasing, making out work to, or employing, another person to support such prime contractor in the execution of part of a project in terms of the contract.
- 1.73 “Subcontractor” means any person that is assigned, leased, employed or contracted by the prime contractor to carry out work in support of the prime contractor in the execution of a contract.
- 1.74 “Substitute bid” means a second official bid submitted by the same person, to replace a bid for the same bid, already submitted by them into the bid box.
- 1.75 “Supplier/Vendor” are generic terms which may include suppliers of goods and services, contractors and/or consultants.
- 1.76 “Supplier database” means the list of accredited prospective providers which a municipality or municipal entity must keep in terms of Regulation 14 of the Supply Chain Management Regulations.
- 1.77 “Supply Chain Management Regulations” means the Municipal Supply Chain Management Regulations published in Government Gazette 27636 of 30 May 2005.
- 1.78 “Systems Act” means the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000).
- 1.79 “Sundry Purchases” mean purchases made without going through a verbal or written quotation process.
- 1.80 “Targeted labour” means those individuals employed by a contractor, or subcontractor, in the performance of a contract, who are defined in the contract as the target group and who permanently reside in the defined target area.
- 1.81 “Targeted enterprises” means those enterprises (suppliers, manufacturers, service providers or construction works contractors) that own, operate or maintain premises within the target area defined in the contract, for the purposes of carrying out their normal business operations.
- 1.82 “Tender/Tenderer” means “bid/bidder” in the context of construction works procurement.
- 1.83 “Tender Waiver” means right given to the end user to request the evaluation committee to consider its input/other service provider/bidder not recommended by pre-evaluation process. A waiver exists only where one with full knowledge of a material (legal/risks/technical/safety or other) fact does or forbears to do something inconsistent with the existence of the right or of his intention to rely on that right.
- 1.84 “Term bid” means rates based bid for the ad hoc or repetitive supply of goods, services or construction works, where the individual rates are approved for use over a specified contract period.

- 1.85 “Total revenue” bears the same meaning assigned to this expression in the Codes of Good Practice on Black Economic Empowerment issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act and promulgated in the Government Gazette on 9 February 2007.
- 1.86 “Transaction Value” means the actual contract value (the bid sum or price) in South African currency, inclusive of all applicable taxes in respect of the goods, services or construction works that are contracted for.
- 1.87 “Treasury guidelines” means any guidelines on supply chain management issued by the Minister in terms of section 168 of the Act.
- 1.88 “The Act” means the Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003).
- 1.89 “Unbundling of contracts or tender” means to “break” a contract into smaller pieces that could result in a project having multiple contractors, performing separate pieces of work for the project.
- 1.90 “Unsolicited bid” means an offer submitted by any person at its own initiative without having been invited by the Council to do so.
- 1.91 “Website” means the Council’s official website.
- 1.92 “Written or verbal quotations” means quotations referred to in clause 12.1(c) of this policy.

Words importing the singular shall include the plural and vice versa and words importing the masculine gender shall include females and words importing persons shall include companies, close corporations and firms, unless the context clearly indicates otherwise.

Unless otherwise indicated, all amounts/limits stated in this document shall be deemed to be inclusive of all applicable taxes.

CHAPTER 1

**ESTABLISHMENT AND IMPLEMENTATION OF THE
SUPPLY CHAIN MANAGEMENT POLICY****2. OBJECTIVES OF THE SUPPLY CHAIN MANAGEMENT POLICY**

- 2.1 The Municipality must resolve in terms of section 111 of the Act to have and implement a Supply Chain Management Policy that –
- (a) gives effect to –
 - (i) section 217 of the Constitution; and
 - (ii) Part 1 of Chapter 11 and other applicable provisions of the Act;
 - (b) is fair, equitable, transparent, competitive and cost effective;
 - (c) complies with –
 - (i) the regulatory framework prescribed in Chapter 2 of the Regulations; and
 - (ii) any minimum norms and standards that may be prescribed in terms of section 168 of the Act;
 - (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.
- 2.2 The Supply Chain Management Policy of a municipal entity must, in addition to complying with clause 2.1 of this policy, and to the extent determined by the parent municipality, also be consistent with the Supply Chain Management Policy of the parent municipality. If the Supply Chain Management Policy of an entity is not consistent with the Supply Chain Management Policy of its parent municipality, the Council of the parent municipality must take appropriate steps to ensure consistency.
- 2.3 The Municipality may not act otherwise than in accordance with this Supply Chain Management Policy when –
- (a) procuring goods or services;
 - (b) disposing of goods no longer needed;
 - (c) selecting contractors to provide assistance in the provision of municipal services otherwise than in circumstances where Chapter 8 of the Municipal Systems Act applies; or
 - (d) selecting external mechanisms referred to in section 80 (1) (b) of the Municipal Systems Act for the provision of municipal services in circumstances contemplated in section 83 of that Act.

- 2.4 Subclauses 2.1 and 2.2 of this policy do not apply in the circumstances described in section 110 (2) of the Act (other organs of state) except where specifically provided otherwise in this policy.

3. ADOPTION AND AMENDMENT OF THE SUPPLY CHAIN MANAGEMENT POLICY

- 3.1 The Accounting Officer must –

- (a) at least annually review the implementation of this policy; and
- (b) when the Accounting Officer considers it necessary, submit proposals for the amendment of this policy to the Council.

- 3.2 When amending this Supply Chain Management Policy the need for uniformity in supply chain practices, procedures and forms between organs of state in all spheres, particularly to promote accessibility of supply chain management systems for small businesses must be taken into account.

4. DELEGATION OF SUPPLY CHAIN MANAGEMENT POWERS AND DUTIES

- 4.1 The Council hereby delegates all powers and duties to the Accounting Officer which are necessary to enable the Accounting Officer -

- (a) to discharge the supply chain management responsibility in terms of -
 - (i) Chapter 8 or 10 of the Act; and
 - (ii) this Council's Supply Chain Management Policy;
- (b) to maximize administrative and operational efficiency in the implementation of the Supply Chain Management Policy;
- (c) to enforce reasonable cost-effective measures for the prevention of fraud, corruption, favoritism and unfair and irregular practices in the implementation of the Supply Chain Management Policy; and
- (d) to comply with his or her responsibilities in terms of section 115 and other applicable provisions of the Act.

- 4.2 Sections 79 and 106 of the Act apply to the subdelegation of powers and duties delegated to an Accounting Officer in terms of subclause 2.1 of this policy.

- 4.3 The Council or Accounting Officer may not delegate or subdelegate any supply chain management powers or duties to a person who is not an official of the Municipality or to a committee which is not exclusively composed of officials of the Municipality.

- 4.4 This clause 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 clause 26 of this policy.

5. SUBDELEGATIONS

- 5.1 The Accounting Officer may in terms of section 79 or 106 of the Act subdelegate any supply chain management powers and duties, including those delegated to the Accounting Officer in terms of this policy, but any such subdelegation must be consistent with clause 5.2 below and section 4 of this policy.

5.2 The power to make a final award –

- (a) Above R10 million (VAT included) may not be sub delegated by the Accounting Officer. To comply with this requirement, the Accounting Officer may either chair the Bid Adjudication Committee or consider recommendations of the Bid Adjudication Committee and make a final award for bids above R10m inclusive of VAT;
- (b) above R2 million (VAT included), but not exceeding R10 million (VAT included), may be sub delegated but only to a Bid Adjudication Committee of which the Chief Financial Officer or a senior manager is a member or to the Chief Financial Officer;
- (c) not exceeding R200 000 (VAT included) may be sub delegated but only to the Chief Financial Officer or manager directly accountable to the Chief Financial Officer (Supply Chain Manager) or a Bid Adjudication Committee.

5.3 The official or Bid Adjudication Committee to which the power to make final awards has been sub delegated in accordance with clause 5.2, must within 5 days of the Bid Adjudication Committee Meeting submit to the Accounting Officer particulars of each final award made by such committee during that meeting, including –

- (a) the amount of the award;
- (b) the name of the person/company to whom the award was made;
- (c) the reason why the award was made to that person; and
- (d) the BBBEE status of the successful company.

5.4 Subclause 5.3 of this policy does not apply to procurement out of petty cash. No final award in a competitive bidding process may be affected otherwise than through the committee system provided for in clause 26 of this policy.

5.5 No supply chain management decision-making powers may be delegated to an advisor or consultant.

6. OVERSIGHT ROLE OF COUNCIL

6.1 The right to maintain oversight over the implementation of this Supply Chain Management Policy rests with the Council.

6.2 For the purposes of such oversight the Accounting Officer must –

- (a) within 30 days (within 20 days for municipal entity) of the end of each financial year, submit a report on the implementation of the Supply Chain Management Policy of the Municipality and of any municipal entity under its sole or shared control, to the Council of the Municipality; and
- (b) whenever there are serious and material problems in the implementation of the Supply Chain Management Policy, immediately submit a report to the Council.

6.3 The Accounting Officer must, within 10 days of the end of each quarter, submit a report on the implementation of the Supply Chain Management Policy to the Executive Mayor.

6.4 The reports must be made public in accordance with section 21A of the Municipal Systems Act.

6.5 Section 117 of the Municipal Finance Management Act prohibits a councillor from being a member of a bid committee or any other committee evaluating or approving quotations or bids nor may a councillor attend any such meeting as an observer.

7. SUPPLY CHAIN MANAGEMENT UNIT

7.1 The Accounting Officer must establish a Supply Chain Management Unit to implement this Supply Chain Management Policy. This Supply Chain Management Unit may be jointly established by the Municipality and entities under its sole or shared control.

7.2 The Supply Chain Management Unit must operate under the direct supervision of the Chief Financial Officer or an official to whom this duty has been delegated in terms of section 82 of the Act.

7.3 No any other unit within the Municipality may operate like the Supply Chain Management Unit; further the Supply Chain Management Unit will always be under the supervision of the Chief Financial Officer, Directorate Financial Management Services, and not under any other directorate within the Municipality.

7.4 The Supply Chain Management Unit must be centralised at all cost and no political or any interference shall be entertained in the centralisation of the Supply Chain Management Unit.

7.5 The Accounting Officer must always give support to the Supply Chain Management Unit in order for them to bring about efficiency in the performance of their duties in accordance with the Supply Chain Management Policy as adopted by the Council.

7.6 None of any political officer-bearers, Directors from other directorates, Accounting Officer, Chief Financial Officer and other influential persons shall interfere with supply chain management processes.

7.7 Any interference caused by above officials may be reported to Provincial Treasury, National Treasury and SAPS, if occurred.

7.8 No employee in the Supply Chain Management Unit will be prejudice in the performance of his/her duties to implement the Council policy as adopted. Any interference with Supply Chain Management System of a municipality or municipal entity is prohibited in terms of section 118 par (a) of the MFMA.

7.9 The Supply Chain Management Unit is the custodian of all procurement of goods and services in the Municipality and all procurement of goods and services must be done via the ordering system and such system must be controlled in the Supply Chain Management Unit only. No other directorates in the Municipality shall procure goods and services than the Supply Chain Management Unit. The Supply Chain Management Unit must act in an ethical manner to ensure that end-user directorates receive their procured goods and service according to their procurement plan submitted to the Supply Chain Management Unit in order to expedite the service delivery outlined in the SDBIP, Budget and IDP.

8. **TRAINING OF SUPPLY CHAIN MANAGEMENT OFFICIALS**

The training of officials involved in implementing the Supply Chain Management Policy should be in accordance with National Treasury guidelines on supply chain management training.

CHAPTER 2

COMPONENTS OF SUPPLY CHAIN MANAGEMENT

9. **FORMAT OF SUPPLY CHAIN MANAGEMENT**

This Supply Chain Management Policy provides systems for –

- (a) demand management;
- (b) acquisition management;
- (c) logistics management;
- (d) disposal management;
- (e) risk management; and
- (f) performance management.

Part 1: Demand Management

10. **SYSTEM OF DEMAND MANAGEMENT**

10.1 The Accounting Officer must establish, through operational procedures, an effective system of demand management in order to ensure that the resources required to support the strategic and operational commitments outlined in the Integrated Development Plan are delivered at the correct time, at the right price and at the right location, and that the quantity and quality satisfy the needs.

10.2 The demand management system must -

- (a) include timely development of procurement plans and management processes to ensure that all goods and services required by the Municipality are quantified, budgeted for and timely and effectively delivered at the right locations and at the critical delivery dates, and are of appropriate quality and quantity at a fair cost;
- (b) take into account any benefits of economies of scale that may be derived in the case of acquisitions of a repetitive nature;
- (c) the development of a 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;
- (d) provide for the compilation of the required specifications to ensure that its needs are met; and
- (e) provide for an appropriate industry analysis and research to ensure that innovations and technological benefits are maximised.

Part 2: Acquisition management

11. SYSTEM OF ACQUISITION MANAGEMENT

11.1 The Accounting Officer must establish, through operational procedures, an effective system of acquisition management in order to ensure that –

- (a) goods and services, including construction works and consultant services are procured by the Municipality in accordance with authorised processes only;
- (b) expenditure on goods and services, including construction works and consultant services is incurred in terms of an approved budget in terms of section 15 of the Act;
- (c) the threshold values for the different procurement processes are complied with;
- (d) bid documentation, evaluation and adjudication criteria, and general conditions of a contract, are in accordance with any applicable legislation; including the Constitution of the Republic of South Africa, Preferential Procurement Policy Framework Act and any conditions of the Construction Industry Development Board Act; and
- (e) any Treasury Guidelines on acquisition management are properly taken into account, this include the Provincial Government and National Government programmes on National Key Priorities to address socio-economic development.

11.2 This policy except where provided otherwise in the policy, does not apply in respect of the procurement of goods and services contemplated in section 110(2) of the Act, including –

- (a) water from the Department of Water Affairs or a public entity, another municipality or a municipal entity; and
- (b) electricity from Eskom or another public entity, another municipality or a municipal entity.

11.3 Whenever the Municipality procures goods or services contemplated in section 110(2) of the Act, the Accounting Officer must make public the fact that it procures such goods or services otherwise than through its supply chain management system, including –

- (a) the kind of goods or services; and
- (b) the name of the supplier.

12. RANGE OF PROCUREMENT PROCESSES

12.1 The procurement of goods and services, including construction works and consultant services shall be procured through the range of procurement processes set out below only:

- (a) **Petty cash purchases** up to a transaction value of R2 000 (VAT included).
- (b) Written or verbal quotations for procurements of a transaction value over R2 000 up to R10 000 (VAT included).
- (c) **Formal written price quotations** for procurements of a transaction value over R10 000 up to R200 000 (VAT included).
- (d) A **competitive bidding** process for -

- (i) procurements above a transaction value of R200 000 (VAT included); and
 - (ii) the procurement of long term contracts exceeding one year in duration (which includes any defects liability period, if applicable)
- (e) **Procurement of consultant services**
- (i) Where the estimated value of fees exceeds R200 000 or where the duration of the appointment will exceed one year, a competitive bidding process shall apply. Unless the bidding process would compromise service delivery or it is of minor margin as may be allowed by the delegation. The Manager: Supply Chain Management Unit may approve such quotation.
 - (ii) Where the estimated value of fees is less than or equal to R200 000 and the duration of the appointment will be less than one year, a selection process as described in this policy, as amended from time to time, shall be applied.
- (f) **Term bids**
- For the supply of goods and services or construction works that is of an ad hoc or repetitive nature for a predetermined period of time.

12.2 Reduction in threshold values

The Accounting Officer may, in writing -

- (a) lower, but not increase, the different threshold values specified in clause 12.1; or
- (b) direct that -
 - (i) written or verbal quotations be obtained for any specific procurement of a transaction value lower than R2 000 (VAT included);
 - (ii) formal written price quotations be obtained for any specific procurement of a transaction value lower than R10 000 (VAT included); or
 - (iii) a competitive bidding process be followed for any specific procurement of a transaction value lower than R200 000 (VAT included).

12.3 Parceling

- (a) Goods or services may not deliberately be split into parts/parceled or items of a lesser value merely to avoid complying with the requirements of the policy, unless it is line with the unbundling strategies, in order to distribute work amongst the different suppliers for fair distribution of economy.
- (b) When determining transaction values, a requirement for goods or services consisting of different parts or items must as far as possible be treated and dealt with as a single transaction, i.e. no splitting of orders.

13. **GENERAL PRECONDITIONS FOR CONSIDERATION OF WRITTEN QUOTATIONS OR BIDS**

A written quotation or bid may not be considered unless the provider/bidder 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 and VAT registration number, if any;
 - (iv) statement(s) proving that water, electricity, rates and business levy accounts of the owners or directors of the company, including the business are up to date or formal payment arrangement have been made;
 - (v) original tax clearance from the South African Revenue Services that proves the provider's tax matters are in order; and
 - (vi) certificate of attendance at a compulsory site inspection, where applicable.
- (b) It is not the responsibility of the Municipality to obtain a tax clearance from the South African Revenue Services that will confirm that the provider's tax matters are in order, the Municipality can or may check the validity of the tax clearance systems through the South African Revenue Services;
- (c) has indicated -
 - (i) whether he or she is in the service of the state, or has been in the service of the state in the previous 12 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 months; or
 - (iii) whether a spouse, child or parent of the provider or of a director, manager, shareholder or stakeholder referred to in subclause (ii) is in the service of the state, or has been in the service of the state in the previous 12 months; and
- (d) in the event of the service provider being a joint venture of any nature, sections (a) to (c) shall apply *mutatis mutandis* to all parties in the joint venture and failure of one party to comply would invalidate the quotation or bid.

14. **LISTS OF ACCREDITED PROSPECTIVE PROVIDERS**

The Accounting Officer must ensure that -

- 14.1 a list of accredited prospective providers of goods and services is kept that must be used for all procurement requirements of the Municipality greater than R2 000 (including VAT); and

- 14.2 at least once a year through newspapers commonly circulating locally, the website and any other appropriate ways, prospective providers of goods or services, construction works and consultant services must be invited to apply for evaluation and listing as accredited prospective providers;
- 14.3 the advertisement must specify the listing criteria for accredited prospective providers;
- 14.4 the listing must disallow any prospective provider whose name appears on the National Treasury's database as a person prohibited from doing business with the public sector;
- 14.5 the list is updated at least quarterly to include any additional prospective providers and any new commodities or types of services;
- 14.6 prospective providers will be allowed to submit applications for listing once a year as prescribed in clause 14.1 - this does not preclude any potential service provider from quoting or bidding and should a service provider be successful, they would be required to meet all the requirements of the listing criteria of this policy before awarding is done in order for their quotations/bids to be responsive;
- 14.7 the list must be compiled per commodity and per type of service;
- 14.8 prospective vendors may only register for a maximum of 2 categories or types of service, this to allow for controlling the distribution of opportunities and accurate reconciliation of spending to support BBEE; and
- 14.9 all parties to a joint venture or consortium must comply with the requirements of clauses 14.3, 14.4 and 14.5 above.

15. PETTY CASH PURCHASES (UP TO R2000 INCLUDING VAT)

15.1 Petty cash purchases

- (a) The Chief Financial Officer must delegate personnel from the expenditure section in the Directorate Financial Management Services to keep a petty cash register and make petty cash payments up to the maximum amount as allowed per transaction.
- (b) Petty cash is restricted to cash purchases up to a transaction value of R2 000 (inclusive of VAT).
- (c) Petty cash purchases must be authorized by the responsible Director or a delegated person before any purchase.
- (d) Prohibited practices and allowable expenses.

15.2 Approved list of petty cash purchases

15.2.1 Approved items for petty cash purchases, but not limited to -

- (a) bouquets and flowers utilized for official purposes;
- (b) tollgate fees;
- (c) refreshments and catering;
- (d) pay-as-you-go cellular airtime; and/or

- (e) purchases of an urgent nature where it is impractical to follow the official procurement process.

15.2.2 Directorates' co-operation is requested not to utilize the petty cash for the following items:

- (a) Approved store items which are kept at the municipal store and is available in store.
- (b) Any items which can be classified as assets, e.g. calculators and memory sticks.
- (c) Subsistence and travel claims.
- (d) Computer related equipment.
- (e) Ordinary material and tools for repairs.
- (f) Safety equipment and clothing such as clothes, ear protectors, safety glasses, etc.
- (g) Wages for contractors, labour or contract work less than R500.

15.2.3 Petty cash other than that specified in clause 5.1 (a-d) above must be approved by the Chief Financial Officer or Deputy Chief Financial Officer prior to the transaction.

15.4 **Safeguarding**

- (a) The petty cash is to be safeguarded in a lockable cash box and should be locked away when not in use during normal business hours.
- (b) After normal business hours, the responsible petty cash official must lock away the petty cash bin in a fire and theft resistant safe as identified.
- (c) The petty cash official is responsible for the safekeeping of all the keys of the cash box and a register thereof must be kept.
- (d) For proper segregation of duties the Assistant Manager: Expenditure must be in possession of a spare key or combinations for the safe only.

15.5 **Limitation**

- (a) The maximum amount allocated per petty cash bin will be determined from time to time by the Chief Financial Officer based on the operational requirements of the Municipality and the risk of safeguarding petty cash bins.
- (b) When the amount per petty cash bin is increased the Assistant Manager: Expenditure must draw a cheque and cash it at the municipal bankers.
- (c) The responsible official must sign for the acceptance of the increased cash amount together with the Assistant Director: Expenditure and be verified by the Internal Audit Section.
- (d) When the petty cash bins is transferred to another delegated official, the petty cash must first be reconciled and be verified by the Internal Audit Section/Financial Accountant: Creditors before it is handed over.

- (e) The Assistant Director: Expenditure must ensure that the new holder of the petty cash bin is aware of his/her responsibilities relating to the petty cash transactions.

15.6 Reconciliation/balancing of petty cash

15.6.1 When the cash in the petty cash float is almost exhausted, the petty cash register must be balanced and reconciled by the petty cash officer as follows:

- (a) Counts the petty cash money at hand and confirm the monthly closing balance of cash at hand as reflected in the petty cash register.
- (b) Adds up all the receipts submitted as proof of payment and agrees the total to the total reflected in the petty cash register.
- (c) Verifies that the total petty cash as at the beginning of the month plus receipts less payments for the month equals the petty cash on hand at the end of month.
- (d) Reconciles the petty cash total on hand with the requisition forms, vouchers and other supporting documentation.
- (e) Such reconciliation procedure as stated above should be performed at the end of the month and it should be ensured that the petty cash float balances to the closing ledger balance.
- (f) The Creditors Accountant/Expenditure Manager responsible for the review of the petty cash funds and petty cash register, signs a proof of the review.
- (g) The Chief Financial Officer/Director Finance, internal or external Auditors of the Municipality may at any stage without prior notice, perform an audit of petty cash to confirm the cash balance. Internal Audit should make surprise inspections of the petty cash at least once per quarter and perform the following procedure:
 - (i) Inspect the petty cash vouchers to ensure that all items on the voucher are items usually used by the Municipality in the performance of duties and that no purchase was made for personal use.

15.7 Petty cash replenishment

15.7.1 Petty cash replenishments will only be done after having fully exhausted the available cash in the bins.

15.7.2 A proper petty cash register must be kept and maintained.

15.7.3 The minimum detail to be recorded in the petty cash register is -

- (a) directorate name;
- (b) cost centre (vote) to allocate petty cash transaction;
- (c) name of vendor;
- (d) date; and
- (e) amount issued.

15.7.4 The petty cash register with all petty cash vouchers, receipts or slips must be attached to the cheque and/or request for payment voucher.

15.7.5 The Assistant Director: Expenditure must check the petty cash float against the petty cash payment vouchers.

15.7.6 The cheque amount must be the difference between the petty cash float and the maximum allowable amount allocated to each petty cash bin.

15.8 **Disbursement of petty cash**

15.8.1 All petty cash disbursements must be completed on the prescribed petty cash voucher, authorized by the delegated official of each Directorate as approved by Council in terms of the system of delegation authorities.

15.8.2 The authorized official must ensure that funds are available in the budget prior the submission of claims.

15.8.3 An original receipt, clearly indicating it has been paid must support the petty cash voucher.

15.8.4 The authorized official or delegated person must sign for the acceptance of the petty cash monies and ensure that the monies are correct. Once paid out, the Directorate Financial Management Services will take no responsibility if the money is not received by the originator of the transaction.

15.8.5 In the case where a petty cash advance was granted, the recipient of the advance must bring the cash vouchers within 3 working days from receipt of the advance.

15.8.6 Where proof of expenditure could not be provided on petty cash advances within the prescribed period, the advance automatically will be deducted from the respective employee's salary.

15.9 **Shortages and losses**

15.9.1 The holder of the petty cash bins will be held accountable for losses and shortages unless there is physical evidence of breaking-in and no act or omission on the part of the relevant official contributed to the loss.

15.9.2 In the event of identified shortages and/or losses must it immediately be reported to the Chief Financial Officer and be paid in by the holder of the petty cash bin(s).

15.10 **Internal controls**

15.10.1 Surprise petty cash audits must be concluded by the Internal Audit section throughout the financial year.

15.10.2 Petty cash reconciliations with the general ledger must be reconciled before 30 June of each year.

15.11 **Reporting**

A monthly reconciliation report from the holder of a petty cash must monthly be submitted to the Chief Financial Officer including the total amount of petty cash purchases for that month.

16. **WRITTEN OR VERBAL QUOTATIONS**

The conditions that must be followed when procuring goods or services through written or verbal quotations are as follows:

- 16.1 For purchases up to R2 000 (including VAT) referred to in clause 12.1(b) of this policy. The order may be placed without obtaining any 3 quotations, provided that it is from a recognized supplier of the product/service.
- 16.2 For goods and services including construction works and consultant from R2 000 up to R10 000 (including VAT) referred to in clause 12.1 (c) of this policy –
- (a) quotations must be obtained from at least 3 different service providers preferably from, but not limited to providers whose names appear on the list of accredited prospective providers of the Municipality or municipal entity, provided that if quotations are obtained from providers who are not listed, such providers must meet the listing criteria in the Supply Chain Management Policy required by clauses 16.3, 16.4, 16.5 and 16.6 of this policy;
 - (b) to the extent feasible, providers must be requested to submit such quotations in writing from local business enterprise or in terms of clause 34.1 (a), 34.2 and 34.3;
 - (c) When the Municipality is sourcing quotations, it must take into consideration the implementation of villages, townships and small dorpias (VTSD);
 - (d) if it is not possible to obtain at least 3 quotations, the reasons must be recorded and reported quarterly to the Accounting Officer or another official designated by the Accounting Officer. (This shall be delegated in terms of clause 5 of this policy);
 - (e) the Accounting Officer must record the names of the potential providers requested to provide such quotations with their quoted prices;
 - (f) if a quotation was submitted verbally, the order may be placed only against written confirmation by the selected provider;
 - (g) a preference point system, as described in the preferential procurement regulation, will be applied to such quotations. Meaning offers below R30 000 (VAT included) must be awarded based on compliance to specifications and conditions of contract, ability and capability to deliver the goods or services and which may include the lowest price;
 - (h) all orders in respect of written price quotations shall be approved and released by the Accounting Officer or his delegated authority.

17. FORMAL WRITTEN PRICE QUOTATIONS

- 17.1 The conditions that must be followed when procuring goods or services through formal written quotations are as follows:
- (a) Quotations must be obtained from at least 3 different providers preferably from, but not limited to providers whose names appear on the list of accredited prospective providers of the Municipality or municipal entity, provided that if quotations are obtained from providers who are not listed, such providers must meet the listing criteria in the Supply Chain Management Policy required by clauses 14.3, 14.4, 14.5 and 14.6 of this policy.
 - (b) To the extent feasible, providers must be requested to submit such quotations in writing; from local business enterprise or in terms of clauses 34.1(a), 34.2 and 34.3.

- (c) If it is not possible to obtain at least 3 quotations, the reasons must be recorded and approved by the Chief Financial Officer or another official designated by the Chief Financial Officer.
- (d) The Accounting Officer must record the names of the potential providers requested to provide such quotations with their quoted prices.
- (e) If a quotation was submitted verbally, the order may be placed only against written confirmation by the selected provider.

17.2 The designated official referred to in sub clause 17.1(c) above, must within 3 days of the end of each month report to the Chief Financial Officer on any approvals given during that month by that official in terms of that sub clause.

**18. PROCEDURES FOR PROCURING GOODS OR SERVICES THROUGH WRITTEN OR VERBAL QUOTATIONS AND FORMAL WRITTEN PRICE QUOTATIONS
(From R30 000 up to R200 000 (including VAT))**

18.1 All requirements in excess of R30 000 (VAT included) that are to be procured by means of formal written price quotations must, in addition to the requirements of clause 17, be advertised for at least 7 days on the website and an official notice-board of the Municipality or municipal entity.

18.2 In order to fulfill the objectives of this policy and other local economic development initiatives or national government priorities such as the National Development Plan. Notwithstanding clause 18.1 that requires advertising on the Municipality's website, the Manager Supply Chain Management is delegated to determine that, despite this requirement, and since the advertising on the world wide web (www) may stifle rotation of local suppliers' within the Municipality, procurement of quotations may be done by selecting and sending Request for Quotation (RFQ) or targeting a minimum of 10 local service providers that have not been awarded any orders in the current financial year or previous financial year, without advertising on the Municipality's official website or advertising on the website for local suppliers only or as contemplated in clause 34.

18.3 Notwithstanding clause 17.1(b), if quotations have been invited on the Municipality's official website and in addition requests for quotations were faxed or emailed to prospective suppliers, no additional quotes need to be obtained should the number of responses be less than 3. Reasons must be recorded as per clause 17.1(c) on the awarding document.

18.4 Offers received must be evaluated on a competitive basis taking into account unconditional discounts.

18.5 Acceptable offers above R30 000 (VAT included) are subject to the Preference Procurement Policy and must be awarded to the bidder with the highest points.

18.6 The Accounting Officer must take all reasonable steps to ensure that the procurement of goods and services through written or verbal quotations or formal written price quotations are not abused.

18.7 The Accounting Officer or Chief Financial Officer must on a monthly basis be notified in writing of all written or verbal quotations and formal written price quotations accepted by an official acting in terms of a sub delegation and;

18.8 Municipal requirements of proper record keeping must always be maintained.

19. COMPETITIVE BIDDING PROCESS

- 19.1 Goods or services above a transaction value of R200 000 (VAT included) and long term contracts may only be procured through a competitive bidding process, subject to section 11(2) [organs of state] of this policy.
- 19.2 No requirement for goods or services above an estimated transaction value of R200 000 (VAT included), may deliberately be split into parts or items of lesser value merely for the sake of procuring the goods or services otherwise than through a competitive bidding process, as per clause 12.3.
- 19.3 The Municipality may not enter into any contract that will impose financial obligations beyond the 3 years covered in the annual budget for that financial year, unless the requirements of section 33 of the MFMA have been fully complied with.
- 19.4 No contract shall be extended for more than 6 months from the date of expiry.

19.5 Unbundling strategies

- (a) In order to encourage increased participation and the sustainable growth of the small business sector and cooperatives, the unbundling of larger projects into smaller, more manageable contracts may be encouraged.
- (b) Unbundling must however be considered in the context of -
- (i) economies of scale being lost;
 - (ii) abortive work becoming necessary;
 - (iii) additional demands (not only financial) being placed on the Council resources;
 - (iv) the risk of later phases not being completed as a result of budget cuts becoming necessary in the future;
 - (v) unbundling and all of its associated implications, must therefore be carefully considered at the planning stage of any project and the budgets for and design thereof, should be structured accordingly;
 - (vi) the practice of breaking out (parceling) projects in order to circumvent the formal bid process is not permitted, as per clause 19.2 of this policy;
 - (vii) the Manager Supply Chain Management (in the case of orders below R200 000 or Deviations), may negotiate the final terms and conditions, (including price) on contracts, where it is possible to appoint more than one contractor, from a panel of vendors who responded to the request for quotation. Such negotiations to be with the sole aim of treating all respondents fairly and equally, with the aim to distribute work as evenly and fairly as possible. Such requests for quotations to specify Council's intention to do so at advertising stage. Minutes of such negotiations to be kept for record purposes. (This clause is to be read in conjunction with clause 24 of this policy);

- (viii) the Bid Evaluation Committee (in the case of bids, or deviations), may negotiate the final terms and conditions, (including price), on contracts, where it is possible to appoint more than one contractor, from a panel of vendors who responded to the request for bid. Such negotiations to be with the sole aim of treating all respondents fairly and equally, with the aim to distribute work as evenly and fairly as possible such requests for bids to specify Council's intention to do so at advertising stage. Minutes of such negotiations to be kept for record purposes. (This clause is to be read in conjunction with clause 24 of this Policy);
- (ix) in order to achieve clause 19.4(b) (vi) and (vii) above after the normal pre-evaluation (for responsiveness, price and preference points) has been conducted and all the risks have been determined. A list of preferred suppliers or bidders shall be listed in terms of their preference points, where number one will be the highest in terms of points followed by others. If the unbundling targeted 2, 3, 4 or more bidders the number as determined on the advert shall be called to negotiate the final offer, where an offer will not be more than 10% (ten percent) from the highest service provider or bidder for the first offer (offer number one) in terms of preference points; and
- (x) if one or more of the service providers or bidders cannot agree on the terms, those service providers or bidders would be disqualified and the next service provider or bidder would be approached. If negotiations with the suppliers or bidders cannot be achieved, the quotation or bid shall be re-advertised as it would mean the objective set in the advert was not achieved.

20. PROCESS FOR COMPETITIVE BIDDING

20.1 The procedures for the following stages of a competitive bidding process are as follows:

- (a) Compilation of bidding documentation shall at least comply with clause 21 of this policy.
- (b) The public invitation of bids will be administered in terms of clause 22 of this policy.
- (c) Site meetings or briefing sessions, if applicable as detailed in clause 22 (d) handling of bids submitted in response to public invitation as detailed in clause 23.
 - (i) The Supply Chain Management Unit shall be responsible for the administration of bids received by the Municipality, as described in clause 22 of this policy.
 - (ii) Pre-evaluation of responsiveness shall be done by the Supply Chain Management Unit.
 - (iii) The Supply Chain Management Unit shall be responsible for the submission of a report to the Bid Evaluation Committee, of which the user directorate shall finalise the technical aspect of report with a list of responsiveness (compliance)/non-responsiveness with tender specifications, must be recorded, with a corresponding recommendation.

(iv) Tender waiver

If the user directorate for any reasonable reasons is not in agreement with the pre-evaluation done by the Supply Chain Management Unit as stipulated in clause 20 (d) (ii). The user directorate shall compile a tender waiver stating the reasons the pre-evaluation cannot be accepted by the Bid Evaluation Committee.

(v) The Supply Chain Management Unit to check if tenderers are not listed on the National Treasury Database for Restricted tenders or Tender Defaulters.

- (d) The evaluation of bids is the responsibility of the Bid Evaluation Committee to evaluate bids and submit recommendations to the Bid Adjudication Committee, as detailed in clause 28 of this policy.
- (e) The award of contracts final awards will be done by the Bid Adjudication Committee or Accounting Officer (depending on value of bid accepted) and the Accounting Officer will enter into a contract with the successful bidder, as detailed in clause 29 of this policy.
- (f) The administration of contracts -
- (i) should include a written agreement between the Municipality and the bidder after 14 days of the objection period has been observed in terms of clause 49; and
 - (ii) all administration of contracts shall be carried out by the person designated or user directorate monitored by the Supply Chain Management Unit strictly in terms of these Supply Chain Management Regulations.
- (g) All correspondence and records relating to the bid shall be forwarded to the central registry, which records shall be the only official record. Proper record keeping must be such that original/legal copies of written agreements are kept in a secure place for reference purposes.

21. **BID DOCUMENTATION FOR COMPETITIVE BIDS**

The Specification Committee shall approve standard documentation pertaining to a particular type of or group of services for which tender specifications was developed. The criteria to which bid documentation for a competitive bidding process must comply, and state that in addition to Regulation 13 of the bid documentation must -

- (a) take into account -
- (i) the general and special conditions of contract;
 - (ii) any Treasury Guidelines on bid documentation; and
 - (iii) the requirements of the Construction Industry Development Board, in the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure;
- (b) include evaluation and adjudication criteria, including any criteria required by other applicable legislation;

- (c) compel bidders to declare any conflict of interest they may have in the transaction for which the bid is submitted;
- (d) if the value of the transaction is expected to exceed R10 million (VAT included), require bidders to furnish –
 - (i) if the bidder is required by law to prepare annual financial statements for auditing, their audited annual financial statements -
 - (aa) for the past 3 years; or
 - (bb) since their establishment and/or if established during the past 3 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 days;
 - (iii) particulars of any contracts awarded to the bidder by an organ of state during the past 5 years, including particulars of any material non-compliance or dispute concerning the execution of such contract;
 - (iv) a statement indicating whether any portion of the goods or services are expected to be sourced from outside the Republic, and, if so, what portion and whether any portion of payment from the Municipality or municipal entity is expected to be transferred out of the Republic;
- (e) stipulate that disputes must be settled by means of mutual consultation, mediation (with or without legal representation), or when unsuccessful, in a South African court of law;
- (f) documents that have to be present at tender opening which must be counter-signed and stamped accordingly are -
 - (i) the signed form of tender;
 - (ii) the price and all supporting pricing schedules;
 - (iii) the Preferential Procurement Certificate (Broad Based Black Economic Empowerment Certificate) (compulsory if preference is to be claimed, as this may not be claimed at a later stage);
 - (iv) SARS Tax Clearance;
 - (v) all qualitative documents where such are used as part of the pricing, that is where functionality has a weighting for contender score;
 - (vi) a service provider must submit his/her account statement(s) reflecting that water, electricity, rates and taxes of the owners or directors of company, including the business are up to date or formal payment arrangement have been made; and
 - (vii) any other documents stated as compulsory on date of the opening;
- (g) unless otherwise indicated in the bid documents, the Municipality shall not be liable for any expenses incurred in the preparation and/or submission of a bid.

22. PUBLIC INVITATION FOR COMPETITIVE BIDS

22.1 Procedure for the invitation of competitive bids

The procedure is as follows:

- (a) Any invitation to prospective providers to submit bids must be by means of a public advertisement in newspapers commonly circulating locally, the website of the Municipality or municipal entity or any other appropriate ways (which may include an advertisement in the Government Tender Bulletin or Construction Industry Development Board (CIDB) website for contraction related bids); and e-tender.
- (b) The information contained in a public advertisement, must include -
 - (i) the closure date for the submission of bids, which may not be less than 30 days in the case of transactions over R10 million (VAT included), or which are of a long term nature, or 14 days in any other case, from the date on which the advertisement is placed in a newspaper, subject to subclause 2 of this policy; and
 - (ii) a statement that bids may only be submitted on the bid documentation provided by the Municipality or municipal entity.
- (c) To contain all information to ensure unambiguous, free, transparent and competitive procurement, unless otherwise specified.
- (d) Details of site meetings or briefing sessions and to clearly state -
 - (i) whether a site inspection/meeting is compulsory or not;
 - (ii) criteria for bidders' representative attending the site inspection;
 - (iii) the penalty for noncompliance with compulsory site inspection requirements;
 - (iv) that site meeting will be chaired by the and ender-user or any other appointed person will attend to brief or provide clarity on the specifications. An official attendance register and minutes must be taken and form part of the report to Bid Evaluation Committee.
- (e) The Accounting Officer may determine a closure date for the submission of bids which is less than the 30 or 14 days requirement, but only if such shorter period can be justified on the grounds of urgency or emergency or any exceptional case where it is impractical or impossible to follow the official procurement process
- (f) Bids submitted must be sealed.
- (g) Where bids are requested in electronic format, such bids must be supplemented by sealed hard copies.
- (h) Where a compulsory site meeting has taken place, only tenderers that attended the original site meeting, will be allowed to participate in the tender and/or any subsequent site/clarification meetings that need to be held.

22.2 Bid closing date may be extended

The bid closing date may be extended by the Manager: Supply Chain Management if circumstances justify this action; provided that -

- (a) the closing date may not be extended unless a notice is published in the same media, the bid was originally advertised, prior to the original bid closing date. This notice shall also be posted on the official notice-boards and Municipal website - a notice to this effect to all bidders that have collected documents shall be issued;
- (b) if on the site meeting a certain issue was raised that would warrant to extend the date, the extension will be granted to only those that attended the compulsory site meeting.

22.3 Site inspections

- (a) In general, site inspections, where applicable will be compulsory, provided that the minimum bid period is extended by at least 7 days.
- (b) If site inspections are to be held, full details must be included in the bid notice, including whether or not the site inspection is compulsory, failing to attend would nullify the bid.
- (c) Where site inspections are made compulsory, the date for the site inspection shall be at least 7 days after the bid has been advertised and a certificate of attendance signed by the responsible agent must be submitted with the bid.
- (d) 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.
- (e) Should any alterations/amendments to the specifications as advertised be required, a report to the Bid Specification Committee must be submitted (in the case of official bids), or to the Supply Chain Management Unit (in the case of quotations), requesting condonation for the amendment and may not deviate from the original purpose of the bid or quotation, especially the evaluation criteria that was not initially stated in the advert or bid documents.
- (f) Any alterations/amendments to the specifications as advertised may not deviate from any prescripts of the acts.
- (g) All affected parties to be notified in writing of any amendments, at least 7 days before the closure of the bid, or 2 days in respect of quotations.
- (h) The Municipality reserves the right to cancel any site meeting, provided that the Management Supply Chain has agreed that the circumstances warrant such cancellation.

23. **PROCEDURE FOR HANDLING, OPENING AND RECORDING OF BIDS**

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

- (a) Bids shall be placed in the official tender box located at the Archive Office, Dan Tloome Complex, 35 Wolmarans Street, Potchefstroom, before the closing time and date specified in the bid advertisement. Whenever a municipal time piece is out of order for whatever reasons a watch of an official designated shall be used.

- (i) The tender box shall be opened only by and in the presence of 2 officials delegated to do so by the Accounting Officer or his/her delegate.
 - (ii) The bid opening shall be open to the public and attendance shall be recorded by signature of each attendee in the register.
 - (iii) Bids shall be opened only in public by the officials designated in (ii) above and the results thereof recorded in an official register kept by the Supply Chain Management Unit.
 - (iv) Must be opened at the same time and/or as soon as possible after the period for the submission of bids has expired.
- (b) Any bidder or member of the public has the right to request that the names of the bidders who submitted bids in time must be read out and, if practical, also each bidder's total bidding price.
- (c) No information, relating to a bid other than one in subclause (b) may be disclosed to bidders or other persons until an official award is made.
- (d) The Accounting Officer or his delegate must -
- (i) record in a register all bids received in time;
 - (ii) make the register available for public inspection; and
 - (iii) publish the entries in the register and the bid results on the website.

23.2 **Term bids**

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

24. **NEGOTIATIONS WITH PREFERRED BIDDERS**

- 24.1 The Accounting Officer may negotiate the final terms of a contract with bidders identified through a competitive bidding process as preferred bidders, provided that such negotiation -

- (a) does not allow any preferred bidder a second or unfair opportunity;
- (b) is not to the detriment of any other bidder; and
- (c) does not lead to a higher price than the bid as submitted.

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

24.3 This section be delegated in terms of section 5 of the Policy to the Manager: Supply Chain Management Unit or his delegate.

24.4 The administration of such negotiations will be the responsibility of the Manager: Supply Chain Management Unit or his delegate that has to ensure minutes of such negotiations are kept for record purposes, negotiations will be carried out as follows:

- (a) It will be the responsibility of the user directorate to ensure that a representative that possess the technical expertise on the tender being called, from that directorate is present at such meeting.

25. TWO-STAGE BIDDING PROCESS

25.1 A two-stage bidding process is allowed for -

- (a) large complex projects;
- (b) projects where it may be undesirable to prepare complete detailed technical specifications; or
- (c) long term projects with a duration period exceeding 3 years.

25.2 In the first stage technical proposals on conceptual design or performance specifications should be invited, subject to technical as well as commercial clarifications and adjustments.

25.3 In the second stage final technical proposals and priced bids should be invited. Technical evaluation must be conducted as prescribed on section 4 of the Municipal Preferential Procurement Framework Policy 2011, and should be measurable, by setting up a scoring structure, rewarding tenderers for compliance to criteria as determined by the Bid Specifications Committee.

26. COMMITTEE SYSTEM FOR COMPETITIVE BIDS

26.1 The Accounting Officer must -

- (a) establish a committee system comprising of at least -
 - (i) a bid specification committee;
 - (ii) a bid evaluation committee; and
 - (iii) a bid adjudication committee;
- (b) appoint the members of each committee, taking into account section 117 of the Act; and
- (c) provide for an attendance or oversight process by a neutral or independent observer appointed by the Accounting Officer, when this is appropriate for ensuring fairness and promoting transparency.

26.2 The committee system must be consistent with -

- (a) clauses 27, 28, and 29 of this policy; and
- (b) any other applicable legislation.

26.3 The Accounting Officer may apply the committee system to formal written price quotations [(procurement between R10 000 and R200 000 (including VAT).]

27. BID SPECIFICATION COMMITTEES

27.1 The Bid Specification Committee must compile the specifications for each procurement of goods or services, including construction works and consultant services by the Municipality or municipal entity.

27.2 Specifications -

- (a) must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services;
- (b) must take account of any accepted standards such as those issued by Standards South Africa, the International Standards Organization or an authority accredited or recognized by the South African National Accreditation System with which the equipment or material or workmanship should comply;
- (c) where possible, be described in terms of performance required rather than in terms of descriptive characteristics for design;
- (d) may not create trade barriers in contract requirements in the forms of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labeling of conformity certification;
- (e) may not make reference to any particular trade mark, name, patent, design, type, specific origin or producer unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the words "equivalent";
- (f) must indicate each specific goal for which points may be awarded in terms of the points system set out in the Preferential Procurement Regulations 2011; and
- (g) must be approved by the Accounting Officer prior to publication of the invitation for bids in terms of clause 22 of this policy.

27.3 (a) the Bid Specification Committee must be composed of at least one or more officials of the Municipality or municipal entity, preferably the Director responsible for the function involved, and may, when appropriate, include internal or external specialist advisors;

(b) the Accounting Officer must appoint the members of the committee in terms of clause 26(b) of this policy and the Chairperson of the Bid Specification Committee. If the Chairperson is absent from a meeting, the members of the committee who are present must elect one of them to preside at the meeting provided the members present form a quorum which is half plus one (50%+1); and

(c) documentation is to be approved by the Bid Specification Committee prior to advertisement of bids as stipulated in clause 27.2(g).

27.4 No person, advisor or corporate entity involved with the Bid Specification Committee or Director of such a corporate entity, may bid for any resulting contracts.

27.5 The quorum must be equal of the number of permanent (as opposed to co-opted) committee members, plus one.

27.6 Validity period:

27.6.1. The period for which bids are to remain valid and binding must be indicated in the bid documents;

27.6.2. The validity period should allow the JB Marks Local Municipality sufficient time to finalize the evaluation and award of the quotation/bid;

27.6.3. Bids must be valid for at least 90 days from the closing date of the bid. A longer period may be set if there are problems with the evaluation but preferably not longer than 120 days; and

27.6.4. An extension of bid validity, if justified in exceptional circumstances, must be requested in writing from all bidders before expiry date. The extension should be for minimum period required to complete the evaluation, obtain the necessary approvals and award the contract.

28. BID EVALUATION COMMITTEES

28.1 The Bid Evaluation Committee must -

(a) evaluate bids in accordance with -

- (i) the specifications for a specific procurement; and
- (ii) the points system set out in terms of clause 27.2(f);

(b) evaluate each bidder's ability to execute the contract;

(c) check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not in arrears; and

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

28.2 The Bid Evaluation Committee must as far as be possible compose of -

(a) officials from the directorate requiring the goods or services;

(b) at least one supply chain management practitioner of the Municipality or municipal entity; and

(c) the Accounting Officer must appoint the members of the Committee in terms of clause 26(b) of this policy and the Chairperson of the Bid Evaluation Committee. If the Chairperson is absent from a meeting, the members of the Committee who are present must elect one of them to preside at the meeting.

28.3 The quorum must be equal of the number of permanent (as opposed to co-opted) committee members, plus one.

29. BID ADJUDICATION COMMITTEES

29.1 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 a recommendation to the Accounting Officer to make the final award; or
 - (ii) make another recommendation to the Accounting Officer how to proceed with the relevant procurement.

29.2 The Bid Adjudication Committee must consist of at least 4 senior managers of the Municipality which must include -

- (i) the Chief Financial Officer or if the Chief Financial Officer is not available, another head of the section or manager in the Directorate Financial Management Services, reporting directly to the Chief Financial Officer;
- (ii) at least one senior Supply Chain Management Practitioner who is an official of the Municipality; and
- (iii) a technical expert in the relevant field who is an official, if such an expert exists.

29.3 The Accounting Officer must appoint the Chairperson of the Bid Adjudication Committee. If the Chairperson is absent from a meeting, the members of the Committee who are present must elect one of them to preside at the meeting.

29.4 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.

29.5 The quorum must be equal of the number of permanent (as opposed to co-opted) Committee members, plus one.

29.6 Approval of bid not recommended

(a) If the Bid Adjudication Committee decides to award a bid other than the one recommended by the Bid Evaluation Committee, the Bid Adjudication Committee must prior to awarding the bid –

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

(ii) notify the Accounting Officer.

(b) The Accounting Officer may –

(i) after due consideration of the reasons for the deviation, ratify or reject the decision of the Bid Adjudication Committee referred to in clause (a); and

(ii) if the decision of the Bid Adjudication Committee is rejected, refer the decision of the Adjudication Committee back to that committee for reconsideration.

29.7 The Accounting Officer may at any stage of a bidding process, refer any recommendation made by the Evaluation Committee or Adjudication Committee back to that committee for reconsideration of the recommendation.

29.8 The Accounting Officer must comply with section 114 of the Act within 10 working days.

29.9 Approval of bid not recommended above **R10 million**

If the Accounting Officer decides to award the bid other than that recommended by the Bid Adjudication Committee for bids above R10m, section 114 of the Act must be complied with within 10 working days.

30. PROCUREMENT OF BANKING SERVICES

- 30.1 A contract for the provision of banking services -
- (a) must be procured through competitive bids;
 - (b) must be consistent with section 7 or 85 of the Act; and
 - (c) may not be for a period of more than 5 years at a time.
- 30.2 The process for procuring a contract for banking services must commence at least 9 months before the end of an existing contract.
- 30.3 The closure date for the submission of bids may not be less than 60 days from the date on which the advertisement is placed in a newspaper in terms of clause 23.1. Bids must be restricted to banks registered in terms of the Banks Act, 1990 (Act 94 of 1990).

31. PROCUREMENT OF INFORMATION TECHNOLOGY (IT) RELATED GOODS OR SERVICES

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

32. PROCUREMENT OF GOODS AND SERVICES UNDER CONTRACTS SECURED BY OTHER ORGANS OF STATE (REGULATION 32)

- 32.1 The Accounting Officer may procure goods or services under a contract secured by another organ of state, but only if -
- (a) the contract has been secured by that other organ of state by means of a competitive bidding process applicable to that organ of state;
 - (b) there is no reason to believe that such contract was not validly procured;
 - (c) there are demonstrable discounts or benefits to do so; and
 - (d) that other organ of state and the provider have consented to such procurement in writing;

This must be read with MFMA Circular 96 as to provide further elaboration to municipalities and municipal entities on the principles captured in regulation 32 of the Municipal Supply Chain Management Regulations 2005 (SCM Regulations) when procuring goods or services from contracts secured by other organs of state.

32.2 Subclauses 31.1(c) and (d) do not apply if -

- (a) a municipal entity procures goods or services through a contract secured by the Municipality; or
- (b) the Municipality procures goods or services through a contract secured by a municipal entity.

32.3 SALIENT REQUIREMENTS APPLICABLE TO REGULATION 32

Over and above the requirements stated in Regulation 32, there are also other salient requirements which must be considered by the participating municipality or municipal entity as well as the organ of state that is approving the procurement under its contract. These include the following

- (a) The contract must be valid

The municipality or municipal entity will not enter into a new contract with the service provider/s but will become a participant in an existing contract. The contract must therefore not have expired, or its validity modified to accommodate the procurement from the contract, and must be legally sound as proven in the motivated report mentioned above. The participating municipality or municipal entity will conclude an addendum to the agreement with the service provider/s that stipulates the duration of the participation agreement, which may not exceed the end date of the original contract.

- (b) The duration or variation of the contract

The municipality or municipal entity must confirm the duration of the contract between the service provider/s and the other organ of state and determine the remaining term of the contract. Once this has been confirmed, the municipality or municipal entity must assess whether the remaining period will be sufficient for the service provider/s to deliver on its requirements. In other words, the participating municipality or municipal entity will only be permitted to utilise the contract of the other organ of state for the balance of the remaining period of the contract.

The contract cannot be extended or varied by the participating municipality or municipal entity. It can only be extended by the original contracting parties in line with the contractual terms agreed to in the original contract. Should the contract between the original contracting parties be terminated for any reason before the contract end date, then that termination applies to the municipality or municipal entity participating on the contract as well. The accounting officer consenting to the participation on the contract must therefore inform the participating accounting officer of any contract amendments or variations made to the contract, in writing.

- (c) The goods or services must be the same and the quantity may not be increased

The municipality or municipal entity must assess whether the goods or services being provided to the other organ of state are similar to the goods or services required by the municipality or municipal entity. The goods or services required by the participating municipality or municipal entity must be exactly the same as advertised and

adjudicated by the other organ of state and may not be increased from the originally contracted quantity. Therefore, the participating municipality or municipal entity will procure the required goods or services under the same scope or specification, terms and conditions as provided for in the original contract.

(d) Contractual arrangements

The shared contract must have the same dispute resolution mechanism to settle contractual disputes, a combined periodic contract management performance review to appraise the shared contract, and to regularly report to the council of the participating municipality or the board of directors of the municipal entity, as may be appropriate, on the management of the contract, service level agreement and the performance of the shared contractor/s.

The exercising of contractual rights, obligations or remedies in terms of the contract must be exclusively dealt with in terms of the dispute resolution mechanism as stipulated in the original contract. Each contractual party must uphold their legal obligations to the contract.

(e) Implications for the organ of state who is the contract owner

The application of regulation 32 in a procurement process effectively means that the accounting officer of the original contracting organ of state is willing to forfeit a portion of its contract that has not already been utilised to the accounting officer who is requesting to procure under that contract. It may also mean that the accounting officer may no longer procure goods or services from that contract anymore as the balance of the contract would have been allocated to the municipality or municipal entity that is requesting to procure under that contract. The accounting officer of the original contracting organ of state undertakes such decision with the knowledge that the original contracting organ of state no longer requires the remaining portion of that contract. The accounting officer of the original contracting organ of state must notify the accounting officer of the municipality or municipal entity that is procuring under the original contract of all changes to the contract.

(f) Panel of consultants/list of approved service providers and framework agreements

Municipalities and municipal entities must not participate on a panel secured by another organ of state as a panel of consultants or a list of service providers or a panel of approved service providers is not a contract. Municipalities or municipal entities may only participate on framework agreements arranged by organs of state, for example, State Information Technology Agency (SITA), the relevant treasury; that are empowered by legislation to arrange such on behalf of other organs of state.

This must be read with MFMA Circular 62 which provided information to municipalities and municipal entities on demand management and procurement plans. This must also be read with MFMA Circular 80 which outlines some of the principles related to the procurement of goods or services under contracts secured by other organs of state

32.4 REPORTING

The accounting officer of the participating municipality or municipal entity must utilise the process of reporting as contained in SCM regulation 6, to also include any procurement through SCM regulation 32. The treasuries may request further information in terms of section 74 of the MFMA.

The participating accounting officer must also publish the details of the participation contract award on the municipality or municipal entity's official website in line with section 75 of the MFMA

33. PROCUREMENT OF GOODS NECESSITATING SPECIAL SAFETY ARRANGEMENTS

33.1 The acquisition and storage of goods in bulk (other than water) which necessitate special safety arrangements, including gasses and fuel, should be avoided where ever possible.

33.2 Where the storage of goods in bulk is justified, such justification must be based on sound reasons, including the total cost of ownership, cost advantages and environmental impact and must be approved by the Accounting Officer.

34. PROUDLY SA CAMPAIGN AND SUPPORT OF COMMUNITY BASED VENDORS, MUNICIPALITY AND OTHER SPHERE GOVERNMENT SOCIO-ECONOMIC INITIATIVES

34.1 Proudly SA

- (a) The Accounting Officer must determine internal operating procedures supporting the Proudly SA initiative.
- (b) Campaign to the extent that, all things being equal, preference is given to procuring local goods and services from -
 - (i) suppliers and businesses within the Municipality or District;
 - (ii) suppliers and businesses within the Province;
 - (iii) suppliers and businesses within the Republic of South Africa; and
 - (iv) foreign company with a partnership with the local company where the local company holds not less than 40% share on the project.

34.2 Community based vendors

- (a) The Accounting Officer must determine internal operating procedures supporting the community based vendors to promote Small Micro Medium Enterprise development including cooperatives.
- (b) To fulfil clause 34.2, the Manager Supply Chain Management may request quotations directly from community based vendors in a specific area or from a specific community for the procurement of goods and services for amounts less than R30 000 (including construction works), however such procurement to comply with the requirements as per this policy.

34.3 Socio-economic initiatives

This include the Municipal, Provincial Government and National Government programmes/initiatives on National Key Priorities to address socio-economic development (war on poverty) -

- (a) where a successful bidder or bidders may be requested to plough back to the indigent families of the JB Marks Local Municipality as part of their social responsibility by selecting one or more initiatives as listed by the Municipality.

35. APPOINTMENT OF CONSULTANTS

- 35.1 The Accounting Officer may procure consulting services provided that any Treasury Guidelines in respect of consulting services are taken into account when such procurements are made.
- 35.2 Consultancy services must be procured through competitive bids if -
- (a) the value of the contract exceeds **R200 000** (VAT included); or
 - (b) the duration period of the contract exceeds one year but the contract cannot exceed 3 years.
- 35.3 In addition to any requirements prescribed by this policy for competitive bids, bidders must furnish particulars of –
- (a) all consultancy services provided to an organ of state in the last 5 years; and
 - (b) any similar consultancy services provided to an organ of state in the last 5 years.
- 35.4 The Accounting Officer 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.
- 35.5 Dividing the transaction values of required consultant appointments into lesser transaction values in order to circumvent the competitive bidding process is not permitted.
- 35.6 Where the estimated value of consultant fees is less than or equal to R200000 (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.
- 35.7 Responsible agents must endeavor to ensure that there is rotation in respect of inviting suitably qualified consultants to submit quotes. A price/preference points system, contained in the preferential procurement section of this policy, must be applied to such quotations.
- 35.8 Where it is in the interests of JB Marks to follow an advertised process, a formal competitive bidding process in accordance with the requirements of this policy may be followed.
- 35.9 JB Marks may only consider single-source selection where it is in line with the exceptional cases provided in National Treasury guidelines the justification for single-source selections examined in the context of the overall interests of JB Marks and the project.
- 35.10 Single-source selection may be appropriate only if it presents a clear advantage over competition:
- (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.
- (e) 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 (including VAT) or less, such award must be approved by the manager of the SCMU.

35.11. Allocation of work to the appointment of service provider/contractors on the panel

- (a) Upon the appointment, all service providers / contractors shall be placed on the panel and work will be allocated to them on rotational basis through panel system.
- (b) The Department shall submit a request to supply chain management unit requesting the service provider / contractor to be allocated work for specific area of execution.
- (c) The Head of supply chain management shall consider the request and make recommendations for the allocation of work to the service providers or contractors and submit to the Chief Financial Officer for approval.
- (d) The Chief Financial Officer shall approve or reject the recommendation from the Head of Supply Chain management

36. DEVIATION FROM, AND RATIFICATION OF MINOR BREACHES OF, PROCUREMENT PROCESSES

36.1 The Accounting Officer may dispense with the official procurement processes established by this policy and to procure any required goods or services through any convenient process, which may include direct negotiations, but only -

- (a) in an emergency;
- (b) if such goods or services are produced or available from a single provider only;
- (c) for the acquisition of special works of art or historical objects where specifications are difficult to compile;
- (d) acquisition of animals for zoos and/or nature and game reserves; or
- (e) in any other exceptional case where it is impractical or impossible to follow the official procurement processes.

36.2 Emergency dispensation

The conditions warranting emergency dispensation should include the existence of one or more of the following:

- (a) The possibility of human injury or death;
- (b) the prevalence of human suffering or deprivation of rights;
- (c) the possibility of damage to property or suffering and death of livestock and animals;

- (d) the interruption of essential services, including transportation and communication facilities or support services critical to the effective functioning of the Municipal Manager 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 Municipal Manager not being able to render an essential community service;
- (g) the possibility that the security of the state could be compromised;
- (h) the prevailing situation or imminent danger, should be of such a scale and nature that it could not readily be alleviated by interim measures, in order to allow time for the formal procurement process. Emergency dispensation shall not be granted in respect of circumstances other than those contemplated in clause 36.1.
- (i) The procurement procedure to be followed in an emergency situation shall be determined by the Municipal Manager.

36.3 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 -

- (a) the value of a minor breach shall not be more than 10% of all quotations value range subject to the approval of the Manager: Supply Chain Management or his delegate;
- (b) when the quotations of the value range of R200 000 are above the value of minor breach, clause 36.4 shall apply.

36.4 The following will be deemed not to be deviations from supply chain management processes:

- (a) Advertisements that are placed in National Government and Provincial Government Gazettes.
- (b) The acquisition of accommodation and air travel for official purposes subject thereto that the acquisition of such services be dealt with in terms of the Municipality's Payment of Travel and Subsistence for Councillors and Officials Policy as amended from time to time as well as in terms of the Municipality's Delegation of Powers and Duties as amended from time to time.
- (c) The procurement of fuel from any recognized fuel company and their depots, except when fuel is procured for the Municipal Depot.
- (d) Vehicles serviced by the agent in terms of the warranty or service plan of the vehicle as well as any other repairs or maintenance that is identified when the vehicle is being serviced by an agent in terms of the warranty or service plan of the vehicle.
- (e) The acquisition of services of medical specialists as may be required from time to time and in terms of the Pension Funds Amendment Act, 2001 (Act 65 of 2001) and relate regulations and amendments.
- (f) Any machinery or other equipment serviced by the agent in terms of the warranty or service plan of that machinery or equipment.

- (g) Training, courses, seminars and/or workshops advertised by a professional institution related to local government.
- (h) The use of restaurants for special functions where quotations cannot be obtained.
- (i) The procurement of newspapers for municipal libraries and other municipal offices.
- (j) The acquisition of driving license cards from the service provider officially appointed by the National Department of Transport to issue such cards.
- (k) Pauper burials and cremations.
- (l) The acquisition of specialist services of attorneys, advocates and labour relations practitioners, subject thereto that the acquisition of such services be dealt with in terms of the Municipality's Delegation of Powers and Duties as amended from time to time and any Bargaining Council Agreements on Disciplinary Procedures.
- (m) any purchase on behalf of JB marks Municipality at a public auction sale

- 36.5 The Accounting Officer must record the reasons for any deviations in terms of sub clauses 36.1 (a) and (b) of this policy and report them to the next meeting of the Council and include as a note to the annual financial statements.
- 36.6 Sub clause 36.2 does not apply to the procurement of goods and services contemplated in clause 11.2 of this policy.
- 36.7 All deviations be processed on the Deviation Request Form as provided by municipal policy must be approved by the Accounting Officer.
- 36.8 For practical purposes the requirements in terms of clause 36.2 not be applied for orders for R30 000 or less.
- 36.9 In the event where the municipal manager refuses to condone any expenditure referred to in sub-section (11), 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.

37. UNSOLICITED BIDS

- 37.1 In accordance with section 113 of the Act there is no obligation to consider unsolicited bids received outside a normal bidding process.
- 37.2 The Accounting Officer may decide in terms of section 113(2) of the Act to consider an unsolicited bid, only if –
- (a) the product or service offered in terms of the bid is a demonstrable or proven unique innovative concept;
 - (b) the product or service will be exceptionally beneficial to, or have exceptional cost advantages;
 - (c) the person 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 Accounting Officer.
- 37.3 If the Accounting Officer decides to consider an unsolicited bid that complies with subclause 37.2 of this policy, the decision must be made public in accordance with section 21A of the Municipal Systems Act, together with –
- (a) reasons as to why the bid should not be open to other competitors;
 - (b) an explanation of the potential benefits if the unsolicited bid were accepted; and
 - (c) an invitation to the public or other potential suppliers to submit their comments within 30 days of the notice.
- 37.4 All written comments received pursuant to subclause 37.3, including any responses from the unsolicited bidder, must be submitted to the National Treasury and the relevant Provincial Treasury for comment.
- 37.5 The Adjudication Committee must consider the unsolicited bid and may award the bid or make a recommendation to the Accounting Officer, depending on its delegations.
- 37.6 A meeting of the Adjudication Committee to consider an unsolicited bid must be open to the public.
- 37.7 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.
- 37.8 If any recommendations of the National Treasury or Provincial Treasury are rejected or not followed, the Accounting Officer must submit to the Auditor-General, the relevant Provincial Treasury and National Treasury the reasons for rejecting or not following those recommendations.
- 37.9 Such submission must be made within 7 days after the decision on the award of the unsolicited bid is taken, but no contract committing the Municipality or entity to the bid may be entered into or signed within 30 days of the submission.

38. COMBATING OF ABUSE OF SUPPLY CHAIN MANAGEMENT SYSTEM

The Accounting Officer must establish measures for the combating of abuse of the Supply Chain Management System, which must stipulate the following:

- 38.1 The Accounting Officer must –
- (a) take all reasonable steps to prevent abuse of the Supply Chain Management System;
 - (b) investigate any allegations against an official or other role player of fraud, corruption, favouritism, unfair or irregular practices or failure to comply with this Supply Chain Management Policy, and when justified -
 - (i) take appropriate steps against such official or other role player; or
 - (ii) report any alleged criminal conduct to the South African Police Service;

- (c) check the National Treasury's database prior to awarding any contract to ensure that no recommended bidder or any of its Directors, is listed as a person prohibited from doing business with the public sector;
- (d) reject any bid from a bidder –
 - (i) if any municipal rates and taxes or municipal service charges owed by that bidder or any of its Directors to the Municipality or to any other municipality or municipal entity, are in arrears for more than 3 months; or
 - (ii) who during the last 5 years has failed to perform satisfactorily on a previous contract with the Municipality or any other organ of state after written notice was given to that bidder that performance was unsatisfactory;
- (e) reject a recommendation for the award of a contract if the recommended bidder or any of its Directors, has committed a corrupt or fraudulent act in competing for the particular contract;
- (f) cancel a contract awarded to a person if –
 - (i) the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract; or
 - (ii) an official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of the contract that benefited that person; and
- (g) reject the bid of any bidder if that bidder or any of its Directors -
 - (i) has abused the Supply Chain Management System of the Municipality or has committed any improper conduct in relation to such system;
 - (ii) has been convicted for fraud or corruption during the past 5 years in terms of the Companies Act, 2008 (Act 71 of 2008), section 69. If a person was disqualified or found to be an un-rehabilitated insolvent or has been removed from an office of trust on the grounds of misconduct involving dishonesty or convicted of fraud, theft or forgery or any conduct involving fraud, misrepresentation or dishonesty. This includes flouting statutes like the Insolvency Act, Close Corporation Act, Competition Act, Financial Intelligence Centre Act, Securities Act or the Prevention and Combating of Corrupt Activities Act;
 - (iii) has willfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past 5 years; or
 - (iv) has been listed in the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act, 2004 (Act 12 of 2004);
- (h) must invalidate recommendations or decisions that were unlawfully or improperly made, taken or influenced, including recommendations or decisions that were made, taken or in any way influenced by -
 - (i) Councillors in contravention of item 5 or 6 of the Code of Conduct for Councillors in schedule 1 of the Systems Act; or

- (ii) municipal officials in contravention of item 4 or 5 of the Code of Conduct for Municipal Staff Members set out in schedule 2 of the Systems Act.

38.2 The Accounting Officer must inform the National Treasury and relevant Provincial Treasury in writing of any actions taken in terms of subclauses 38.1(b)(ii), (e) or (f) (g) or (h) of this clause 38.

Part 3: Logistics, Disposal, Risk and Performance Management

39. LOGISTICS MANAGEMENT

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

39.1 Setting of inventory levels

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

39.2 Placing of orders

39.2.1 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.

39.2.2 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.

39.2.3 A proper record of all purchase orders must be kept by the Manager: Supply Chain Management Unit and a copy thereof must be submitted to the Chief Financial Officer on a monthly basis.

39.2.4 Standing orders will be utilised in cases where a longer term arrangement, such as after hour services and copier contracts, are required.

39.2.5 Purchase order approvals must be system based and will involve the procurement directorate only.

39.2.6 The assets (for asset creation) and the insurance section (for claims) must be informed after approval of any purchase orders.

39.3 Receiving and distribution of goods

39.3.1 Goods will be received on the Municipality's inventory system with specific reference to purchase orders.

39.3.2 No over-receipt of stock may be allowed. The purchase order must be kept open for under-receipts for the outstanding delivery quantity.

39.3.3 Goods must be issued from stock with reference to reservations.

39.3.4 Goods may be issued for consumption against internal orders, cost centres, projects and assets under construction.

39.4 Stores and warehouse management

39.4.1 The stores and warehousing function must be centralised and will operate under the jurisdiction of the Supply Chain Management Unit.

39.4.2 The Supply Chain Management Unit must ensure proper financial and budgetary control, uphold the principle of effective administration, proper stock holding and control, product standardisation, quality of products and a high standard of service levels.

39.5 Expediting orders

39.5.1 The purchasing expeditor is required to monitor and expedite outstanding purchase orders.

39.5.2 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.

39.6 Transport management

The Municipality's Fleet Management System/Policy must be adhered to at all times.

40. DISPOSAL MANAGEMENT

40.1 The Accounting Officer must establish an effective system of disposal management for the disposal or letting of assets, including unserviceable, redundant or obsolete assets, subject to sections 14 and 90 of the Act, which must stipulate the following:

40.2 The Accounting Officer of the Municipality may appoint a Disposal Committee in a similar way of appointing bid committee members to deal with disposing all assets of the Municipality.

40.3 The Disposal Committee must dispose assets according to the municipal Disposal Policy adopted by the Council.

40.4 The Disposal Committee may dispose assets of the Municipality after Council approval.

40.5 The Disposal Committee may advise the Accounting Officer on the best method of disposing assets of the Municipality.

40.6 The Disposal Committee must report to the Accounting Officer prior and after disposal of assets have taken place.

40.7 The Disposal Register must be compiled and be submitted to the Accounting Officer for approval and Council resolution be attached as an annexure document.

40.8 Disposal of municipal assets must be in line with section 217 (1) of the Constitution.

40.9 The Disposal Committee members must at all times act in an ethical way in the execution of their duties as outlined in their appointments.

40.10 Disposal Committee Members must declared their interest.

- 40.11 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.
- 40.12 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.
- 40.13 The manner in which assets may be disposed of by the Municipality includes, but is not limited to -
- (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.
- 40.14 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.
- 40.15 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.
- 40.16 In the case of the free disposal of computer equipment, the Provincial Department of Education must first be approached to indicate within 30 days whether any of the local schools are interested in the equipment.
- 40.17 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.
- 40.18 Immovable property must be let at market related rates except when the public interest or the plight of the poor demands otherwise.
- 40.19 All fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property must be reviewed annually.
- 40.20 Where assets are traded in for other assets, the highest possible trade-in price must be negotiated.
- 40.21 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.
- 40.22 Non-exempted capital assets must be transferred or permanently disposed of strictly in accordance with sections 14 and 90 of the MFMA read with Chapter 2 of the MATR.
- 40.23 Exempted capital assets must be transferred strictly in accordance with Chapter 3 of the MATR.

40.24 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.

41. RISK MANAGEMENT

41.1 The Accounting Officer must establish an effective system of risk management for the identification, consideration and avoidance of potential risks in the Supply Chain Management System.

41.2 Risk management must include –

- (a) the identification of risks on a case-by-case basis;
- (b) the allocation of risks to the party best suited to manage such risks;
- (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 risks in a pro-active manner and the provision of adequate cover for residual risks;
- (e) the assignment of relative risks to the contracting parties through clear and unambiguous contract documentation;
- (f) 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; and
- (g) appropriate risk management conditions must therefore be incorporated in contracts and monitored.

42. PERFORMANCE MANAGEMENT

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

CHAPTER 3

Part 4: Other matters

43. PROHIBITION ON AWARDS TO PERSONS WHOSE TAX MATTERS ARE NOT IN ORDER

43.1 The Accounting Officer must ensure that, irrespective of the procurement process followed, no award above R15 000 is given to a person whose tax matters have not been declared by the South African Revenue Service to be in order.

43.2 At the time of bid or quotation closure, the bidder must have attached either a valid SARS Tax Clearance Certificate or alternatively a letter from SARS confirming that the Bidder has applied for a Tax Clearance Certificate, as stipulated in clause 13(b).

- 43.3 In the case where a letter from SARS confirming that an application for tax clearance has been received, such Tax Clearance Certificate is to be provided by the bidder within 7 calendar days, failing which the bid will be regarded as non-responsive. A bidder shall obtain proof of receipt from the Municipality upon submission of the Tax Clearance Certificate.

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

The Accounting Officer must ensure that irrespective of the procurement process followed, no award may be given to a person –

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

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

The notes to the annual financial statements must disclose particulars of any award of more than **R2 000** to a person who is a spouse, child or parent of a person in the service of the state, or has been in the service of the state in the previous 12 months, including –

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

46. ETHICAL STANDARDS

- 46.1 A code of ethical standards is hereby established, in accordance with subclause 46.2, for officials and other role players in the Supply Chain Management System in order to promote –

- (a) mutual trust and respect; and
- (b) an environment where business can be conducted with integrity and in a fair and reasonable manner.

- 46.2 An official or other role player involved in the implementation of the Supply Chain Management Policy –

- (a) must treat all providers and potential providers equitably;
- (b) may not use his or her position for private gain or to improperly benefit another person;
- (c) may not accept any reward, gift, favour, hospitality or other benefit directly or indirectly, including to any close family member, partner or associate of that person, of a value more than R350;

- (d) notwithstanding subclause 46.2(c), must declare to the Accounting Officer 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 Accounting Officer 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 Accounting Officer in combating fraud, corruption, favouritism and unfair and irregular practices in the supply chain management system; and
- (i) must report to the Accounting Officer 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 clause 47.1 of this policy; or
 - (iii) any alleged breach of this code of ethical standards.

46.3 Declarations in terms of subclauses 46.2(d) and (e) -

- (a) must be recorded in a register which the Accounting Officer must keep for this purpose;
- (b) by the Accounting Officer must be made to the Executive Mayor of the Municipality who must ensure that such declarations are recorded in the register.

46.4 The National Treasury's code of conduct must also be taken into account by supply chain management practitioners and other role players involved in supply chain management.

46.5 It is recommended that the Municipality or municipal entity adopt the National Treasury's Code of Conduct for Supply Chain Management Practitioners and other role players involved in supply chain management. When adopted, such code of conduct becomes binding on all officials and other role players involved in the implementation of the Supply Chain Management Policy of the Municipality or municipal entity. A copy of the National Treasury Code of Conduct is available on the website www.treasury.gov.za/mfma located under "legislation".

46.6 A breach of the code of conduct adopted by the Municipality must be dealt with in accordance with schedule 2 of the Systems Act.

47. INDUCEMENTS, REWARDS, GIFTS AND FAVOURS TO MUNICIPALITIES, OFFICIALS AND OTHER ROLE PLAYERS

- 47.1 No person who is a provider or prospective provider of goods or services, or a recipient or prospective recipient of goods disposed or to be disposed of may either directly or through a representative or intermediary promise, offer or grant –
- (a) any inducement or reward to the Municipality for, or in connection with the award of a contract; or
 - (b) any reward, gift, favour or hospitality to –
 - (i) any official; or
 - (ii) any other role player involved in the implementation of the Supply Chain Management Policy.
- 47.2 The Accounting Officer must promptly report any alleged contravention of subclause 47.1 to the National Treasury for considering whether the offending person, and any representative or intermediary through which such person is alleged to have acted, should be listed in the National Treasury's database of persons prohibited from doing business with the public sector.
- 47.3 Subclause 47.1 does not apply to gifts less than R350 in value.

48. SPONSORSHIPS

The Accounting Officer must promptly disclose to the National Treasury and the relevant Provincial Treasury any sponsorship promised, offered or granted, whether directly or through a representative or intermediary, by any person who is –

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

49. OBJECTIONS AND COMPLAINTS

Persons aggrieved by decisions or actions taken in the implementation of this supply chain management system, may lodge within 14 days of the decision or action -

- (a) if the objection or complaint is against the procurement process, submit a written objection or complaint against the decision or action to the Accounting Officer of the Municipality who shall, in turn, within 24 hours refer the written objection or complaint to the dependent and impartial person referred to in clause 50 for resolution; or
- (b) if such complaint or objection is against the award of a bid, lodge a written appeal with the Municipal Bid Appeals Tribunal in accordance with the provisions of clause 50.1(a).

50. RESOLUTION OF DISPUTES, OBJECTIONS, COMPLAINTS AND QUERIES

- 50.1 The Accounting Officer must appoint an independent and impartial person, not directly involved in the supply chain management processes to assist in the resolution of objections and complaints between the Municipality and any other person regarding -

- (a) the implementation of the procurement process in terms of the supply chain management system; or
- (b) any matter arising from the implementation of the procurement process in terms of the supply chain management system;
 - (i) any decisions or actions taken in the implementation of the supply chain management system; or
 - (ii) any matter arising from a contract awarded in the course of the supply chain management system.

50.2 The Accounting Officer or another official designated by the Accounting Officer, is responsible for assisting the appointed person to perform his or her functions effectively.

50.3 The person appointed must –

- (a) strive to resolve promptly all disputes, objections, complaints or queries received; and
- (b) submit monthly reports to the Accounting Officer on all disputes, objections, complaints or queries received, attended to or resolved.

50.4 If the independent and impartial person referred to in clause 50.1 is of the view that a matter which should be dealt with in terms of clause 50A, he or she shall forthwith refer the matter to the Municipal Bid Tribunals and that Tribunal shall then hear and determine the matter in accordance with the provisions of clause 50A.

50.5 Objections or complaints may be referred to the Provincial Treasury if -

- (a) the objection or complaint is not resolved within 60 days; or
- (b) no response is forthcoming within 60 days.

50.6 If the Provincial Treasury does not or cannot resolve the matter, the objection or complaint may be referred to the National Treasury for resolution.

50A. MUNICIPAL BID APPEALS TRIBUNAL

50A.1 The Accounting Officer shall establish a Municipal Bid Appeals Tribunal for its area of jurisdiction to hear and determine an appeal against the award of a bid.

50A.2 The Accounting Officer of the Municipality, in consultation with the Provincial Treasury, shall appoint the Chairperson, Deputy Chairperson and Members of the Municipal Bid Appeals Tribunal.

50A.3 The powers, duties and functions of the Municipal Bid Appeals Tribunal and matters incidental thereto, are set out in the Rules which must be appended to this Supply Chain Management Policy.

50A.4 The administrative and secretarial work involved in the performance of the duties and functions of the Municipal Bid Appeals Tribunal shall be performed by officers of the Provincial Treasury as set out in the rules referred to in clause 50A.3.

50A.5 There shall be no further appeal against a decision of the Municipal Bid Appeals Tribunal.

51. CONTRACTS PROVIDING FOR COMPENSATION BASED ON TURNOVER

If a service provider acts on behalf of a municipality or municipal entity 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 or municipal entity must stipulate –

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

52. CONTRACTS MANAGEMENT PROCEDURES

52.1 A contract or agreement procured through the Supply Chain Management Policy of the Municipality must –

- (a) be in writing;
- (b) stipulate the terms and conditions of the contract or agreement, which must include provisions providing the termination of the contract or agreement in the case of non or under-performance;
- (c) have a dispute resolution mechanism to settle disputes between the parties;
- (d) conduct a periodic review of the contract or agreement once every 3 years in the case of a contract or agreement longer than 3 years and any matters that may be prescribed.

52.2 The Accounting Officer must –

- (a) take all reasonable steps to ensure that contract or agreement procured through the Supply Chain Management Policy of the Municipality is properly enforced;
- (b) monitor on a monthly basis the performance of the contractor under the contract or agreement;
- (c) establish capacity in the administration of the Municipality to -
 - (i) assist the Municipality in carrying out duties outlined in paragraphs (a) and (b);
 - (ii) oversee the day to day management of contract or agreement;
- (d) regularly report to the Council as may be appropriate on the management of contracts or agreements and the performance of the contractor.

52.3 A contract or agreement procured through this Supply Chain Management Policy may be amended but only if –

- (a) the reasons for the proposed amendment have been tabled to Council; and
- (b) that the local community has been given a reasonable notice of the intention to amend the contract or agreement and has been invited to submit representations to the Municipality.

52.4 **Contract register**

After the contract has been signed by the Municipal Manager it should be entered into the contract register that should be maintained by the Contract Administration Officer. The register should at least include the following information:

- (a) Contract Number
- (b) Name of the contractor
- (c) Brief description of the goods or services to be provided
- (d) Duration of the contract
- (e) Penalties under the contract
- (f) Payments made to date
- (g) Penalties paid by the Municipality or contractor
- (h) Amendment to the contract
- (i) Remarks from site meeting or contract steering committee
- (j) Variations and extensions
- (k) Retentions
- (l) Directorate
- (m) Project Manager.

52.5 **Variations and extensions**

- (a) 20% (construction related goods, services and/or infrastructure projects), and 15% (all other goods and/or services) of the original value of the contract, are allowed and must be submitted directly to the Chief Financial Officer or delegated official for comments and further be adjudicated by the Bid Adjudication Committee system for approval if delegated to, or recommend to the Accounting Officer for approval.
- (b) Amendments of contracts where the expansion or variation is more than the threshold prescribed by National Treasury (Circular 62), must be dealt with in terms of the provisions of section 116(3) of the MFMA, and are exempted from this process.
- (c) When an amendment has a budgetary implication for a term longer than 3 years, section 33 of the MFMA will apply to this amendment.
- (d) No agreement to amend or vary a contract shall be valid and of any force unless such agreement to amend or vary is entered into in writing and signed by the contracting parties.

52.6 **Contract extensions are allowed in cases where:**

- (a) The tender process has not yet been finalized for the appointment of new Service Provider
- (b) The project has not yet been completed due to reasons other than poor or non-performance.

52.7 **Requests for extensions of contracts by the Department concerned should indicate the following detail:**

- (a) Reasons for extension;
- (b) Duration of extension;

- (c) Financial Implications of extension;
- (d) Past Performance Evaluation of the Service Provider concerned;

CHAPTER 4

PREFERENTIAL PROCUREMENT

53. APPLICATION OF PREFERENTIAL PROCUREMENT

53.1 Application

The Municipality must, unless the Minister of Finance has directed otherwise, only apply a Preferential Procurement System which is in accordance with the Regulation, Act and Preferential Procurement System.

53.2 Objectives

The objectives of Municipal Policy are to –

- (a) provide clarity on the Municipality's approach to procurement, particularly with regards to requirements of preferential procurement;
- (b) provide access to contracts for historical disadvantaged individuals;
- (c) promote capacity development and skills transfer;
- (d) promote local economic development.

53.3 General requirements

53.3.1 Any specific goal required for consideration in the bidding process must be clearly determined by the Bid Specification Committee and be defined in the bid documentation, taking into account prescriptions of the Construction Industry Development Board (CIDB) in respect of construction related contracts.

53.3.2 Outputs required will be quantified and will form part of the contractual arrangement upon awarding of the contract.

54. PLANNING AND STIPULATION OF PREFERENCE POINT SYSTEM TO BE UTILIZED

The Municipality must, prior to making an invitation for tenders –

- (a) property plan for, and, as far as possible, accurately estimate the costs of the provision of services, works or goods for which an invitation for tenders is to be made;
- (b) determine and stipulate the appropriate preference point system to be utilized in the evaluation and adjudication of the tenders; and
- (c) determine whether the services, works or goods for which an invitation for tenders is to be made has been designated for local production and content in terms of Supply Chain Regulation 9.

55. EVALUATION OF TENDERS ON FUNCTIONALITY

- 55.1 The Municipality must indicate in the invitation to submit a tender if that tender will be evaluated on functionality.
- 55.2 The evaluation criteria for measuring functionality must be objective.
- 55.3 When evaluating tenders 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 tender
- 55.4 No tender must be regarded as an acceptable tender if it fails to achieve the minimum qualifying score for functionality as indicated in the tender invitation.
- 55.5 Tenders that have achieved the minimum qualification score for functionality must be evaluated further in terms of the preference point systems prescribed in Regulations 5 and 6.

56. THE 80/20 PREFERENCE POINT SYSTEM FOR ACQUISITION OF SERVICES, WORKS OR GOODS UP TO A RAND VALUE OF R50 MILLION

56.1 **80/20 Preference Point**

- 56.1.1 The following formula must be used to calculate the points for price in respect of tenders (including price quotations) with a Rand value equal to, or above **R30 000** and up to a Rand value of **R50 000 000** (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 tender or offer under consideration;
 P_t = Comparative price of tender or offer under consideration; and
 P_{min} = Comparative price of lowest acceptable tender or offer.

- 56.1.2 Organs of state may apply the formula in sub clause 56.1.1 for price quotations with a value less than **R30 000**, if and when appropriate:

- 56.2 Subject to sub clause 56.3, points must be awarded to a tenderer for attaining the B-BBEE status level of contributor in accordance with the table below:

B-BBEE Status Level of Contributor	Number of Point
1	20
2	18

3	14
4	12
5	8
6	6
7	4
8	2
Non-compliant contributor	0

- 56.3 A maximum of 20 points may be allocated in accordance with subclause 56.2.
- 56.4 The point scored by a tenderer in respect of B-BBEE contribution contemplated in subclause 56.2 must be added to the point scored for price as calculated in accordance with subclause 56.1.
- 56.5 Subject to regulation 7, the contract must be awarded to the tenderer who scores the highest total number of points.

57. THE 90/10 PREFERENCE POINT SYSTEM FOR ACQUISITION OF SERVICES, WORKS OR GOODS WITH A RAND VALUE ABOVE R50 MILLION

- 57.1 The following formula must be used to calculate the points for price in respect of tenders with a Rand value above **R50 000 000** (all applicable taxes included):

$$Ps = 901 - \left(\frac{Pt - Pmin}{Pmin} \right)$$

Where

- Ps = Points scored for comparative price of tender or offer under consideration;
Pt = Comparative price of tender or offer under consideration; and
Pmin = Comparative price of lowest acceptable tender or offer.

- 57.2 Subject to subclause 57.3, points must be awarded to a tenderer for attaining their BBEE status level of contributor in accordance with the table below:-

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

- 57.3 A maximum of 10 points may be allocated in accordance with subclause 57.2.
- 57.4 The points scored by a tenderer in respect of the level of B-BBEE contribution contemplated in subclause 57.2 must be added to the points scored for price as calculated in accordance with subclause 57.1.

57.5 Subject to Regulation 7, the contract must be awarded to the tenderer who scores the highest total number of points.

58. AWARD OF CONTRACTS TO TENDERERS NOT SCORING THE HIGHEST NUMBER OF POINTS

A contract may be awarded to a tenderer that did not score the highest total number of points, only in accordance with section 57.1 (f) of the Act.

59. CANCELLATION AND RE-INVITATION OF TENDERS

59.1 (a) In the event that, in the application of the 80/20 Preference Point System as stipulated in the tender documents, all tenders received exceed the estimated Rand value of R50 000 000, the tender invitation must be cancelled.

(b) If one or more of the acceptable tenders received are within the prescribed threshold of R50 000 000, all tenders received must be evaluated on the 80/20 Preference Point System.

59.2 (a) In the event that, in the application of the 90/10 Preference Point System as stipulated in the tender documents, all tenders received are equal to, or below R50 000 000, the tender must be cancelled.

(b) If one or more of the acceptable tenders received are above the prescribed threshold of R50 000 000, all tenders received must be evaluated on the 90/10 Preference Point System.

59.3 An organ of state which has cancelled a tender invitation as contemplated in sub clauses 59.1(a) and 59.2(a) must re-invite tenders and must, in the tender documents, stipulate the correct preference point system to be applied.

59.4 An organ of state may, prior to the award of a tender, cancel a tender if -

(a) due to changed circumstances, there is no longer a need for the services, works or goods requested; or

(b) funds are no longer available to cover the total envisaged expenditure; or

(c) no acceptable tenders are received.

59.5 The decision to cancel a tender in terms of sub clause 59.4 must be published in the Government Tender Bulletin or the media in which the original tender invitation was advertised.

60. LOCAL PRODUCTION AND CONTENT

60.1 An organ of state must, in the case of designated sectors, where in the award of tenders local production and content is of critical importance, advertise such tenders with a specific tendering condition that only locally produced goods, services or works or locally manufactured goods, with a stipulated minimum threshold for local production and content will be considered.

60.2 The National Treasury will issue instructions, circulars and guidelines to all organs of state, with specific reporting mechanisms to ensure compliance with sub clause 60.1.

60.3 Where there is no designated sector, an organ of state may include, as a specific tendering condition, that only locally produced services, works or goods or locally

manufactured goods with a stipulated minimum threshold for local production and content, will be considered, on condition 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 of Trade and Industry.

- 60.4 Every tender issued in terms of regulation 9 must be measurable and audited.
- 60.5 Where necessary, for tenders referred to in sub clauses 60.1 and 60.3, a two-stage tendering 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 tenderer/s.

61. BROAD-BASED BLACK ECONOMIC EMPOWERMENT STATUS LEVEL CERTIFICATES

- 61.1 Tenderers with annual total revenue of R5 million or less qualify as Exempted Micro Enterprise (EMEs) in terms of the Broad-Based Black Economic Empowerment Act, and must submit a certificate issued by a registered auditor, Accounting Officer [as contemplated in section 60(4) of the Close Corporation Act, 1964 (Act 69 of 1984)] or an accredited verification agency.
- 61.2 Tenderers other than Exempted Micro-Enterprises (EMEs) must submit their original and valid B-BBEE status level verification certificate or a certified copy thereof, substantiating their B-BBEE rating.
- 61.3 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.
- 61.4 The B-BBEE status level attained by the tenderer must be used to determine the number of points contemplated in Regulations 5 (2) and 6 (2).

62. CONDITIONS

- 62.1 Only a tenderer who has completed and signed the declaration part of the tender document may be considered.
- 62.2 An organ of state must, when calculating comparative prices, take into account any discounts which have been offered unconditionally.
- 62.3 A discount which has been offered conditionally must, despite not being taken into account for evaluation purposes, be implemented when payment is affected.
- 62.4 Points scored must be rounded off to the nearest 2 decimal places.
- 62.5 (a) In the event that 2 or more tenders have scored equal total points, the successful tender must be the one scoring the highest number of preference points for B-BBEE.
- (b) However, when functionality is part of the evaluation process and 2 or more tenders have scored equal points including equal preference points for B-BBEE,

the successful tender must be the one scoring the highest score for functionality.

- (c) Should 2 or more tenders be equal in all respects, the award shall be decided by the drawing of lots.
- 62.6 A trust, consortium or joint venture will qualify for points for their B-BBEE status level as a legal entity, provided that the entity submits their B-BBEE status level certificate.
 - 62.7 A trust, consortium or joint venture will qualify for points for their B-BBEE status level as an unincorporated entity, provided that the entity submits their consolidated B-BBEE scorecard as if they were a group structure and that such a consolidated B-BBEE scorecard is prepared for every separate tender.
 - 62.8 A person must not be awarded points for B-BBEE status level if it is indicated in the tender documents that such a tenderer intends subcontracting more than 25% of the value of the contract to any other enterprise that does not qualify for at least the points that such a tenderer qualifies for, unless the intended subcontractor is an exempted micro enterprise that has the capability and ability to execute the subcontract.
 - 62.9 A person awarded a contract may not subcontract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level than the person concerned, unless the contract is subcontracted to a exempted micro enterprise that has the capability and ability to execute the subcontract.
 - 62.10 A person awarded a contract in relation to a designated sector, may not subcontract in such a manner that the local production and content of the overall value of the contract is reduced to below the stipulated minimum threshold.
 - 62.11 When an organ of state is in need of a service provided by only a tertiary institution, such services must be procured through a tendering process from the identified tertiary institutions.
 - 62.12 Tertiary institutions referred to in sub clause 62.11 will be required to submit their B-BBEE status in terms of the specialized scorecard contained in the B-BBEE Codes of Good Practice.
 - 62.13 (a) Should an organ of the state require a service that can be provided by 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 tendering process;
 - (b) Public entities will be required to submit their B-BBEE status in terms of the specialized scorecard contained in the B-BBEE Codes of Good Practice.

63. CONDITION FOR SUBCONTRACTING

- 63.1 The Municipality encourages subcontracting with the local entrepreneurs and when doing so will advertise in bids documents the subcontracting threshold or percentage and the preferential targeted local entrepreneurs which may include youth, women and entrepreneurs with disability.
- 63.2 If feasible to subcontract for contract above 30 million, the Municipality must apply subcontracting to advance designated groups.

63.3 If the Municipality applies subcontracting as a condition for tendering, the Municipality must advertise the tender with the specific tendering condition that the successful tenderer must subcontract a minimum of 30% the value of the Contract to:

- (a) EME or QSE
- (b) EME or QSE which is at least 51% owned by Black people
- (c) EME or QSE which is at least 51% owned by black people who are youth.
- (d) EME or QSE which is at least 51% owned by black people who are women.
- (e) EME or QSE which is at least 51% owned by black people disabilities.
- (f) EME or SQE which is 51% owned by black people living in rural or underdeveloped areas or township.
- (g) EME or SQE which is 51% owned by which is at least owned by black people who are military veterans or
- (h) Cooperatives which is at least 51% owned by black people

63.4 The intended subcontractor must provide the B-BBEE status, tax clearance certificate and CIDB grading as stipulated in the bid documents.

63.5 If the bid document has stipulated that subcontracting is compulsory as advertised and bidders did not subcontract, that bid will be disqualified or regarded as unacceptable tender.

64. DECLARATIONS

A tenderer must, in the manner stipulated in the tender document, declare that -

- (a) the information provided is true and correct;
- (b) the signatory to the tender document is duly authorized; and
- (c) documentary proof regarding any tendering issue will, when required, be submitted to the satisfaction of the relevant organ of state.

65. REMEDIES

65.1 An organ of state must, 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, act against the tenderer or person awarded the contract.

65.2 An organ of state may, in addition to any other remedy it may have against the person Contemplated in sub clause 65.1 -

- (a) disqualify the person from the tendering process;
- (b) recover all costs, losses or damages it has incurred or suffered as a result of that person's conduct;
- (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favorable arrangements due to such cancellation;
- (d) restrict the tenderer or contractor, its shareholders and Directors, or only the shareholders and Directors who acted on a fraudulent basis, from obtaining

business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and

- (e) forward the matter for criminal prosecution.

66. TAX CLEARANCE

No tender may be awarded to any person whose tax matters have not been declared by the South African Revenue Service to be in order.

67. REPEAL OF REGULATIONS

The Preferential Procurement Regulations, 2001, as published in *Government Gazette* No. R. 725 of 10 August 2001, are hereby repealed as from 7 December 2011.

68. ENACTMENT

The Municipality endorse the following circulars as promulgated by the National Treasury:

- (a) MFMA Circular 83 - e-tender portal that the Municipality endorse the use of this portal when advertising tenders.
- (b) MFMA Circular 81 - web based central supply database that the Municipality endorse the use of web central database when procuring and sourcing goods and services.
- (c) MFMA No 77 – Model Supply Chain Management Policy for infrastructure procurement and delivery management that the Municipality endorse the use of Supply Chain Management Policy for infrastructure and delivery management when procuring goods and services for construction and infrastructure.
- (d) MFMA Circular 69 – local production and content that the Municipality will use the guidelines of the circular when procuring goods and services that includes imported content.
- (e) MFMA Circular 96 - procurement of goods and services under contracts secured by other organs of state (regulation 32)

69. APPLICATION OF SUPPLY CHAIN MANAGEMENT POLICY

The application of this Policy is subject to the Municipal Supply Chain Management Regulation 32 of 2005.

70. SHORT TITLE

This policy shall be called the Supply Chain Management Policy 2021.

71. COMMENCEMENT

This policy takes effect on the date on which it is adopted by the Council.

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ADOPTED BY COUNCIL: COUNCIL RESOLUTION