SUPPLY CHAIN MANAGEMENT POLICY

BREEDE VALLEY

Municipality Munisipaliteit U Masipala wase

WORCESTER ▾ RAWSONVILLE ▾ DE DOORNS ▾ TOUWS RIVER

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GENERAL PRINCIPLES

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 all juristic persons, such as companies, closed corporations and firms, unless the context clearly indicates otherwise.

All amounts / limits / thresholds stated in this policy document shall be deemed to be inclusive of Value Added Tax (VAT).

1. DEFINITIONS, ACRONYMNS AND ABBREVIATIONS

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

"Accounting Officer" also means Municipal Manager, appointed in terms of section 54A of the MSA;

"Act" or "MFMA" also means Local Government : Municipal Finance Management Act, 2003 (Act No 56 of 2003);

B-BBEEA also means broad-based black economic empowerment as defined in section 1 of the Broad Based Black Economic Empowerment Act, 2003 (Act No 53 of 2003);

"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;

BVA means the B-BBEE Verification Agency;

CCA means the Closed Corporations Act, 1984 (Act No 69 of 1984);

CFO means the Chief Financial Officer or / Director : Financial Services;

CIDB means the Construction Industry Development Board Act, 2000 (Act No. 38 of 2000);

"CIDBA regulations" means any regulations issued in terms of the Construction Industry Development Board Act, 2000 (Act No. 38 of 2000);

"close family member" means a spouse or partner, parent and/or children;

"closing date" means the time and day specified in the bid invitation advert and/or bid documents for a specific bid;

"competitive bidding process" means a competitive bidding process referred to in this policy;

"competitive bid" means a bid in terms of a competitive bidding process;

"contract" means the agreement that results from the acceptance of a bid;

"council" means the council of the Breede Valley Municipality as contemplated in section 12 of the Local Government : Municipal Structures Act, 1997 (Act 117 of 1997) and includes any committee or employee of the council exercising powers or performing duties delegated to that committee or employee by the council.

"disability" means, in respect of a person, a permanent impairment of a physical, intellectual, or sensory function, which results in restricted, or lack of ability to perform an activity in the manner, or within the range, considered normal for a human being;

“delegation” in relation to a duty, includes an instruction or a request to perform or to assist in performing the duty;

EME’s means the Exempted Micro Enterprises;

“emergency” means a sudden and unforeseeable event with materially harmful or potentially materially harmful consequences, which requires urgent and immediate action to address;

“Emerging Enterprise” means an enterprise which is owned, managed and controlled by previously disadvantaged persons and which is overcoming business impediments arising from the legacy of apartheid;

“end-user” has the same meaning as user-departments;

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

“financial interest” means where a municipal staff member is a close family member of a person who is the owner, partner, principal shareholder or member, manager or who serves on the board of directors, etc. of a tendering enterprise;

“formal written price quotation” means at least three quotations as referred to in this policy;

IDP means the Integrated Development Plan of Breede Valley Municipal Council;

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

(a) a member of-

(i) any municipal council;

(ii) any provincial legislature; or

(iii) the National Assembly or the National Council of Provinces;

(b) a member of the board of directors of any municipal entity;

(c) an official of any municipality or municipal entity;

(d) 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 No. 1 of 1999);

(e) a member of the accounting authority of any national or provincial public entity; or

(f) an employee of Parliament or a provincial legislature.

“IRBA” means the Independent Regulatory Board of Auditors;

“long term contract” means a contract with a duration period exceeding one year;

“list of accredited prospective providers” means the list of accredited prospective providers which the municipality must keep in terms of this policy;

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

“minor breach” means a breach of the supply chain management process that is technical in nature and is not impacting in any significant way on the essential fairness, equity, transparency, competitiveness or cost effectiveness of the procurement process and the circumstance surrounding the breach are the justifiable. Minor breaches only include breaches of the procurement processes in this Supply Chain Management Policy and not breaches of legislation or regulations.

“municipal manager” means a person appointed in terms of section 54A of the Local Government : Municipal Systems Act, 2000 (Act 32 of 2000);

“person” means a natural and/or juristic person;

“PFMA” means the Public Finance Management Act, (Act No. 1 of 1999) (as amended by Act 29 of 1999);

“PPPFA” means the Preferential Procurement Policy Framework Act, 2000 (no 5 of 2000);

“PPPFA Regulations” means the Preferential Procurement Policy Framework Act Regulations as published in Government Notice 9544, Vol. 552, No. 34350, dated 8 June 2011 in terms of section 5 of the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000), and as amended from time to time;

“Policy” means the Supply Chain Management Policy of the Breede Valley Municipality;

‘prohibited practice’ means a practice prohibited in terms of Chapter 2 of the Competition Act 1998, (Act 89 of 1998);

“QSE” means Qualifying Small Enterprise;

“quotation” means a stated price that a supplier expects to receive for the provision of specified services, works or goods;

“Regulations” means the Local Government: Municipal Finance Management Act, 2003, Municipal Supply Chain Management Regulations, published by Government Notice 868 of 30 May 2005;

“SDBIP” means the Service Delivery and Budget Implementation Plan;

“**single provider”** or **“sole supplier”** refers to the one and only (alone of its kind) supplier (Oxford Dictionary). If such goods or services are produced or available from a single provider only. There is no competition and only one bidder exists (for example, sole distribution rights);

“SANAS” means the South African National Accreditation System;

“SARB” means the South African Reserve Bank;

“SARS” means the South African Revenue Services;

“SASAE” refers to the South African Standard on Assurance Engagements;

“SCM” means Supply Chain Management;

“senior manager” means a manager referred to in section 56 of the MSA;

“SMME’s” refers to Small Medium and Micro Enterprises;

“supply chain management practitioners” means the Chief Financial Officer, Senior Manager Supply Chain Management and any other officials involved in the demand, acquisition, logistics and disposal processes and systems;

“tender” means a ‘bid’ or a ‘quotation’ in relation to a request to quote or invitation to submit a bid;

“tender box” means the specified tender box at the SCM-Offices, Stofberg Huis, 23 Baring Street, Worcester;

“the Regulations” means the Local Government: Municipal Supply Chain Management Regulations as published in Government Notice 868 of 2005 in terms of section 111 of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) and any amendments;

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

“user-departments” means all directorates, departments, sections, units and warehouse (stores) operating within the municipality requiring goods and/or services;

“validity period” means the period for which a bid is to remain valid and binding as stipulated in the relevant tender document.

“written price quotations” means quotations as referred to in this Policy.

SECTION 1: IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY

2. SUPPLY CHAIN MANAGEMENT POLICY

2.1. All officials and other role players in the supply chain management system of the Municipality must implement this policy in a way that-

(a) gives effect to-

(i) section 217 of the Constitution;

(ii) Part 1 of Chapter 11 and other applicable provisions of the Act;

(iii) Regulations pertaining to Supply Chain Management; and

(iv) Guidelines as issued by National Treasury, which affects this Policy.

(b) is fair, equitable, transparent, competitive, cost effective and gives effect to the principles contained in this policy;

(c) complies with-

(i) the Regulations;

(ii) PPPFA Regulations; and

(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;

(f) is consistent with national economic policy concerning the promotion of investments and doing business with the public sector;

(g) applies the highest ethical standards

(iii) any minimum norms and standards that may be prescribed in terms of section 168 of the Act; and/or

(h) promotes local economic development.

2.2. This Policy applies when the municipality-

(a) procures goods or services;

(b) disposes of goods no longer needed;

(c) selects contractors to provide assistance in the provision of municipal services otherwise than in circumstances where Chapter 8 of the Municipal Systems Act applies; and/or

(d) selects external mechanisms referred to in section 80 of the MSA for the provision of municipal services in circumstances contemplated in section 83 of that Act.

2.3. This Policy, except where provided otherwise, does not apply in respect of the procurement of goods and services contemplated in section 110(2) of the Act, or the acquisition of services of attorneys and advocates. The latter procurement will be dealt with in terms of Legal Representatives Accreditation and Appointment Policy.

3. 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 If the accounting officer submits proposed amendments to the council that differs from the model policy issued by the National Treasury, the accounting officer must –

(a) ensure that such proposed amendments comply with the Regulations; and

(b) report any deviation from the model policy to the National Treasury and the relevant provincial treasury.

3.3 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.

3.4 The accounting officer must in terms of section 62(1)(f)(iv) of the Act, take all reasonable steps to ensure that the municipality implements the supply chain management policy.

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 responsibilities conferred on accounting officers in terms of:

(i) Chapter 8 or 10 of the Act; and

(ii) this Policy.

(b) to maximize administrative and operational efficiency in the implementation of this Policy;

(c) to enforce reasonable cost-effective measures for the prevention of fraud, corruption, favouritism and unfair and irregular practices in the implementation of this Policy; and

(d) to comply with his or her responsibilities in terms of section 115 and other applicable provisions of the Act.

4.2 Section 79 of the Act apply to the sub-delegation of powers and duties delegated to an accounting officer in terms of this policy.

4.3 The accounting officer may not sub-delegate any supply chain management powers or duties to a person who is not an official of the municipality or to a committee, which is not exclusively composed of officials of the municipality.

4.4 This paragraph may not be read as permitting an official to whom the power to make final awards has been delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in this policy.

5. SUB-DELEGATIONS

5.1. The accounting officer may in terms of section 79 of the Act sub-delegate any supply chain management functions, powers and duties, including those delegated to the accounting officer in terms of this policy, but any such sub-delegation must be consistent with this policy.

5.2. The Council specifically delegate the power to make a final award—

(a) above R10 million (VAT included) to the accounting officer only;

(b) above R200 000.00 (VAT included), but not exceeding R10 million (VAT included), to a bid adjudication committee consistent with paragraph 19, 26 and 29 or any other provision of this policy;

(c) not exceeding R200 000.00 (VAT included) to the senior manager supply chain management unit; and

(d) not exceeding R30 000.00 (VAT included) may be sub-delegated, but only to the manager/head procurement.

5.3. An official or bid adjudication committee to which the power to make final awards has been sub-delegated in accordance with this policy, must within five days of the end of each month submit to the official referred to in this policy, a written report containing particulars of each final award made by such official or committee during that month, including –

(a) the amount of the award;

(b) the name of the person to whom the award was made; and

(c) the reason why the award was made to that person.

5.4. A written report referred to in this policy must be submitted –

(a) to the accounting officer, in the case of an award by—

(i) a bid adjudication committee of which the chief financial officer is a member; or

(ii) the chief financial officer; or

(b) to the chief financial officer, in the case of an award by an official or officials referred to in this Policy.

5.5. Sub paragraphs 5.3 and 5.4 of this policy do not apply to procurements out of petty cash.

5.6. This paragraph may not be interpreted as permitting an official to whom the power to make final awards has been sub-delegated, to make a final award in a competitive bidding process, otherwise than through the committee system provided for in this Policy. Also refer to paragraph 4.4 and 5.2(a) of this Policy.

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

6. OVERSIGHT ROLE OF COUNCIL

6.1. Council must maintain oversight over the implementation of this policy.

6.2. For the purposes of such oversight the accounting officer must-

(a) within 30 days of the end of each financial year submit a report on the implementation of the supply chain management policy to the council of the municipality; and

(b) whenever there are serious and material problems in the implementation of this 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 this policy to the Executive Mayor of the municipality.

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

7. SUPPLY CHAIN MANAGEMENT UNIT

7.1. A supply chain management unit is hereby established to implement this policy.

7.2 The supply chain management unit operates under the direct supervision of the Chief Financial Officer to whom this duty has been delegated in terms of section 82 of the Act.

8. TRAINING OF SUPPLY CHAIN MANAGEMENT OFFICIALS

The training of officials involved in implementing this policy should be in accordance with relevant legislation, including any Treasury guidelines on supply chain management training.

SECTION 2 : SUPPLY CHAIN MANAGEMENT SYSTEM

9. FORMAT OF THE SUPPLY CHAIN MANAGEMENT SYSTEM

This Policy provides systems for –

(i) demand management;

(ii) acquisition management;

(iii) logistics management;

(iv) disposal management;

(v) risk management; and

(vi) performance management.

PART 1: DEMAND MANAGEMENT

10. SYSTEM OF DEMAND MANAGEMENT

10.1. An effective system of demand management is established and must be implemented in order to ensure that—

(a) the resources required by the municipality to support its operational commitments and its strategic goals as outlined in the Integrated Development Plan (IDP) are achieved; and

(b) the Performance Management System (PMS) must give the necessary support to ensure that the resources required, to support the strategic and operational commitments of the municipality, are delivered at the correct time, at the right price and at the right location, and that the quality and quantity satisfy the needs of the municipality.

10.2 This Policy provides for an effective demand management system to ensure that user-departments—

(a) include timely planning and management processes to ensure that all goods and services required by the municipality are quantified, budgeted for and timeously and effectively delivered at the right locations and at the critical delivery dates, and are of the 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) provide for the compilation of the required specifications to ensure that its needs are met;

(d) undertake appropriate industry analyses and research to ensure that innovations and technological benefits are maximized;

(e) as far as possible, accurately estimate the cost of the provision of services, works or goods for which an invitation for bids is to be made;

(f) determine the deliverables or performance indicators in terms of which a person awarded a contract will be assessed; and

(g) determine the appropriate preference point system to be utilised in the bid documentation.

10.3 The accounting officer may in terms of section 79 of the Act sub-delegate any supply chain management powers and duties, including those delegated to the accounting officer in terms of this Policy, but any such sub-delegation must be consistent with this Policy.

PART 2 : ACQUISITION MANAGEMENT

11. SYSTEM OF ACQUISITION MANAGEMENT

11.1 An effective system of acquisition management, as set out in this Part, is established and must be implemented in order to ensure that—

(a) goods and services are procured by the municipality in accordance with authorised processes only;

(b) any expenditure on goods and 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; and

(e) any Treasury guidelines on acquisition management are properly taken into account.

11.2 All requests (requisitions) for the procurement of goods and services shall be directed and submitted to the offices of the supply chain management unit in time for the unit to follow the procurement processes diligently and must be—

(a) on the specific requisition form clearly specifying—

(i) the nature of the goods or the services required in terms of this policy;

(ii) the specifications and quantity of the goods or duration of the services;

(iii) the correct vote (line item) number with sufficient funding to conclude the process;

(iv) the realistic estimated cost of the goods or services required;

(v) any requirement in terms of the CIDBA;

(vi) any requirement in terms of the PPPFA; and

(vii) any other requirement (legislative, site meeting, contact details, etcetera).

(b) signed by a duly authorised official of the user-department, as delegated.

11.3. When procuring goods and / or services of a capital nature section 19 of the Act regarding budgeting and costing of capital projects must be complied with.

11.4. When procuring goods and / or services which will have future budgetary implications section 33 and 116 of the Act regarding contracts must be complied with.

11.5 When procuring goods or services contemplated in section 110(2) of the Act, the accounting officer must make public the fact that such goods or services are procured otherwise than through the municipality's 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 Goods and services may only be procured by way of-

(a) One written price quotation up to a transaction value of R 2 000.00 (VAT included);

(b) Petty cash purchases up to a transaction value of R 2 000.00 (VAT included) for items specified in the Petty Cash policy;

(c) Three written price quotations for procurements of a transaction value over R 2 000.00 up to R10 000.00 (VAT included);

(d) Three formal written price quotations for procurements of a transaction value over R 10 000.00 up to R200 000.00 (VAT included); and

(e) A competitive bidding process for–

(i) Procurements above a transaction value of R200 000.00 (VAT included); and

(ii) The procurement of long term contracts.

12.2. The accounting officer may, in writing lower, but not increase, the different threshold values specified in subparagraph 12(1);

12.3 For quotations (up to R 30 000.00) bidders are required to be registered on the municipality's supplier database prior to the acceptance of their quotation in respect of the goods or services required.

12.4 Goods or services may not deliberately be split into parts or items of a lesser value merely to avoid complying with the requirements of the policy. When determining transaction values, 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.

12.5 Formal (closed) written price quotations, from accredited suppliers, by means of advertisement on municipal website and notices on municipal notice boards for at least 7 days for procurements of a transaction value over R30 000.00 up to R200 000.00 (VAT included); and

12.6. a competitive bidding process for -

(i) procurement above an estimated transaction value of R200 000.00 (VAT included); and

(ii) the procurement of long term contracts.

12.7 The accounting officer may, in writing lower, but not increase, the different threshold values specified above.

12.8 Formal distinct municipal bidding documents, complying with National Treasury prescripts, must be utilised at all times.

12.9 Obtaining a single written price quotation for the procurement of emergency repairs (strip and quote) with a transaction value up to R30 000.00 (VAT included) provided it is on a rotational basis and procured from accredited suppliers only;

12.10. The procurement of the following services are excluded from subparagraph above—

(a) the serving of summonses on condition the service provider is listed on the database (must comply with all registration conditions) and is a registered messenger/sheriff of the court;

(b) any procurement in terms of a predetermined tariff/s by an organ of state, on condition the rotation system is applied where possible; and

(c) oil and fuel but only from authorised service stations.

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

A written quotation or bid may not be considered, unless the provider who submitted the quotation or bid –

(a) has furnished that provider's -

(i) full name or name of the enterprise, type of enterprise and/or relevant enterprise registration documentation;

(ii) identification number or company or other registration number; and

(iii) tax reference number and VAT registration number, if any;

(iv) registration number in terms of section 18(1) of the Construction Industry Development Board Act, 2000 (Act No. 38 of 2000), should the provider quote or bid to undertake, carry out or complete any construction works or portion thereof;

(v) registration number of the NHBRC, should the provider bid or quote to undertake any housing construction works or portion thereof;

(vi) certificate of good standing with the Department of Labour in terms of the Compensation for Occupational Injuries and Diseases Act, 1993 (Act 130 of 1993);

(vii) physical and postal address;

(viii) telephone (land line and cell numbers), e-mail addresses and fax numbers, where possible;

(ix) core business (what is the principle business);

(x) names of all directors/members/owners of enterprise;

(xi) specific expertise vested in the company;

(xii) Broad-Based Black Empowerment of entity;

(xiii) the inclusion of valid tax details and original tax clearance certificate;

(xiv) the inclusion of declaration in terms of required information;

(xv) permission that the financial position of the supplier and the ability to manufacture or to supply goods or to render a service may be examined before its offer is considered for acceptance;

(xx) monetary value of contracts interested in;

(xxi) maximum quantities that can be supplied; and/or

(xxii) quantity and frequency of delivery.

(b) has authorised the municipality to obtain a tax clearance from the South African Revenue Services that the provider's tax matters are in order;

(c) has authorised the municipality to obtain a certificate clearance from the Construction Industry Development Board that the provider holds a valid registration certificate issued by the Board, if required;

(d) 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 twelve months;

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

(iii) whether a close family member of the provider or a director, manager, shareholder or stakeholder referred to in subparagraph (ii) is in the service of the state, or has been in the service of the state in the previous twelve months;

(iv) whether the tendering enterprise or any of its owners, directors, members or trustees, in their personal capacity are not in arrears with any account(s) with a Municipality for longer than 90 days / three months; or

(v) whether any Municipal staff member is a close family member of an owner, his/her partner serves on the board of directors, or are members or trustees, of the tendering enterprise.

(e) has authorised the municipality to obtain or has submitted a certificate clearance from the Health and Safety Board that the provider holds a valid registration certificate issued by the Board, if required;

(f) has authorised the municipality to inspect the premises from witch the provider operates, if required; and

14. LISTS OF ACCREDITED PROSPECTIVE PROVIDERS

14.1 The accounting officer must –

(a) keep a list of accredited prospective providers of goods and services that must be used for the procurement requirements through written and formal (closed) written price quotations;

(b) at least once a year through newspapers commonly circulating locally, the website and any other appropriate ways, invite prospective providers of goods or services to apply for evaluation and listing as accredited prospective providers; and

(c) disallow the listing of any prospective provider whose name appears on the National Treasury's database as a person prohibited from doing business with the public sector (check before listing if prospective provider is not registered on the List of Restricted Suppliers (forward e-mail to restrictions@treasury.gov.za) and the Register for Tender Defaulters – National Treasury website www.treasury.gov.za].

14.2 The listing criteria for accredited prospective providers are as follows:

(a) Certified Copy of Certificate of Incorporation/Registration: Company, Closed Corporation or Trust (Obtainable from CIPC);

(b) Certified copies of Identity Document(s) of Owner(s), Member(s), Trustees or Shareholder(s) (Original Certified Copy);

(c) Certified copies of Identity Document(s) of Authorised Person/Signatory (Original Certified Copy);

(d) Copy of Registration Documents of Construction Industry Development Board (Obtainable from CIDB) - applicable to construction industry only;

(e) Organ of State: Resolution of the Board; Juristic person.

(f) Copy of Joint Venture Agreement;

(g) Original and Valid Tax Clearance Certificate (Obtainable from SARS) proof that tax matters are in order;

(h) Copy of latest Municipal Account(s) or Affidavit confirming of residential address or renting of business premises;

(i) Certified letter from banking institution, confirming banking details;

(j) Health certificate (Catering Suppliers);

(k) Copy of registration documentation if registered with Professional Board (e.g. engineering, accounting, law, architectural etc.);

(l) Letter of good standing from the Office of the Compensation Commissioner;

(m) Certified copy of original valid B-BBEE Rating certificate or EME letter (Obtainable from a SANAS accredited verification agency or if turnover is less than R5 million per annum the EME letter from a registered accountant/auditor);

(n) Completion of all related Municipal Bidding Documents; and

(o) Application to register as prospective provider must be duly completed, signed and submitted.

14.3 The list must be compiled from the applicants who have applied in terms of paragraph 14.1 (b) and who meets the listing criteria as specified in paragraph 14.1 (c) and 14.2.

14.4 The list must be updated at least quarterly to include any additional prospective providers and any new commodities or types of services, if needed. Prospective providers must be allowed to submit applications for listing at any time.

14.5 The list must be compiled per commodity and per type of service.

14.6 The accredited prospective suppliers must be reviewed and updated annually.

14.7 The list should be used to promote participation of Small, Medium and Micro Enterprises (SMME's).

15. PETTY CASH PURCHASES

15.1 The general guideline is that petty cash purchases referred to in paragraph 12(1)(a) & (b) of this Policy are for minor items that are purchased for up to R2000.00 (VAT included) where it is impractical, impossible or not cost-effective to follow a formal procurement process and is strictly of a reimburse/recoverable nature and not for advances.

15.2 The Chief Financial Officer must keep the petty cash and apply the conditions as set out in the petty cash policy for the procurement of goods by means of petty cash purchases.

15.3 The Chief Financial Officer is authorised to increase the petty cash float as stipulated in the petty cash policy for a specific period and when justified.

16. WRITTEN PRICE QUOTATIONS

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

(a) a quotation must be obtained from at least one provider, as set out in paragraph 12.1 (d) and (e) of this Policy, preferably from, but not limited to, providers whose names appear on the list of accredited prospective providers of the municipality, provided that if quotations are obtained from a provider who are not listed, such provider must meet the listing criteria set out in paragraph 14.1 (c) and 14.2 of this Policy;

(b) quotations must be obtained from at least three different providers, as set out in paragraph 12.1 (e) of this Policy, preferably from, but not limited to, providers whose names appear on the list of accredited prospective providers of the municipality, provided that if quotations are obtained from providers who are not listed, such providers must meet the listing criteria set out in paragraph 14.1 (d) and 14.2 of this Policy;

(c) providers must submit such quotations in writing not later than the date and time indicated on the request to quote form. Such quotation, must be duly signed and dated and may be submitted per facsimile, e-mail or otherwise;

(d) if it is not possible to obtain at least three quotations, the reasons must be recorded and reported quarterly to the accounting officer or another official designated by the accounting officer; and

(e) the names of the responsive potential providers requested to provide such quotations, with their quoted prices, must be recorded.

16.2 No orders may be placed based on verbal price quotations, except if allowed in terms of the provisions of this policy.

16.3 No information contained in a quotation, written or verbal, may be made available by an official to another prospective bidder.

17. FORMAL WRITTEN PRICE QUOTATIONS

17.1 The conditions for the procurement of goods or services through formal written price quotations are as follows –

(a) quotations must be obtained in writing from at least three different providers, as set out in paragraph 12.1 (f) and (g) of this Policy, whose names appear on the list of accredited prospective providers of the municipality;

(b) quotations may be obtained from providers who are not listed, provided that such providers meet the listing criteria set out in paragraph 14.1(c) and 4.2 of this Policy;

(c) providers must submit such quotations by hand, per facsimile, email or registered post, in writing, duly signed and dated, in sealed envelopes, the quotation reference number clearly indicated on the outside, and must be placed in the tender box or posted to reach the municipality strictly not later than the closing date and time as indicated in the request/invitation to quote. Faxed, e-mailed or any quote received after the closing date and time will not be considered. Quotes received, including those received through email or facsimile, will be opened and announced strictly at the closing time indicated and recorded in the formal written quotation register; and

(d) if it is not possible to obtain at least three quotations, the reasons must be recorded by the evaluation officer and approved by the Senior manager supply chain management or an official designated by the Chief Financial Officer, in terms of delegations.

17.2 As each quote is opened the name of the bidder and only the amount (total) quoted shall be read out. An employee shall date-stamp the quotation and all enclosures related to prices, delivery periods and special conditions. Bids and quotations shall be numbered in the sequence in which they are opened and the words “and last” shall be endorsed on the last quotation. In instances where only one quotation has been received the words “one and only” shall be endorsed on such quote.

17.3 A designated official referred to in paragraph 17.1 (d) must within five (5) 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 paragraph.

18. PROCEDURES FOR PROCURING GOODS OR SERVICES THROUGH WRITTEN PRICE QUOTATIONS AND FORMAL WRITTEN PRICE QUOTATIONS

18.1. The procedure for the procurement of goods or services through written price quotations or formal written price quotations, is as follows –

(a) when using the list of accredited prospective providers on going competition amongst providers must be promoted by inviting providers to submit quotations on a rotation basis;

(b) quotes, of which the estimated amount is less than R30 000.00 (inclusive of VAT), must be obtained from locally accredited prospective providers, where possible;

(c) all requirements in excess of R30 000.00 (VAT included) that are to be procured by means of formal written price quotations must, in addition to the requirements of paragraph 17, be advertised for at least seven

(7) days on the website and an official notice board of the municipality;

(d) quotes received must be evaluated on a comparative basis taking into account unconditional discounts;

(e) the Accounting Officer and Chief Financial Officer must on a monthly basis be notified in writing of all written price quotations and formal written price quotations accepted by an official acting in terms of a sub-delegation;

(f) responsive quotes equal to or below R10 000.00 (VAT included) must be awarded based on compliance to specifications and conditions of contract, ability and capability to deliver the goods and services and lowest price;

(g) responsive and acceptable offers of more than R10 000.00 (VAT included), which are subject to the preference points system (PPPFA and associated regulations and policy), must be awarded to the bidder who scored the highest points; (The prescripts of the Preferential Procurement Policy Framework Act, Act No.5 of 2000 will be applied for procurement requirements above R30 000.00 (and with a lesser value where appropriate); and

(h) the Chief Financial Officer must set requirements for proper record keeping of all formal written price quotations accepted on behalf of the municipality.

18.2 Notwithstanding the above requirements for consideration, quotations not to specification may not be accepted.

18.3 An order may only be issued after the final award is made provided sufficient funding exist within the appropriate vote.

18.4 The accounting officer, chief financial officer, senior manager supply chain management and supply chain management practitioners must take all reasonable steps to ensure that the procurement of goods and services through written price and formal written price quotations is not abused.

18.5 No official placing a procurement requisition for goods or services shall understate the requirements of the estimated value with the intention of avoiding a more stringent procurement process. This includes the deliberate splitting of requirements to reduce individual order values. The accounting officer shall promptly institute disciplinary action against any official in terms of paragraph 38 and the code of conduct and ethical standards as contemplated in this policy.

18.6 No official shall engage in contact with a prospective supplier in respect of a quotation which the supplier intends to submit except where clarification of specifications is required from either party, or where the accounting officer or his delegate may negotiate with identified preferred bidders. Any such

communication must be recorded and appropriately filed with the bid documentation.

18.7 The supply chain management unit must comply with all requirements for proper record keeping.

19. COMPETITIVE BIDDING PROCESS

19.1 Goods or services above an estimated transaction value of R200 000.00 (Vat included) and long term contracts may only be procured through a competitive bidding process, subject to paragraph 11.2 of this Policy; and

19.2 No requirement for goods or services above an estimated transaction value of R200 000.00 (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.

19.3 Goods of a repetitive nature and exceeds R200 000.00 (VAT included) per annum may only be procured through a competitive bidding process, subject to paragraph 11.2 of this Policy.

19.4 No official shall engage in contact with a prospective bidder in respect of a bid which the supplier intends to submit except where clarification of specifications is required from either party, or where the accounting officer may negotiate with identified preferred bidders. Any such communication must be recorded and appropriately filed with the bid documentation.

20. PROCESS FOR COMPETITIVE BIDDING

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

(a) Compilation of bidding documentation as detailed in paragraph 21;

(b) Public invitation of bids as detailed in paragraph 22;

(c) Site meetings or briefing sessions as detailed in paragraph 22;

(d) Handling of bids submitted in response to public invitation as detailed in paragraph 23;

(e) Evaluation of bids as detailed in paragraph 28;

(f) Award of contracts as detailed in paragraph 29;

(g) Administration of contracts: After approval of a bid, the accounting officer and the bidder must enter into a written agreement unless the bidding documentation constitutes an acceptable contract; and

(h) Proper record keeping: Original and legal copies of written agreements should be kept in a secure place for reference purposes, in terms of relevant legislation.

21. BID DOCUMENTATION FOR COMPETITIVE BIDS

21.1. The criteria to which bid documentation for a competitive bidding process must comply, must-

(a) take into account-

(i) the general conditions of contract and any special conditions of contract, if specified;

(ii) any Treasury guidelines on bid documentation;

(iii) the requirements of the National Building Regulations;

(iv) the requirements of the Construction Industry Development Board, as contemplated in the Construction Industry Development Board Act, 2000 (Act No. 38 of 2000) and regulations, in the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure; and

(v) a statement indicating whether any portion of the goods or services are expected to be sourced from outside the Republic, and, if so, what portion and whether any portion of payment from the municipality is expected to be transferred out of the Republic;

(b) include the preference points system to be used as contemplated in the Preferential Procurement Regulations and evaluation and adjudication criteria, including any criteria required by other applicable legislation; and

(c) determine and include the evaluation points and criteria for functionality to be used as contemplated in the Preferential Procurement Regulations and clearly specify the following aspects;

(i) Evaluation criteria for measuring functionality;

The evaluation criteria may include criteria such as the consultant's relevant experience for the assignment, the quality of the methodology; the qualifications of key personnel; transfer of knowledge, etc.

(ii) Weight of each criterion

The weight that is allocated to each criterion should not be generic, but should be determined separately for each bid on a case by case basis.

(iii) Applicable value

The applicable values that will be utilised when scoring each criterion should be objective. As a guide, values ranging from 1 being poor, 2 being average, 3 being good, 4 being very good and 5 being excellent, may be utilised.

(iv) Minimum qualifying score for functionality

The minimum qualifying score that must be obtained for functionality in order for a bid to be considered further should not be generic. It should be determined separately for each bid on a case by case basis. The minimum qualifying score must not be prescribed so low that it may jeopardise the quality of the service required nor so high that it may be restrictive to the extent that it jeopardizes the fairness of the SCM system.

(d) include any other criteria and or goals as contemplated in the Preferential Procurement Regulations;

(e) include the evaluation and adjudication criteria required by any other applicable legislation;

(f) compel bidders to declare any conflict of interest they may have in the transaction for which the bid is submitted;

(g) if the value of the transaction is expected to exceed R10 million (VAT included), require bidders to furnish-

(i) if the bidder is required by law to prepare annual financial statements for auditing, their audited annual financial statements-

(aa) for the past three years; or

(bb) since their establishment if established occurred during the past three years;

(ii) a certificate signed by the bidder certifying that the bidder has no undisputed commitments for municipal services towards a municipality or other service provider in respect of which payment is overdue for more than 90 days;

(iii) particulars of any contracts awarded to the bidder by an organ of state during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract; and

(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 is expected to be transferred out of the Republic;

(h) indicate the value or extent to which the execution of the contract should or should not be subcontracted. Proviso that subcontracting can only be done with the approval of BVM;

(i) submit a certificate from the Department of Labour indicating compliance with the Occupational Health & Safety Act, 1993 (Act no. 85 of 1993);

(j) any other criteria determined by the Accounting Officer;

(k) the amount and period of retention;

(l) stipulate that disputes must be settled by means of mutual consultation, mediation (with or without legal representation), arbitration, or, when unsuccessful, in a South African court of law, in terms of the GCC;

(m) for specific industries, as identified by the Department of Trade and Industry, where the award of bids to local manufacturers are of critical importance, such bids may be advertised with a specific bidding condition that only locally manufactured products will be considered;

(n) include all criteria to list the bidder as an accredited prospective supplier and stipulate that listing (comply with listing criteria) is a requirement;

(o) include any performance guarantees as well as insurance and retention requirements;

(p) request details of any contracts exceeding R200 000.00 (VAT included) carried out on behalf of the municipality within the last five years;

(q) compel bidders to include an original and valid tax clearance certificate and or proof that their tax matters are in order;

(r) compel bidders to submit valid B-BBEE status level verification certificates or certified copies thereof;

(s) include any other matter as required by the Act, Supply Chain Management Regulations or any other applicable legislation; and

(t) provide for a contract management process and procedure.

21.2 A non-refundable charge shall be raised for each bid document (forms, plans, specifications, samples and any other bid documentation), depending on the nature, magnitude and value of technical information or samples provided by the municipality for bids and tenders as determined by the Municipal Manager from time to time. Such charge shall be paid in advance, payable in cash, electronic fund transfer or bank guaranteed cheque.

21.3 Bid documents may allow for bidders to bid for one or more items or for a part of one or more items but the Municipality reserves the right to accept part of a bid or a complete bid or quotation even if it is not the lowest, provided the interests of the Municipality are best served thereby. Bid documents must be specific as certain contracts, e.g. the construction of a bridge, may require that the whole contract is to be completed by the same contractor.

21.4 Where bidders insert prices on price lists supplied by the Municipality they shall delete items for which they do not bid or indicate if the price has been included elsewhere in the price list.

21.5 After bid/quotations have been opened bidders may not supplement their original offer if the original offer was incomplete.

22. PUBLIC INVITATION FOR COMPETITIVE BIDS

22.1. The procedure for the invitation of competitive bids 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, but not limited thereto, the website and notice boards of the municipality or any other appropriate ways (which may include an advertisement in the Government Tender Bulletin); and

(b) the information contained in a public advertisement, must include-

(i) the closure date and time for the submission of bids, which may not be less than one calendar month in the case of transaction over R10 million (VAT included), or which are of a long term nature or of a large complex nature, or 14 days in any other case, from the date on which the advertisement is placed in a newspaper, subject to paragraph 22.2 of this policy;

(ii) a statement that bids may only be submitted on the bid documentation provided by the municipality;

(iii) the charge for the bid documentation as determined in terms of paragraph 21.2 of this Policy;

(iv) the venue, date and time and or other requirements of a compulsory site meeting or briefing session is included hereto in the provisions of paragraph 22.5.;

(v) the contact details of the employee should enquiries be made with regard to the technical detail of the bid;

(vi) the venue, office hours, and contact details where the bid documents will be available;

(vii) any registration requirement; and

(viii) a statement which indicate the basis of evaluation.

22.2 The accounting officer may determine a closure date for the submission of bids which is less than one calendar month requirement, or 14 days, 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.

22.3 Bids submitted must be sealed and marked as indicated in the bid advertisement and the bid document.

22.4 Where bids are requested in electronic format, such bids must be supplemented by sealed hard copies.

22.5. Site meetings and bid clarification meetings.

22.5.1 Site meetings/ bid clarification meetings will, in general, not be compulsory. In exceptional circumstances however, a site meeting/ bid clarification meeting may be made compulsory with the approval of the relevant director.

22.5.2. If site meetings/ bid clarification meeting are to be held, full details must be included in the bid notice and the bid document, including whether or not the site meeting/ bid clarification meeting is compulsory.

22.5.3 Where site meetings/bid clarification meetings are made compulsory, the date for the site meetings/ bid clarification meeting shall be not less than 7 (seven) days after the bid has been advertised.

22.5.4. Site meetings/ bid clarification meeting will be chaired by a duly authorised representative from the Supply Chain Management Unit. The relevant line manager responsible for a specific bid or the duly appointed consulting engineering firm employee must be present at the site meetings/ bid clarification meeting in order to provide technical information and to answer technical related questions that might arise from the prospective bidders.

22.5.5 The chairperson of the site meeting/clarification meeting must explain the way how the site meetings/bid clarification will be conducted and

must exclude prospective bidders that arrive after the meeting has been opened.

22.5.6 Prospective bidders present at the site meetings/bid clarification meeting, will be required to confirm their attendance by signing the attendance register as provided by the Supply Chain Management Unit.

22.5.7 In instances where bid documentation provides for an attendance certificate, such a certificate must be signed by the representative of the Supply Chain Management Unit who was present at the site meetings/ bid clarification meeting and submitted with the bid document.

22.5.8 If at a site meetings/ bid clarification meeting, any additional information is provided or clarification of vague points is given, such additional information or clarification must be conveyed to all bidders in writing within a time frame as determined by the municipality, but not later than 7 (seven) days before the bid closing date.

22.5.9 Drawings and other supplements to bid documents may be provided to prospective bidders at the site meetings/bid clarification meetings.

22.5.10 A bidder who failed to attend a compulsory site meeting/ bid clarification meeting will be disqualified from the bidding process.

22.6. Validity periods

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

22.6.2 The validity period is calculated from the bid closure date and bids shall remain in force and binding until the end of the final day of that period.

22.6.3 This period of validity may be extended by the Manager: Supply Chain Management Unit, provided that the original validity period has not expired, and that all bidders are given an opportunity to extend such period. Any such extension shall be agreed to by a bidder in writing.

22.6.4 Bidders who fail to respond to such a request before the validity of their bid expires, or who decline such a request shall not be considered further in the bid evaluation process.

22.6.5 In the event that an appeal is received, the validity period is deemed to be extended until finalisation of the appeal.

22.7. Samples

22.7.1 Bid documents may require samples that must be submitted.

22.7.2 Where samples are called for in the bid documents, samples (marked with the bid and item number as well as the bidder's name and address) shall be delivered separately (to the bid) to the Supply Chain Management representative mentioned in the bid document before the bid closing date.

22.7.3 A register will be kept by the Supply Chain Management representative of samples received from prospective bidders. An acknowledgement of receipt shall be issued to the prospective bidder as proof of delivery.

22.7.4 Bids may not be included in parcels containing samples.

22.7.5 If samples are not submitted as required in the bid documents then the bid concerned must be declared non-responsive.

22.7.6 Samples shall be supplied by a bidder at his/her own expense and risk. The municipality shall not be obliged to pay for such samples or compensate for the loss thereof, unless otherwise specified in the bid documents.

22.7.7 If a bid is accepted for the supply of goods according to a sample submitted by the bidder, that sample will become the contract sample. All goods/materials supplied shall comply in all respects to that contract sample. If not, it might be deemed as a breach in contract.

22.7.8 The municipality reserves the right not to return the contract sample and may dispose of it at its own discretion.

23. PROCEDURE FOR HANDLING, OPENING AND RECORDING BIDS

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

(a) Bids-

(i) must be opened and read out only in public;

(ii) must be opened at the same time and as soon as possible after the period for the submission of bids has expired; and

(iii) received after the closing time should not be considered and must be returned unopened immediately.

(iv) An independent observer from another internal department can be requested to attend the opening of bid documents at the request of the supply chain management representative.

(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, except the provisions in subparagraph (b), relating to the bid should be disclosed to bidders or other persons.; and

(d) The accounting officer must-

(i) record in a register all bids received in time;

(ii) make the register available for public inspection;

(iii) publish the entries in the register and the bid results on the website; and

(iv) notify the successful and unsuccessful bidders in writing immediately after the award is made.

23.2 Stamping of bids and reading out of names

23.2.1 As each bid is opened the name of the bidder and the amount shall be read out. An employee shall date-stamp the bid or quotation and all enclosures related to prices, delivery periods and special conditions. Bids and quotations shall be numbered in the sequence in which they have been opened and the words "and last" shall be endorsed on the last bid or quotation. In instances where only one bid has been received the words "and only" shall be endorsed on such bid.

23.2.2 Where prices have not been inserted in all relevant spaces on the form and such items have not been deleted by bidders, such spaces shall be indicated "no price" by the employee who opens the bids or quotations.

Note: It is the policy of the Municipality to disclose bid prices. With regard to quotations of a value below R200 000.00 (VAT included), names of bidders and prices will also be read out, will be registered in a register and will be available for inspection at the Supply Chain Management Unit.

23.2.3 Details on how bidders responded to the relevant evaluation criteria e.g. SMME contribution, community benefits, job creation, environmental impact, etc. should not be disclosed.

23.3 Late bids

23.3.1 Bids or quotations arriving after the specified closing time shall not be considered and where practicable and cost effective shall be returned to the bidder unopened with a letter explaining the circumstances.

23.3.2 Bid documents must clearly state the venue where the bidding box is situated for each bid. Any bid delivered to the wrong bid box will not be considered, even if it was delivered on time.

23.3.3 Where it's necessary to open a late bid or quotation to obtain the name and address of the sender, each page of the document shall be stamped "late bid" before the bid is returned to the bidder. The envelope must be stamped and initialled in like manner and must be retained for record purposes.

23.4 Amendments before the closing date

The Municipality is entitled to amend any bid condition, validity period, specification or plan, or extend the closing date of such a bid or quotation before the closing date, provided that such amendments or extensions are advertised and/or that all bidders to whom bid documents have been issued, are advised in writing per registered post or by fax of such amendments or of the extension clearly reflecting the new closing date and time. For this reason, employees and authorised service providers issuing bids shall keep a record of the names, addresses and contact numbers of the persons or enterprises to whom bid documents have been issued.

23.5 Dealing with bids and quotations if the closing date thereof has been extended.

Where the closing date of a bid or quotation is extended, the notice which makes known such extensions shall also mention the bids or quotations already received, will be retained unopened in the bidding box and be duly considered after the expiry of the extended period, unless the bidder requests that such bid or quotation to be returned to the bidder or unless the bidder cancels it by submitting a later dated bid or quotation before the extended closing date.

23.6 No amendments after the closing date allowed.

23.6.1 The municipality is not entitled to amend any bid condition, specification or plan, after the closing date of the bid and before the acceptance of a bid or quotation has been notified.

23.6.2 No person may amend or tamper with any tenders, quotations, contracts or bids after their submission.

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;

(c) does not lead to a higher price than the bid as submitted; and

(d) does not lead to a lower price in respect of sale of land / goods.

24.2 Minutes of such negotiations must be kept for record purposes and as far as practical be made part of the final contract.

24.3 No unauthorised communication with bidders and prospective providers.

(a) Where bids and quotations have been submitted to the municipality, a bidder may not communicate with any councillor, official, or authorised service provider on any matter regarding his bid, quotation or offer other than a notice of withdrawal.

(b) No municipal personnel may communicate with a bidder or any other party who has an interest in a bid, during the period between the closing date for the receipt of the bid or quotation (or date of receipt of an offer), and the date of notification of the successful bidder of acceptance of his bid, quotation or offer, except as provided for in paragraph (c) below. Every such case of unauthorised communication shall forthwith be reported to the Supply Chain Management Unit as well as the relevant chairperson of the Bid Adjudication Committee. A bid or quotation in respect of which unauthorised communication has occurred may be disqualified.

(c) The chairperson of the Bid Adjudication Committee, as determined in paragraph 29(2), may authorise an employee or authorised service provider, in writing, to communicate with a bidder during the period mentioned in subsection (b) above for the purpose of-

i) explaining and verification of declarations made in the bid response;

ii) confirming technical particulars and the compliance thereof with specifications;

iii) clarifying delivery times/quantities;

iv) extending the validity period of a bid;

v) clarifying any other commercial aspect.

(d) In all cases where authority has been granted to communicate with bidders in terms of paragraph (c) above, it should be clearly stated in the submission to the Bid Adjudication Committee the nature of the communication as well as by whom such authority to communicate has been granted.

(e) All changes and/or clarification of specifications shall be conveyed to all bidders by means or methods as specified in paragraph 23.

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 three years, subject to section 33 of the Act.

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.

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

26. COMMITTEE SYSTEM FOR COMPETITIVE BIDS

26.1 A committee system for competitive bids is hereby established, consisting of the following committees for each procurement or cluster of procurements as the accounting officer may determine:

(a) a bid specification committee;

(b) a bid evaluation committee; and

(c) a bid adjudication committee.

26.2 The accounting officer appoints the members of each committee, taking into account section 117 of the Act;

26.3 A neutral or independent observer, appointed by the accounting officer, must attend or oversee a committee when this is appropriate for ensuring fairness and promoting transparency.

26.4 The committee system must be consistent with-

(a) paragraph 27, 28 and 29 of this Policy; and

(b) any other applicable legislation.

26.5 The accounting officer may apply the committee system to formal written price quotations.

27. BID SPECIFICATION COMMITTEE

27.1 The appropriate bid specification committee must compile the specifications for each procurement transaction of goods or services by the municipality.

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 Organisation, or an authority accredited or recognised by the South African National Accreditation System with which the equipment or material or workmanship should comply;

(c) must, where possible, be described in terms of performance required rather than in terms of descriptive characteristics for design;

(d) may not create trade barriers in contract requirements in the forms of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labelling of conformity certification;

(e) may not make reference to any particular trade mark, name, patent, design, type, specific origin or producer unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the word “equivalent”;

(f) supply chain management officials may only deviate from the above-mentioned provisions, if it is done in terms of a fair equitable, transparent process of procurement.

(g) must indicate each specific goal or functionality for which points may be awarded in terms of the points system set out in the Preferential Procurement Policy Framework Act, 2000, read with the Preferential Procurement Regulations of 2011, as amended; and

(h) must be approved by either the chief financial officer or senior manager supply chain management prior to publication of the invitation for bids in terms of paragraph 22 of this policy.

27.3 The bid specification committee must be composed of the senior manager/manager and at least one professional with required technical expertise from the department responsible for the function involved (requiring the goods or services), senior manager/manager legal services and supply chain management practitioner from the supply chain management unit, and may, when appropriate, include local economic development officer and external specialist advisors.

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.

28. BID EVALUATION COMMITTEES

28.1 A bid evaluation committee must-

(a) evaluate bids in accordance with-

(i) the specifications for a specific procurement;

(ii) the general criteria to evaluate technical and financial ability;

(iii) the framework for the adjudication of bids as contained in Part B (Preferential Procurement Policy);and

(iv) the points system set out in terms of paragraph 27(2)(f).

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

(c) consider only those bidders who has submitted and complied with the material terms and requirements of the bid documentation;

(d) when calculating comparative prices, take into account any discounts which have been offered unconditionally, however, a discount which has been offered conditionally must, despite not being taken into account for evaluation purposes, be implemented when payment is effected;

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

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

(g) submit to the bid adjudication committee a report and reasons in the event of a bid not being awarded.

28.2 A bid evaluation committee may, when the bid is evaluated, require a bidder to substantiate claims it has made with regard to preference.

28.3 A bid evaluation committee must as far as possible be composed of-

(a) Standing members, which means;

i) the relevant senior manager/manager;

ii) a senior supply chain management practitioner; and

iii) the supply chain management practitioner

(b) Other members:

i) At least one knowledgeable / professional official from the Directorate for whom the bid is called.

ii) Technical experts, consultants or advisors, provided that these experts may only actively contribute to discussions, but not vote on the items evaluated.

28.4 A senior supply chain management practitioner delegated by the CFO will be the chairperson of the Bid Evaluation Committee.

28.5 The quorum for each meeting of the Bid Evaluation Committee is at least one senior supply chain management practitioner and a representative of the relevant directorate.

29. BID ADJUDICATION COMMITTEES

29.1 A 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 A bid adjudication committee must consist of at least four of the following officials—

(a) the chief financial officer, or if the chief financial officer is not available, a manager in the budget and treasury office reporting directly to the chief financial officer and designated by the chief financial officer; and

(b) the senior manager supply chain management unit or if the manager supply chain management unit is not available, at least one senior supply chain management practitioner; and

(c) the director strategic support services or his designated delegate; and/or

(d) the director community services or his designated delegate; and/or

(e) the director technical services or his designated delegate; and/or

(f) if deemed necessary, a technical expert in the relevant field who is an official, if such an expert exists.

29.3 The accounting officer may appoint the CFO as chairperson of the committee. If the chairperson is absent from a meeting, the members of the committee who are present must elect one of them to preside at the meeting and will be documented in the minutes.

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 chairperson of the bid evaluation committee may present their reports to the bid adjudication committee and clarify any uncertainties. However, such members will not have any voting power or considered when determining a quorum.

29.6 A quorum is of 50 % plus 1, with the Chief Financial Officer or, if the chief financial officer is not available, another manager in the budget and treasury office reporting directly to the chief financial officer and designated by the chief financial officer being, at all times one of the quorum-forming members.

29.7 If the bid adjudication committee decides NOT to award a bid, either in support of the recommendation by the bid evaluation committee or on their own decision, the bid adjudication committee may:-

(a) refer the evaluation report back to the bid evaluation committee for review and/or reconsideration or clarification, or

(b) refer the bid document to bid specification to revise and advertise; or

(c) cancel the bidding process.

29.8 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-

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

(b) notify the accounting officer.

29.9 The accounting officer may, in terms of a notice received as contemplated in paragraph 29.7—

(a) after due consideration of the reasons for the deviation, ratify or reject the decision of the bid adjudication committee referred to; and

(b) if the decision of the bid adjudication committee is rejected, refer the decision of the adjudication committee back to that committee for reconsideration.

29.10 The accounting officer may at any stage of a bidding process, refer any recommendation made by the evaluation committee or the adjudication committee back to that committee for reconsideration of the recommendation.

29.11 The accounting officer must comply with section 114 of the Act within 10 working days.

29.12 If the Bid Adjudication Committee or other delegated official has resolved that a bid be accepted, the successful and unsuccessful bidders shall be notified in writing of this decision.

29.13 Every notification of decision shall be sent via registered mail and either faxed or sent via electronic mail to the address chosen by the bidder, with a copy of proof of transmission kept for record purposes, or shall be delivered by hand, in which case acknowledgement of receipt must be signed and dated on a copy of such notification and kept for record purposes.

29.14 Members of the bid specification committee, bid evaluation committee and technical advisors may attend the bid adjudication committee to provide clarity, but has no decision making rights pertaining to the award.

29.15 The accounting officer may sub-delegate its power in terms of this policy to the bid evaluation committee, the bid adjudication committee and the Manager Supply Chain Management.

29.16 After approval of a bid, the accounting officer and the bidder must enter into a written agreement.

29.17 Original / legal copies of written contracts agreements must be kept in a secure place for reference purposes.

29.18 The accounting officer is empowered to condone non-compliance with peremptory requirements of bids in cases where the condonation is not incompatible with public interest and promote the values of fairness, competitiveness and cost-effectiveness which are listed in Section 217 of the Constitution.

Successful bidder briefing

29.19 The notification to the successful bidder in terms of this Policy may require of the successful bidder to attend a compulsory briefing session with the municipality before commencement of the contract at no cost to the municipality.

29.20 The purpose of the briefing session is to:

(a) Introduce the municipal contract manager allocated to the specific contract in terms of this policy and to meet the successful bidders contract manager;

(b) Examine and analyse the bid document and contractual conditions to ensure that specific expectations of the municipality and the obligations of the successful bidder are well understood;

(c) Discuss the strengths and weaknesses of the bidder's submission in relation to the specific evaluation criteria and the bidders evaluated score.

(d) Communicate and document the anticipated contract risks and challenges as perceived by both the municipality and the successful bidders;

(e) To develop mitigating strategies to address and mitigate the contract risk and challenges; and

(f) Communicate the contract administration process as stated in legislation and this policy.

(g) Formally sign the bid contract.

29.21 At least the following persons must attend the briefing session:

(a) The municipal contract manager;

(b) The authorised municipal supply chain official;

(c) The successful bidders authorised contract signatory;

(d) The successful bidders contract manager.

29.22 The notification to the successful bidder must state the date, time and place of the briefing session in writing:

(a) Proper minutes must be kept of each briefing session;

(b) All correspondence and documentation in relation to the briefing session must be maintained as part of the procurement documentation.

Unsuccessful bidder debriefing

29.23 The unsuccessful bidder debriefing service is offered by the municipality to unsuccessful bidders upon request.

29.24 During the debriefing unsuccessful bidders can find out how their proposal scored against required criteria and obtain comments from the evaluation team on their bid.

29.25 The debriefing should be a positive and constructive experience that explains how bidders can improve future submissions.

29.26 The debriefing an opportunity for unsuccessful bidders to:

(a) Learn more about the procurement and evaluation process in an informal setting.

(b) Find out how their proposal scored against the required criteria.

(c) Hear the overall comments from the evaluation team on your bid.

(d) Gather information on how future submissions may be improved.

29.27 The debriefing is not part of the Supply Chain complaint or appeal process in terms of this policy.

29.28 The debriefing is not legal proceeding and no legal representation is permitted at the debriefing.

29.29 At the debriefing session the unsuccessful bid is not compared to other bids, nor will information be provided to the unsuccessful bidder about other bids.

29.30 In scheduling bidders debriefings session upon the request of the unsuccessful bidder, the municipality must:

(a) Confirm the date and time of the debriefing session in writing;

(b) Conduct separate debriefings with each vendor;

(c) Ensure that proper minutes are kept of each debriefing session;

(d) Retain all correspondence and documentation relevant to the debriefing session as part of the procurement documentation.

29.31 In conducting bidders debriefings, the municipality may:

(a) Provide a general overview of the evaluation process set out in the bid documents;

(b) Discuss the strengths and weaknesses of the bidder's submission in relation to the specific evaluation criteria and the bidders evaluated score.

(c) Provide suggestions on how the supplier may improve future submissions;

(d) Address specific questions and issues raised by the supplier in relation to their submission.

Acceptance of offers

29.32 At the invitation of bids, or quotations:

(a) the municipality is not obliged to accept the lowest or any offer;

(b) The municipality may, where an offer relates to more than one item, accept such offer in respect of or any specific item or items.

(c) The municipality may accept any offer notwithstanding the fact that the offer does not comply with the bid invitation in respect of which the offer has been made subject to the conditions of this policy.

30. PROCUREMENT OF BANKING SERVICES

30.1 A contract for 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 five years at a time.

30.2 The process for procuring a contract for banking services must commence at least nine 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 this policy. Bids must be restricted to banks registered in terms of the Banks Act, 1990 (Act No. 94 of 1990).

31. PROCUREMENT OF IT RELATED GOODS AND 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 may enter into a written agreement to regulate the services rendered by, and the payments to be made to, SITA.

31.3 The accounting officer may 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 disagree with such comments, the comments and the reasons for rejecting or not following such comments may be submitted to the council, the National Treasury, the relevant provincial treasury and the Auditor General.

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

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.

32.2 Paragraph 32.1 (c) and (d) do not apply if-

(a) a municipal entity procures goods or services through a contract secured by its parent municipality; or

(b) a municipality procures goods or services through a contract secured by a municipal entity of which it is the parent municipality.

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

(1) The municipality supports the Proudly SA Campaign to the extent that, all things being equal, preference is given to procuring local goods and services.

(2) Bids in respect of services, works or goods that have been designated for local production and content, must contain a specific bidding 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.

(3) The National Department of Trade and Industry is empowered to designate industry sectors, in line with national development and industrial policies for local production, where only locally produced goods, services or construction works, or locally manufactured goods that meet a stipulated minimum threshold for local production and content, may be used.

(4) In the case of designated sectors, where in the award of bids, local production and content is of critical importance, such bids must be advertised with a specific condition of bidding, that only locally produced goods, services or construction works or locally manufactured goods, with a stipulated minimum threshold for local production and content will be considered.

(5) Any instructions, circulars and guidelines issued by National Treasury in the above regard must be complied with.

(6) Where there is no designated sector, bids may include, as a specific condition of bidding, that only locally produced goods, services or construction works, 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.

(7) Every bid where local production and content are used, it must be measurable and audited.

(8) Bids must be evaluated in terms of the evaluation criteria stipulated in the bid documents. The amendment of the stipulated minimum threshold for local

production and content after the closure of bids is not allowed as this may jeopardise the fairness of the process.

35. APPOINTMENT OF CONSULTANTS

35.1 The accounting officer must procure consulting services, including advisors, 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 000.00 (VAT included); or

(b) the duration period of the contract exceeds one year.

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 five years; and

(b) any similar consultancy services provided to an organ of state in the last five 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.

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

(1) The accounting officer may –

(a) Dispense with the official procurement processes established by this Policy and procure any required goods or services through any convenient process, which may include direct negotiations and through the process set out in this paragraph provided that the municipality shall adhere to fair, equitable, transparent, competitive and cost-effective, procurements to the maximum extent practicable.

(b) Dispense with the official procurement processes established by this Policy only –

(i) In an emergency;

(ii) If such goods or services are produced or available from a single provider only;

(iii) For the acquisition of special works of art or historical objects where specifications are difficult to compile;

(iv) Acquisition of animals for zoos and/or nature and game reserves; or

(v) In any other exceptional case where it is impractical or impossible to follow the official procurement processes; and

(c) Ratify any minor breaches of the procurement processes by an official or committee acting in terms of delegated powers or duties which are purely of a technical nature.

(2) In compliance with the provisions of this policy the municipality implements individual and class deviations.

(3) Individual Deviations

The accounting officer may decide to consider an individual deviation only if –

(a) In an emergency;

(b) In any other exceptional case where it is impractical or impossible to follow the official procurement processes and the goods or services are anticipated to be used only once during the financial year.

(4) The conditions warranting procurement in an emergency dispensation should include, where time of the essence, the existence of one or more of the following:

(a) the possibility of human injury or death;

(b) the prevalence of human suffering or deprivation of rights;

(c) the possibility of damage to property, or suffering and death of livestock and animals;

(d) the interruption of essential services, including transportation and communication facilities or support services critical to the effective functioning of the municipality as a whole;

(e) the possibility of serious damage occurring to the natural environment;

(f) the possibility that failure to take necessary action may result in the municipality not being able to render an essential community service; and

(g) the possibility that the security of the state could be compromised.

(5) The accounting officer must be satisfied that the prevailing situation as indicated in (a)-(g) above is of such a scale and nature that it could not readily

be alleviated by interim measures in order to allow time for normal bid, at least three quote procurement process or a class deviation.

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

(7) System of class deviations:

(a) The accounting officer may decide to consider a class deviation, only if –

(i) Such goods or services are produced or available from a single provider;

(ii) For the acquisition of special works of art or historical objects where specifications are difficult to compile;

(iii) Acquisition of animals for zoos and/or nature and game reserves; or

(iv) In any other exceptional case where it is impractical or impossible to follow the official procurement processes and a contract for goods or services are likely to be awarded more than once in the financial year to the same supplier;

(8) Where possible, in considering a class deviation in terms of this policy, three quotes in accordance with general acquisition management principles should be obtained and a report submitted to the Municipal Manager for approval.

(9) If the accounting officer decides to consider a class deviation in terms of this policy, other than in terms of this paragraph, then the decision must be made public in accordance with section 21A of the Municipal Systems Act, together with-

(a) Reasons as to why the procurement is done through a class deviation and why it is not open to other competitors; and

(b) An invitation to the public or other potential suppliers to submit their comments within 14 days of the notice.

(10) The bid adjudication committee must consider the class deviation and make a recommendation to the accounting officer.

(11) A meeting of the adjudication committee to consider a class deviation may be open to the public.

(12) When considering the class deviation, the adjudication committee must take into account –

(a) Any comments submitted by the public or suppliers;

(b) The indicative market prices of the goods or services;

(c) The duration or planned times of when the service or goods are needed;

(d) The proposed circumstances, conditions or limitations for the of use of the class deviation; and

(e) The reasons for deviating from the normal procurement process in compliance with this policy.

(13) The accounting officer must record the reasons for any deviations in terms of this policy and report them to the next meeting of the council and include it as a note to the annual financial statements.

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 demonstrably 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 paragraph 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 The accounting officer must submit all written comments received pursuant to paragraph 37.3, including any responses from the unsolicited bidder, 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 the National Treasury the reasons for rejecting or not following those recommendations.

37.9 Such submission must be made within seven days after the decision on the award of the unsolicited bid is taken, but no contract committing the municipality to the bid may be entered into or signed within 30 days of the submission.

38. COMBATING OF ABUSE OF SUPPLY CHAIN MANAGEMENT SYSTEM

38.1 The accounting officer must and is hereby enabled to–

(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 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 three months; or

(ii) who during the last five 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 five years;

(iii) has wilfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five 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 (Act No 12 of 2004).

38.2 The accounting officer must inform the National Treasury and relevant provincial treasury in writing of any actions taken in terms of subparagraphs 38.1 (b)(ii), (e) or (f) of this policy.

38.3 Restrictive practices are prohibited:

a) In terms of section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, an agreement between, or concerted practice by, firms, or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if a bidder is or a contractor was involved in collusive bidding.

b) If a bidder or contractor, based on reasonable grounds or evidence obtained by the municipality, has engaged in the restrictive practice referred to above, the municipality may refer the matter to the Competition Commission for investigation and possible imposition of administrative penalties as contemplated in section 59 of the Competition Act No. 89 of 1998.

c) If a bidder or contractor has been found guilty by the Competition Commission of the restrictive practice referred to above, the purchaser may, in addition and without prejudice to any other remedy provided for, invalidate the bid for such item(s) offered, and / or terminate the contract in whole or part, and / or restrict the bidder or contractor from conducting business with the public sector for a period not exceeding ten (10) years and / or claim damages from the bidder or contractor concerned.

PART 3 : LOGISTICS, CONTRACT, DISPOSAL, RISK AND PERFORMANCE MANAGEMENT

39. LOGISTICS MANAGEMENT

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

(1) The accounting officer must establish and implement an effective system of logistics management, which must include –

(a) Placing of orders:

(i) Purchase orders will be created with reference to requisitions where the supply source is either bids or quotations.

(ii) All purchase orders will be captured on the municipality's financial system.

(b) Receiving of goods:

(i) Goods received must be captured on the municipality's financial system via a goods receive note with reference to the relevant purchase order number.

(ii) Deliveries of goods may not exceed the order quantity. Short deliveries will keep the purchase order open until the balance of the order is received or when the order is cancelled.

(c) Expediting orders:

(i) The purchasing expeditor will be required to monitor and expedite the transport of goods and outstanding purchase orders.

(ii) Reminder letters can be communicated automatically to vendors based on the reminder levels (days before delivery due date) that are set in the bid or quotation.

(d) Stores / warehouse management

i) Stock is valued at the weighted average costing method per item and is VAT exclusive.

ii) Regular monitoring of spending patterns on types or classes of goods must be performed, where practical.

iii) Each item must have a unique stock item number.

iv) A formal stock count must be done on a quarterly basis and any surpluses, deficits, losses, damaged stock and obsolete stock must be reported by the Manager Supply Chain Management to Council.

v) Each stock item must have a minimum, maximum and re-order level which must be captured on the financial system.

vi) Stock items must be systematically replenished using the re-order point as per the financial system.

vii) Goods in transit must be taken into account during the replenishment of stock.

viii) Stock levels must be revisited on an annual basis.

ix) The financial system must indicate lead times for stock items.

x) Before payment is approved, certification by the Storekeeper that the goods and services are received or rendered on time and is in accordance with the order, the general conditions of contract and specifications where applicable and that the price charged is as quoted in terms of a contract.

xi) The Storekeeper must ensure appropriate standards of internal control and warehouse management are adhered to, to ensure that goods placed in stores are secure, safe and only used for the purpose for which they were purchased.

xii) The Storekeeper must perform regular spot-checking of stock items to ensure that the items are on the correct shelving space and that the physical quantities correspond with the

quantities as per the financial system. Any differences found must be reported to the Manager Supply Chain Management.

xiii) Items listed as stock, may not be procured outside of the stock system.

xiv) Where user departments require higher quantities of stock, a demand forecast must be provided to the Storekeeper in advance, taking lead time into consideration, to enable the Storekeeper to procure the requested quantities on time.

40. DISPOSAL MANAGEMENT

40.1 Subject to the provisions of the Municipal Asset Transfer Regulations:

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

(b) immovable property may be sold only at market related prices except when the public interest or the plight of the poor demands otherwise;

(c) 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;

(d) in the case of fire arms, the National Conventional Arms Control Committee must approve any disposal of firearms.

(e) where assets are traded in for other assets, the highest possible trade in price is negotiated.

40.2 The criteria for the disposal or letting of assets, including unserviceable, redundant or obsolete assets, subject to sections 14 and 90 of the Act, are as follows:

(a) A municipality may not transfer ownership as a result of sale or other transaction or otherwise permanently dispose of a capital asset needed to provide the minimum level of basic municipal services.

(b) A municipality may transfer ownership or otherwise dispose of capital asset other than one contemplated in subparagraph 40.1, but only after the municipal council, in a meeting open to the public-

(a) has decided on reasonable grounds that the asset is not needed to provide the minimum level of basic municipal services; and

(b) has considered the fair market value of the asset and the economic and community value to be received in exchange for the asset.

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

40.4 Assets may be disposed of by –

(i) Transferring the asset to another organ of state in terms of a provision of the Act enabling the transfer of assets;

(ii) Transferring the asset to another organ of state at market related value or, when appropriate, free of charge;

(iii) Selling the asset; or

(iv) Destroying the asset.

41. RISK MANAGEMENT

41.1 The accounting officer has established and implemented 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 include –

(a) The early and systematic identification of risks on a case-by-case basis;

(b) The allocation and acceptance 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; and

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

41.3 Due care must be taken in the bid administration and management process to minimise the risks of:

(a) litigation by unsatisfied service providers;

(b) misinterpretation of municipal needs;

(c) overstatement or understatement of municipal needs;

(d) selecting or delivery of inappropriate goods and services;

(e) poor value for money;

(f) appointing inappropriate suppliers;

(g) unethical conduct of suppliers and other official involved in the supply chain management process;

(h) uneconomical, uncompetitive and inequitable procurement.

41.4 To give effect to paragraph 3 above, the municipality will identify risk inherent to a particular bid-

(a) Risks may be identified for all bids during the specification stage of the bid process.

(b) Risks identified in (i) above may cover the entire life cycle of a contract from initiation to completion of the goods/services.

(c) For contracts with a life cycle in access of 3 months, the risks may be reviewed at least monthly by the contract manager as referred to in this policy.

(d) The contract manager in conducting the review of the bid risks during the life cycle of the contract may add new or emerging risks when identified.

41.5 A risk table may be included at specification stage for each bid that may set out:

(a) Risk description;

(b) Background to the risk;

(c) Impact;

(d) Likelihood;

(e) Inherent risk;

(f) Current controls;

(g) Perceived control effectiveness;

(h) Residual risk;

(i) Risk owner;

(j) Actions to improve management of the risk;

(k) Time scale.

41.6 The risk rating methodology will be in accordance with the Breede Valley Municipality's risk management policy.

41.7 The Evaluation and Adjudication Committee may review risks of bids received against the predetermined risk as identified at the bid specification stage and may in conducting the review of the bid add new or emerging risks and mitigating strategies when identified.

41.8 At the briefing session with the successful bidder in terms of this policy:

(a) Risks identified during the Bid specification, Bid evaluation and Bid adjudication process that pertains to the contract for goods or services may be disclosed to the successful bidder to improve mitigating factors.

(b) New and emerging risks identified may be added.

(c) Risks identified by the successful bidder may be added to the contract risks if agreed to by the municipality.

42. PERFORMANCE MANAGEMENT

42.1 The accounting officer must establish and implement an 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 objectives of this Policy were achieved.

42.2 The quarterly report and annual report on the implementation of this policy, the monitoring of the service delivery and budget implementation plan (SDBIP) and the Annual Report may be used as tools to perform a retrospective analysis of supply chain management processes.

42.3 Vendor performance-

(a) Each project manager shall monitor the supplier's compliance and performance to the set of specifications.

(b) If the supplier fails to perform in accordance with the specification requirements, the project manager must report such failure to the supplier in writing immediately upon becoming aware of such non-compliance for them to correct the situation.

(c) The above information will be kept and made available for future evaluation purposes, contract negotiations and regular feedback to vendors.

(d) If vendors fail to deliver in terms of the General conditions of contract, the municipality reserves the right to make use of remedies at its disposal in terms of applicable law.

PART 4: OTHER MATTERS

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

43.1 No award above R15 000.00 may be made in terms of this policy to a person whose tax matters have not been declared by South African Revenue Service to be in order.

43.2 Before making an award to a person the accounting officer must first check with SARS whether that person's tax matters are in order.

43.3 If SARS does not respond within 7 days such person's tax matters may for purposes of subparagraph (1) be presumed to be in order.

43.4 It is the supplier's responsibility to provide the municipality with a valid and original tax clearance certificate or to prove that their tax matters are in order.

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

44.1 Irrespective of the procurement process followed, no award may be made to a person in terms of this Policy –

(a) Who is in the service of the state;

(b) If that person is not a natural person, of which any director, manager, principal shareholder or stakeholder is a person in the service of the state; or

(c) A person who is an advisor or consultant contracted with the municipality with the purpose of assisting the municipality with the defining of requirements, drafting of specifications or the evaluation of the bids.

44.2 Persons and business must declare their interest as stated in this policy when completing their supplier database application forms and bid documents. Failure to do so may lead to disqualification.

44.3 The municipality may utilise mechanisms at its disposal to determine whether a person is in the service of the state.

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

45.1 The municipality does not encourage the awarding of contract by employees in decision-making positions to close family members or friends. To this extent the municipality requires all employees to make full disclosures of businesses owned by close family members and/ or friends and it is further expected that such individuals must not directly or indirectly be involved in the awarding of such business.

45.2 The accounting officer must ensure that the notes to the annual financial statements disclose particulars of any award of more than R2 000.00 to a person who is a spouse, child or parent of a person in the service of the state, or has been in the service of the state in the previous twelve months, including –

(a) The name of that person;

(b) The capacity in which that person is in the service of the state; and

(c) The amount of the award.

46. ETHICAL STANDARDS

46.1 A code of ethical standards as set out in the "National Treasury's code of conduct for supply chain management practitioners and other role players involved in supply chain management", attached hereto as Annexure A, is hereby established for officials and other role players in the supply chain management system of the municipality 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 subparagraph (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 paragraph 47(1) of this policy; or

iii) any alleged breach of this code of ethical standards.

46.3 Declarations in terms of subparagraphs (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 mayor of the municipality who must ensure that such declarations are recorded in the register.

46.4 A breach of the code of ethics must be dealt with as follows:

(a) in the case of an employee, in terms of the disciplinary procedures of the municipality envisaged in section 67(1)(h) and schedule 2 of the Municipal Systems Act;

(b) in the case a councillor, in terms of Schedule 1 of the Systems Act;

(c) in the case a role player who is not an employee, through other appropriate means in recognition of the severity of the breach.

(d) In all cases, financial misconduct must be dealt with in terms of chapter 15 of the Act.

47. INDUCEMENTS, REWARDS, GIFTS AND FAVOURS TO MUNICIPALITIES (OR MUNICIPAL ENTITIES), 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 paragraph 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 Paragraph 47.1 does not apply to gifts less than R350.00 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 21 days of the decision or action, a written objection or complaint against the decision or action.

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 –

(a) to assist in the resolution of disputes between the municipality and other persons regarding-

(i) any decisions or actions taken in the implementation of the supply chain management system; or

(ii) any matter arising from a contract awarded in the course of the supply chain management system; or

(b) to deal with objections, complaints or queries regarding any such decisions or actions or any matters arising from such contract.

50.2 Grieved suppliers must provide details of the reasons for their appeal including any non-compliance with this Policy, the Act or any other related legislation. The accounting officer shall provide written acknowledgement of the receipt of appeals to the appellant and endeavour to finalise appeals within 14 days of their receipt. Where this is not possible the accounting officer shall advise the appellant in writing of the reasons for the delay.

50.3 If the appeal is based on a technically complex matter, the accounting officer may engage an impartial external advisor, provided that their engagement is compliant with this Policy and sufficient budgetary provision exists. The accounting officer is not bound by any opinion provided.

50.4 The accounting officer will decide if an appeal constitutes sufficient grounds for delay of procurement from the approved supplier, and if a delay is practical. If the accounting officer determines there are grounds for the delay, the approved supplier must be advised without delay in writing of the reasons for the delay.

50.5 As soon as a ruling on an appeal has been made, the accounting officer must advice the appellant, and the approved supplier when applicable, in writing of the outcome.

50.6 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.

50.7 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.

50.8 A dispute, objection, complaint or query may be referred to the relevant provincial treasury if -

(a) the dispute, objection, complaint or query is not resolved within 60 days; or

(b) no response is forthcoming within 60 days.

50.9 If the provincial treasury does not or cannot resolve the matter, the dispute, objection, complaint or query may be referred to the National Treasury for resolution.

50.10 This paragraph must not be read as affecting a person's rights to approach a court at any time.

51. RIGHT OF APPEAL

51.1 In terms of Section 62 of the Municipal Systems Act (Act 32 of 2000 as amended), a person whose rights are affected by a decision taken by the municipality, in terms of a delegated authority, in the implementation of its supply chain management system, may appeal against that decision by giving written notice of the appeal and reasons to the Municipal Manager within 21 days of the date of receipt of the notification of the decision.

51.2 Bid documents must state that any appeal in terms of this policy must be submitted to the Municipal Manager, and must contain the following:

(a) reasons and/or grounds for the appeal;

(b) the way in which the appellants rights have been affected; and

(c) the remedy sought by the appellant.

51.3 The Municipal manager shall establish an appropriate appeal authority in terms of section 62 of the Systems Act, to consider appeals received in terms of paragraph 64(1) above.

51.4 The appeal authority must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.

52. CONTRACT MANAGEMENT

52.1 Contract administration includes all administrative duties associated with a contract that has arisen through the acquisition/procurement processes described in this policy.

52.2 All contracts must be administered by a contract manager, who will be an internal official assigned to ensure the effective administration of the contract.

52.3 The contract manager will typically be the internal project manager assigned to the project as a whole, but may also be a cost centre owner or other responsible official.

52.4 A contract manager must be assigned to each contract and, where possible, should be involved from the earliest stages of the acquisition process.

52.5 The contract manager's duties and powers shall be governed by the conditions of contract and the general law.

52.6 In administering a contract, the contract manager will be required to form opinions and make decisions which, while in the Breede Valley Municipality's best interests, must be fair to all parties concerned.

52.7 Directors shall be responsible for ensuring that contract managers are:

(a) assigned to all contracts within the Director's area of responsibility; and

(b) adequately trained so that they can exercise the necessary level of responsibility in the performance of their duties.

52.8 The contract manager must-

(a) ensure that all the necessary formalities in signing up the contract and/or issuing the purchase order(s) are adhered to;

(b) ensure that purchase order are captured on the municipality's financial system in the form in accordance with the pricing schedule;

(c) ensure that all original contract documentation is lodged with Archives for record purposes;

(d) monitor on a monthly basis the performance of the service provider order to ensure that all of the terms and conditions of the contract are met;

(e) regularly report to the accounting officer on the management of the contract and the performance of the service provider;

(f) conduct contract risk assessments for contracts longer then 3 months as stated in this Policy;

(g) where necessary, take appropriate action where a service provider is underperforming or is in default or breach of the contract and to report such failures promptly to the accounting officer;

(h) where appropriate, authorise payments due in terms of the contract by processing payment certificates (if applicable), and ensuring that the necessary Service Entry Sheets or Goods Received Notes are lodged with the Finance Department for capturing on the municipality's financial system;

(i) contract variation or change procedures are approved by the accounting officer in writing which must be in line with the applicable general conditions of contract and this policy;

(j) administer disputes, in consultation with the Supply Chain Management Unit, in terms of this policy and the applicable conditions of contract;

(k) conduct, as appropriate, post contract reviews;

(l) maintain adequate records (paper and/or electronic) in sufficient detail on an appropriate contract file to provide an audit trail;

(m) act with care and diligence and observe all accounting and legal requirements;

(n) inform the Asset Management section of the location of newly procured assets for asset register and insurance purposes; and

(o) provide contract information to the Supply Chain Management Unit, as determined by the unit, after a contract has ended.

53. CONTRACTS PROVIDING FOR COMPENSATION BASED ON TURNOVER

If a service provider acts on behalf of a municipality to provide any service or act as a collector of fees, service charges or taxes and the compensation payable to the service provider is fixed as an agreed percentage of turnover for the service or the amount collected, the contract between the service provider and the municipality must stipulate-

(a) a cap on the compensation payable to the service provider; and

(b) that such compensation must be performance based.

54. UNSATISFACTORY PERFORMANCE

54.1 When an order is placed according to a contract, the following information should be attached to the order forms to assist the transit personnel with enquiries to contractors:

(i) Postal address;

(ii) Telephone /Facsimile number;

(iii) Contact person (person who will handle the order on behalf of the contractor)

54.2 Unsatisfactory performance of contractor-

54.1 Unsatisfactory performance occurs when performance is not in accordance with the contract conditions, e.g.:

(i) If the contractor fails to deliver any or all the goods, works or services within the period(s) specified in the contract, or within extension thereof granted by the SCMU pursuant to GCC;

(ii) If the contractor fails to perform any other obligation(s) under the contract, e.g.:

If, during the guarantee period, a supplier does not comply with the requirements because of faulty material used during manufacture, or faulty finishing, or any deficiency, latent or otherwise, the contractor must be requested without delay, by registered mail, to replace or repair the supply depending on the circumstances. Supplies thus replaced or repaired or services thus rendered must be guaranteed for the same period as the original supplies or services.

(iii) If the contractor, in the judgement of the SCMU, has engaged in corrupt or fraudulent practices in competing for or in executing the contract.

54.3 Procedure applicable to non-performance

54.3.1 Should the contractor not adhere to the contract conditions (non-delivery, delivery of an inferior product, etc,), the following procedure should be followed:

(i) A registered letter must be sent to the supplier to inform him/her that he/she did not honour the contract conditions. The waybill number of the letter must be quoted on the relevant SCMUs copy.

(ii) The letter must be typed and concept letters should not be used. Each case should be handled individually.

(iii) The intention must be clearly stated in the letter (e.g. reprimand him on his delivery; etc.).

(iv) The contents of GCC paragraph 21 must be quoted for the contractor's convenience.

(v) The bid/contract number, order-number, description of the item(s), quantities and value of contract must be clearly indicated in the letter.

(vi) The contractor must be afforded an opportunity of at least fourteen (14) but not less than seven (7) days to comment.

(vii) If the supplier fails to deliver any or all of the goods or to perform the service within the period(s) specified in the contract, the purchaser shall, without prejudice to

its other remedies under the contract, deduct from the contract price, as a penalty, a sum calculated on the delivered price of the delayed goods or unperformed services using the current prime interest rate calculated for each day of the delayed until actual delivery or performance. The purchaser may also consider termination of the contract pursuant to GCC clause 23.

54.3.2 Whilst the above-mentioned procedure is in process and there is a need for the item/service, the minimum quantity must be purchased in accordance with delegated powers and properly recorded to be able to recover any adverse cost from the contractor.

54.4 Procedure applicable to Buy-out transactions

54.4.1 When the time provided for the contractor to respond to the claim of non-performance has lapsed, the SCMU can proceed with the buy-out transaction. Another registered letter must be issued to the contractor, informing him/her that a buy-out transaction is now being initiated against him/her and that no further deliveries will be accepted as from date of the relevant letter in rectification of the breach of contract.

54.4.1.1 When the Municipality has to buy out at the contractor's expense, the loss to the Municipality must always be restricted to the minimum since it is difficult to justify the recovery of unreasonable additional costs from the contractor.

54.4.1.2 Only goods, works and services of the same quality can be obtained within delegated powers.

54.4.1.3 The difference in cost must be determined and any adverse costs must be recovered from the contractor.

54.4.1.4 The Senior Manager: Legal Services must therefore be furnished with all relevant information/documentation in order to act on behalf of the Municipality.

54.4.1.5 It is therefore important to keep proper record of all buy-out transactions.

54.4.2 To ensure uniformity, a register should be kept in which all buy-out/unsatisfactory performance transactions must be registered under the following headings:

(i) Order Number;

(ii) Date of Order;

(iii) Name and address of contractor;

(iv) Description of item(s) (as it appears on contract/order);

(v) Value of order;

(vi) Contractual delivery date;

(vii) Date of letter addressed to contractor;

(viii) Due date of response from contractor;

(ix) Date of buy-out transaction;

(x) Price quotations/Bids obtained;

(xi) Difference in cost (Latest price paid versa contract price);

(xii) Invoice number issued to contractor – adverse cost incurred due to buy-out transaction.

54.4.3 It is important that all letters that were addressed to the contractor should be recorded on the PAS system (function 14) to ensure that report 45 is updated.

54.4.4 A file should be opened for each and every case and copies of all relevant documents and correspondence (copy of the order, letters addressed to the supplier, price quotations/bids invited in order to obtain the product, claim against the contractor, etc.)

54.4.5 Cases, which can be dealt with satisfactorily by the SCMU need not be referred to the Senior Manager: Legal Services for action. However, if a contractor repeatedly gives trouble and his/her actions cause the Municipality serious inconvenience, loss or embarrassment, the matter must be reported to the Senior Manager: Legal Services and a recommendation made regarding corrective steps which should be taken.

54.5 Amendment of agreements

54.5.1 The Manager: Supply Chain Management and, in the event the amount exceeds R200 000.00 (inclusive of VAT), the Bid Adjudication Committee has the power to exempt a contractor from compliance with any of his contractual responsibilities, to condone a failure to perform, to negotiate a settlement, or to amend an agreement.

54.5.2 This power to amend or exempt is subject to the requirements as contained in section 116 of the Act.

54.6 Cancellation of contracts

54.6.1 If acceptable reasons exist, the Manager: Supply Chain Management and, in the event the amount exceeds R200 000.00 (inclusive of VAT), the Bid Adjudication Committee has the power to resile ("daaruit terugtree") from an agreement without detracting from any of the Municipality's rights and in appropriate cases, to claim compensation.

54.6.2 Cancellation of a contract may be considered for a variety of reasons, such as wrong preferences claimed, non-compliance with contract conditions, delayed deliveries, bribery, death or sequestration/liquidation of the contractor, etc.

54.6.3 Cancellation of a contract is usually prejudicial to the Municipality. Therefore serious thought must be given to the grounds for considering cancellation. Clarity must be reached beforehand on the question of whether the contractor will have a claim against the Municipality or not, and if so, whether cancellation can be justified. If cancellation is decided upon, the matter must be explained fully in a memorandum to the Manager: Supply Chain Management and, in the event the amount exceeds R200 000.00 (inclusive of VAT), the Bid Adjudication Committee and the following must be addressed:

(i) The particular contract condition or section of the Act empowering the action;

(ii) what further arrangements will be made for completing the contract; and

(iii) whether additional costs will be recovered from the contractor.

54.6.4 If the additional costs cannot be determined precisely, a careful estimate must be made and mentioned in the submission to the relevant Bid Adjudication Committee.

54.6.5 Any claim for the recovery of additional costs must be limited to the minimum actual amounts. Therefore, in such cases, purchasing organisations cannot summarily authorise purchasing to the best advantage of the Municipality, since this might prejudice the recovery of the additional costs from the original contractor. There may be

other avenues of action, which might result in lower additional costs. Consequently, thought must also be given to the possibility of considering the next lowest acceptable bid received in response to the particular bid invitation, for acceptance. As an alternative, a fresh contract may be concluded through the normal bid procedures. In this process, account must be taken of the time elapsed between the closing of bids and the cancellation of the contract and the effect of the cancellation on the Municipality's schedules.

54.7 Restrictions

54.7.1 Circumstances may exist, when it might be an option to restrict a person/contractor or organisation from obtaining business from the public sector.

54.7.2 Should the Municipality opt to restrict the contractor and/or any other person(s) from obtaining business from the public sector, the Municipality must:

(a) inform the contractor or person(s) by registered mail or by delivery of the notice by hand of the intention to impose the restriction, provide the reasons for such decision and the envisaged period of restriction;

(b) allow the contractor and/or person(s) fourteen (14) days to provide reasons why the envisaged restriction should not be imposed;

(c) consider any reasons, submitted by the contractor and/or person(s) in terms of paragraph (b) above;

(d) impose the restriction or amended restriction; and

(e) inform the National Treasury within five (5) working days of such imposition of the name of the restricted person(s); the reason for restriction; the period of restriction and the date of commencement of the restriction.

54.7.3 Any restriction imposed on any person by the Municipality will, at the discretion of the Municipality also be applicable to any other enterprise or any partner, manager, director or other person who wholly or partly exercises or exercised or may exercise control over the enterprise of the first-mentioned person, and with which enterprise or person the first-mentioned person, is or was in the opinion of the Municipality actively associated.

54.7.4 However, when considering the restriction of a contractor/person, care must be taken that the prescribed procedures have been strictly adhered to since the court may find that an administrative action, such as the imposition of a restriction, is not valid in cases where the person or organisation, for example, has not been given a reasonable time to put the other side of the case, or has not been fully informed of the results of his failure to react. It is also possible that, where contradictions or ambiguities exist, the court will give the benefit of doubt to the persons or organisations against whom a restriction has been imposed and may pass judgment in their favour.

54.8 Amendment/upliftment of restrictions

54.8.1 Based on sound reasons, the Municipality is empowered to amend/ uplift any restriction imposed and must then inform the National Treasury accordingly.

54.8.2 A contractor or any other person restricted by the Municipality has a right to contest the restriction in a Court of Law, and the Municipality who imposed the relevant restriction will be responsible and accountable for the Court proceedings.

55. HANDLING OF PROPRIETARY INFORMATION

55.1 All information designed and prepared for the municipality is deemed as proprietary. No such information may be distributed, modified or customised for third parties without the written permission of the accounting officer.

55.2 All supplier information shall be treated as confidential.

55.3 In appropriate instances, the municipality may require security clearance and confidentiality agreements to be entered into with suppliers.

56. COMMENCEMENT

This Policy takes effect on 1 July 2014.

ANNEXURE A

CODE OF CONDUCT FOR SUPPLY CHAIN MANAGEMENT PRACTITIONERS AND OTHER ROLE PLAYERS

The purpose of this Code of Conduct is to promote mutual trust and respect and an environment where business can be conducted with integrity and in a fair and reasonable manner.

1. General Principles

The municipality commits itself to a policy of fair dealing and integrity in the conducting of its business. Officials and other role players involved in supply chain management (SCM) are in a position of trust, implying a duty to act in the public interest. Officials and other role players should not perform their duties to unlawfully gain any form of compensation, payment or gratuities from any person, or provider/contractor for themselves, their family or their friends.

Officials and other role players involved in SCM should ensure that they perform their duties efficiently, effectively and with integrity, in accordance with the relevant legislation, policies and guidelines. They should ensure that public resources are administered responsibly.

Officials and other role players involved in SCM should be fair and impartial in the performance of their functions. They should at no time afford any undue preferential treatment to any group or individual or unfairly discriminate against any group or individual. They should not abuse the power and authority vested in them.

2. Conflict of interest

An official or other role player involved with supply chain management –

(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) 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, 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 declare any business, commercial and financial interests or activities undertaken for financial gain that may raise a possible conflict of interest;

(h) should not place him/herself under any financial or other obligation to outside individuals or organizations that might seek to influence them in the performance of their official duties; and

(i) should not take improper advantage of their previous office after leaving their official position.

3. Accountability

Practitioners are accountable for their decisions and actions to the public.

Practitioners should use public property scrupulously.

Only accounting officers or their delegates have the authority to commit the municipality to any transaction for the procurement of goods and / or services.

All transactions conducted by a practitioner should be recorded and accounted for in an appropriate accounting system. Practitioners should not make any false or misleading entries into such a system for any reason whatsoever.

Practitioners must assist the accounting officer in combating fraud, corruption, favouritism and unfair and irregular practices in the supply chain management system.

Practitioners 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 the policy on inducements, rewards, gifts and favours to municipalities or municipal entities, officials or other role players; and

(iii) Any alleged breach of this code of conduct.

Any declarations made must be recorded in a register which the accounting officer must keep for this purpose. Any declarations made by the accounting officer must be made to the Mayor who must ensure that such declaration is recorded in the register.

4. Openness

Practitioners should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only if it is in the public interest to do so.

5. Confidentiality

Any information that is the property of the municipality or its providers should be protected at all times. No information regarding any bid / contract / bidder / contractor may be revealed if such an action will infringe on the relevant bidder's / contractors personal rights.

Matters of confidential nature in the possession of officials and other role players involved in SCM should be kept confidential unless legislation, the performance of duty or the provisions of law requires otherwise. Such restrictions also apply to officials and other role players involved in SCM after separation from service.

6. Bid Specification / Evaluation / Adjudication Committees

Bid specification, evaluation and adjudication committees should implement supply chain management on behalf of the municipality in an honest, fair, impartial, transparent, cost-effective and accountable manner.

Bid evaluation / adjudication committees should be familiar with and adhere to the prescribed legislation, directives and procedures in respect of supply chain management in order to perform effectively and efficiently.

All members of bid adjudication committees should be cleared by the accounting officer at the level of "CONFIDENTIAL" and should be required to declare their financial interest annually.

No person should-

(i) Interfere with the supply chain management system of the municipality; or

(ii) Amend or tamper with any price quotation / bid after its submission.

7. Combative Practices

Combative practices are unethical and illegal and should be avoided at all cost. They include but are not limited to:

(i) Suggestions to fictitious lower quotations;

(ii) Reference to non-existent competition;

(iii) Exploiting errors in price quotations / bids;

(iv) Soliciting price quotations / bids from bidders / contractors whose names appear on the Register for Tender Defaulters.