



**NELSON MANDELA BAY METROPOLITAN (NMBM)
SUPPLY CHAIN MANAGEMENT POLICY
(VERSION 8)**

Date of adoption: 18 June 2025

Council resolved in terms of Section 111 of the Local Government Municipal Finance Management Act 56 of 2003 to adopt this revised policy as the Supply Chain Management Policy of the NMBM on 18 June 2025

Policy Custodian: Supply Chain Management, Budget and Treasury

POLICY HISTORY

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|--|---|----------------------------|----------------------|----------------------------|----------------|-------------------------------|
| POLICY OWNER | Chief Financial Officer | | | | | |
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Acronyms

| | |
|---------|---|
| B-BBEE | Broad-based Black Economic Empowerment |
| CIDB | Construction Industry Development Board |
| EME | Exempted Micro Enterprise |
| HDI | Historically Disadvantaged Individuals |
| ICT | Information and Communication Technology |
| IDP | Integrated Development Plan |
| NCPPDSA | National Council for Persons with Physical Disability in South Africa |
| NDP | National Development Plan |
| NMBM | Nelson Mandela Bay Municipality |
| NHBRC | National Home Builders Registration Council |
| PPPFA | Preferential Procurement Policy Framework Act 5 of 2000 |
| QSE | Qualifying Small Enterprise |
| RDP | Reconstruction and Development Programme |
| SABS | South African Bureau of Standards |
| SANAS | South African National Accreditation System |
| SASSA | South African Social Security Agency |
| SCM | Supply Chain Management |
| SDBIP | Service Delivery and Budget Implementation Plan |
| SITA | State Information Technology Agency |
| VAT | Value Added Tax |

Definitions

In this policy, the singular includes the plural and *vice versa*, any one gender includes both genders and, unless the context otherwise indicates, a word or expression to which a meaning has been assigned in the *Municipal Finance Management Act* has the same meaning as in said Act, and -

“Acceptable bid” means any bid which, in all respects, complies with the specifications and bid conditions of tender as set out in the bid document. Also referred to as a “Responsive Bid”;

“Accounting Officer” means the manager of the municipal administration of the NMBM appointed by the Council in terms of Section 54A of the Local Government: Municipal Systems Act No. 32 of 2000 and includes any employee of the NMBM who has been duly authorised to act in his/her stead and, in the event of the NMBM being subject to an intervention in terms of Section 139 of the Constitution or any other applicable law, includes the “Administrator” appointed as a consequence of such intervention or in terms of the conditions pertaining thereto;

“accredited prospective provider” is a *person* or entity listed on the *Central Suppliers Database* who/which has met and continues to meet the listing of criteria specified by the *Accounting Officer*;

“Adjudication points” means the points for price and points for specific goals referred to in the Preferential Procurement Regulations, 2022 and the Preferential Procurement section of this policy, also referred to as “evaluation points”;

“all applicable taxes” includes Value-Added Tax, Pay as You Earn, Income Tax, skills development levies and Unemployment Insurance Fund contributions;

“Asset” means a tangible asset or intangible resource capable of ownership;

“B-BBEE” means broad-based black economic empowerment, as defined in Section 1 of the *Broad-Based Black Economic Empowerment Act*;

“B-BBEE status level of contributor” means the B-BBEE status of an entity in terms of good practice on black economic empowerment issued in terms of section 9(1) of the *Broad-Based Black Economic Empowerment Act*;

“bid” has a corresponding meaning to **“Tender”**;

“black people” is a generic term that refers to Africans, Coloureds and Indians who are citizens of the Republic of South Africa by birth or descent; or who became citizens of the Republic of South Africa by naturalisation before 27 April 1994 or on or after 27 April 1994 and who would have been entitled to acquire citizenship by naturalisation prior to that date;

“Broad-Based Black Economic Empowerment Act” means the Broad-Based Black Economic Empowerment Act 53 of 2003;

“Capital Asset” means:

- a) any immovable asset such as land, property or buildings;
- b) any movable asset that can be used continuously or repeatedly for more than one year in the production or supply of goods or services, for rental to others or for administrative purposes, and from which future economic benefit can be derived, such as plant, machinery and equipment;

“Central Suppliers Database” means the national standardised and centralised electronic supplier database administered by the National Treasury, which provides information on suppliers to an organ of state;

“Chief Financial Officer” means the official of the NMBM designated as such in terms of Section 80(2)(a) of the *Municipal Finance Management Act*;

“CIDB regulations” means any regulations issued in terms of the Construction Industry Development Board Act 38 of 2000;

“Codes of Good Practice” means the Codes of Good Practice on Black Economic Empowerment issued in terms of Section 9 (1) of the *Broad-Based Black Economic Empowerment Act* and contained in General Notice 12 of 9 February 2007;

“comparative price” means the price after the factors of a *non-firm price* and all unconditional discounts that can be utilised, have been taken into consideration;

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

“competitive bidding process” means a competitive bidding process referred to in subparagraph 12(1)(c) of this policy;

“consortium/consortia” means an association of *persons* for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a *contract*, as set out in a consortium agreement;

“construction works” means the provision of a combination of goods, work and/or services arranged for the development, extension, installation, repair, maintenance, renewal, removal, renovation, alteration, dismantling or demolition of a fixed asset including building and engineering infrastructure;

“consultant” as defined in the Cost Containment Regulations 2019, means a professional person, individual, partnership, corporation, or a company appointed to provide technical and specialist advice or to assist with a design and implementation of projects or to assist a municipality or municipal entity to perform its functions to achieve the objects of local government in terms of section 152 of the Constitution of the Republic of South Africa (1996);

“contract” means the agreement that results from the acceptance of a *tender* by the NMBM in accordance with the conditions of tender applicable to the *tender* and this policy;

“contractor” means a *person* or body of *persons* who undertakes to execute and complete *construction works* for or on behalf of the NMBM;

“Council” means the council of the Nelson Mandela Bay Metropolitan Municipality;

“Councillor” means a member of the *Council* of the Nelson Mandela Bay Municipality, and a person that in terms of Section 117 of the Municipal Finance Management Act is barred from serving on municipal tender committees;

“creditor” means a person or a company to whom money is owed by the Municipality;

“day” unless expressly otherwise provided in this policy, means a calendar day, provided that when any particular number of days is prescribed for the doing of any act, or for any other purpose, the same will be reckoned exclusively of the first and inclusively of the last day, unless the last day happens to fall on a Sunday or on any public holiday, in which case the time will be reckoned exclusively of the first day and exclusively also of every such Sunday or public holiday;

“designated sector” means a sector, sub-sector or industry that has been designated by the Department of Trade and Industry in line with national development and industrial policies for local

production, where only locally produced services, works or goods or locally manufactured goods meet the *stipulated minimum threshold* for local production and content;

“drawing of lots” means making a chance decision by using a random method of selection;

“emergency” includes the existence of one or more of the following:

- a) the possibility of human injury, death or suffering and the death of livestock and animals;
- b) the possibility of damage to and loss of property;
- c) the prevalence of human suffering or deprivation of rights;
- d) the interruption of essential or support services critical to the effective functioning of the Municipality;
- e) the possibility of serious damage to the natural environment;
- f) the possibility that the security of the state could be compromised; and
- g) the possibility that failure to take the necessary action may result in the Municipality not being able to render an essential community service. The prevailing situation or imminent danger should be of such a nature and scale that it could not readily be alleviated by interim measures, in order to allow time for formal procurement processes;

“Emerging Enterprise Development Support Programme and Policy (EEDSP)” is a policy of the NMBM that seeks to accelerate the development, growth and sustainability of the Historically Disadvantaged Individuals (HDIs);

“emerging micro enterprise” means a micro and very small business as defined in the schedule of the National Small Businesses Act 102 of 1996;

“e-tender portal” is a mechanism through which municipalities and municipal entities are required to advertise all their bids and publish notices of all awarded bids, cancellations and deviations, variations and extensions of existing contracts;

“Executive Mayor” means the *Councillor* elected by the *Council* as Mayor in terms of Section 48 of the Local Government: Municipal Structures Act No. 117 of 1998, read together with Section 58 of the *Municipal Finance Management Act*;

“Exempted Capital Asset” means a municipal capital asset which is exempted by section 14(6) or 90(6) of the MFMA from the other provisions of that section;

“Exempted Micro Enterprise (EME)” means an exempted micro enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;

“fair market value” means the estimated amount for which an asset should exchange on the date of valuation between a willing buyer and willing seller after proper marketing wherein the parties have each acted knowledgeable, prudently, and without compulsion;

“final award” in relation to bids or quotations submitted for a *contract*, means the final decision regarding which bid or quotation was accepted;

“firm price” means the price that is only subject to adjustments in accordance with the actual increase or decrease resulting from the change, imposition, or abolition of customs or excise duty and any other duty, levy or tax which, in terms of any applicable law or regulation, is binding on the *contractor* and demonstrably has an influence on the price of any supplies or the rendering costs of any service, for the execution of a *contract*;

“formal written price quotations” mean written and electronic offer to the *Municipality* in response to an invitation to submit a quotation. “Formal Written Price Quotation”, “Written Price Quotation”, “Quotation” or “Quote” will have a similar meaning. Also referred to as “Bids”;

“fronting” means a deliberate or attempted circumvention of the *Broad-Based Black Economic Empowerment Act* and the *Codes of Good Practice*;

“functionality” means the measurement according to predetermined norms, as set out in the tender specifications, of a service or commodity that is designed to be practical and useful, working or operating, taking into account, among other factors, the quality, reliability, viability and durability of a service and the technical capacity and ability of a tenderer;

“Granting of Rights” means the granting by the *Municipality* of the right to use, control or manage capital assets in circumstances where sections 14 and 90 of the MFMA and Chapters 2 and 3 of the Municipal Asset Transfer Regulations do not apply. In other words, where the granting of such rights does not amount to “transfer” or “disposal” of the asset and which includes leasing, letting, hiring out, etc., of the capital asset;

“Head of Department” means a *senior manager*, as defined in the *Municipal Finance Management Act*, who is responsible for a vote as assigned by the *Accounting Officer*;

“Historically Disadvantaged Individuals (HDIs)” means, as defined in the Broad-Based Black Economic Empowerment Act -

- a) Black people;
- b) Women;
- c) People with disabilities;
- d) Small enterprises, as defined in Section 1 of the National Small Enterprise Act 102 of 1996;

“Highest Acceptable Tender” means a tender that complies with all specifications and conditions of tender and that has the highest price compared to other tenders;

“imported content” means that portion of the *tender* price represented by the cost of components, parts or materials that have been or are still to be imported (whether by the supplier or its sub-contractors) and which costs are inclusive of the costs abroad, plus freight and other direct importation costs, such as landing costs, dock dues, import duty, sales duty or other similar tax or duty at the South African port of entry;

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

- (a) A member of -
 - (i) any municipal council;
 - (ii) any provincial legislature; or
 - (iii) the National Assembly or the National Council of Provinces;
- (b) A member of the board of directors of any municipal entity;
- (c) An official of the NMBM or its municipal entity;
- (d) An employee of any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the *Municipal Finance Management Act* and the Public Finance Management Act 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;

“joint venture” means a business entity created by two (2) or more parties by agreement to pool their resources to accomplish a specific task, project, business activity. Each party in the joint venture maintains its separate legal status while sharing control, risks and profits according to the terms of the joint venture agreement;

“Line Manager” means a manager reporting directly to a senior manager and who is responsible for a cost centre, as assigned by the relevant senior manager;

“list of accredited prospective providers” means the list of *accredited prospective providers* that the NMBM must keep in terms of paragraph 14 of this policy;

“local content” means that portion of the *tender* price that is not included in the *imported content*, provided that local manufacturing does take place;

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

“lowest acceptable tender” means a tender that complies with all specifications and conditions of tender and that has the lowest price compared to other tenders;

“Municipal Asset Transfer Regulations” means the Municipal Asset Transfer Regulations published in Government Gazette 31346 of 22 August 2008;

“Municipal Finance Management Act” means the Local Government: Municipal Finance Management Act 56 of 2003. Also referred to as the “MFMA”;

“Municipal Supply Chain Management Regulations” mean the Municipal Supply Chain Management Regulations, 2005, promulgated in Government Notice R309 dated 1 April 2005;

“Municipal Systems Act” means the Local Government: Municipal Systems Act 32 of 2000 and includes the Regulations under this Act;

“Municipality” means the Nelson Mandela Bay Municipality, a metropolitan municipality established in terms of Section 12 of the Local Government: Municipal Structures Act 117 of 1998 and includes any employee entitled to or duly authorised to perform any function or duty in terms of this policy and/or responsible for the implementation of this policy or any part thereof. Also referred to as the “NMBM”;

“National Treasury” has the meaning assigned to it in Section 1 of the Public Finance Management Act 18 of 1999;

“non-firm prices” mean all prices other than “firm” prices;

“non-responsive” in terms of a bid means a bid that does not comply in all material aspects with the requirements set out in or contained in an invitation to bid, including the applicable specifications;

“official” means-

- (a) an employee of the NMBM or its municipal entity;
- (b) a person seconded to the NMBM or its municipal entity to work as a member of the staff of the NMBM or municipal entity; or
- (c) a person contracted by the NMBM or its municipal entity to work as a member of the staff of the NMBM or municipal entity otherwise than as an employee;

“other applicable legislation” means any other legislation applicable to municipal supply chain management, including but not limited to -

- (a) The Broad-Based Black Economic Empowerment Act 53 of 2003;
- (b) The Construction Industry Development Board Act 38 of 2000;
- (c) The Local Government: Municipal Finance Management Act 56 of 2003; and
- (d) The Local Government: Municipal Finance Management Act 56 of 2003 – Municipal Cost Containment Regulations, 2019;
- (e) The Local Government: Municipal Systems Act 32 of 2000 (*Municipal Systems Act*);
- (f) The Preferential Procurement Policy Framework Act 5 of 2000;

“organs of state” as defined in the Constitution, means:

- (a) Any department of state or administration in the National, Provincial or Local sphere of government; and
- (b) Any other functionary or institution –
 - (i) Exercising a power or performing a function in terms of the Constitution or a Provincial Constitution; or
 - (ii) Exercising a public power or performing a public function in terms of legislation.

It excludes judicial officers or courts;

“persons with disability” as defined by the **Convention of the Rights of Persons with Disability (CRPD)**, mean people who have a long-term or recurring physical, mental, intellectual or sensory impairment that may hinder their full and effective participation in society on an equal basis;

“person(s)” mean two (2) or more individuals, companies, organisations, enterprises or entities (or a combination of these), and includes a juristic person;

“Preferential Procurement Policy Framework Act” means the Preferential Procurement Policy Framework Act 2 of 2000. Also referred as the “PPPFA”;

“Preferential Procurement Regulations” mean the Preferential Procurement Regulations contained in Government Notice 2721 of 04 November 2022, promulgated in Government Gazette No. 47452 of this date;

“price” means, as defined in the Preferential Procurement Policy Framework Act, 2000: Preferential Procurement Regulations, 2022, an amount of money tendered for goods and/or services, and includes all applicable taxes less all unconditional discounts;

“proof of B-BBEE status level of contributor” means –

- (a) the B-BBEE status level certificate issued by an authorised body or person;
- (b) a sworn affidavit as prescribed by the B-BBEE Codes of Good Practice; or
- (c) any other requirement prescribed in terms of the *Broad-Based Black Economic Empowerment Act*;

“Qualifying Small Enterprise (QSE)” means a qualifying small business enterprise in terms of a Code of Good Practice on black economic empowerment, issued in terms of Section 9(1) of the *Broad-Based Black Economic Empowerment Act*;

“rand value” means, as defined in the Preferential Procurement Policy Framework Act 5 of 2000: Preferential Procurement Regulations, 2022, the total estimated value of a *contract* in Rand, calculated at the time of *tender* invitations, and includes *All applicable taxes* and excise duties;

“Regulations” means the Local Government: Municipal Finance Management Act 56 of 2003: *Municipal Supply Chain Management Regulations*, published by Government Notice 868 of 2005;

“senior manager” as defined in the Municipal Finance Management Act, means an *official* who is responsible for a vote as assigned by the Accounting Officer;

“specific goals” mean specific goals as contemplated in section 2(1)(d) of the PPPFA, which may include contracting with persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of race, gender and disability including the implementation of programmes of the Reconstruction and Development Programme as published in Government Gazette No. 16085 dated 23 November 1994;

“stipulated minimum threshold” means that portion of local production and content as determined by the Department of Trade and Industry from time to time;

“sub-contracting” means the primary *contractor’s* assigning, leasing, making out work to, or employing, another *person* to support such primary *contractor* in the execution of part of a project in terms of a *contract*;

“tender” means, as defined in PPPFA, Preferential Procurement Regulations, 2022, the written offer in the form determined by an organ of state in response to an invitation to provide goods, work and/or services through price quotations, competitive tendering process or any other method envisaged in legislation;

“tender for income-generating contracts” mean, as defined in the PPPFA, Preferential Procurement Regulations, 2022, the a written offer in the form determined by an organ of state in response to an invitation for the origination of income-generating contracts through any method envisaged in legislation that will result in a legal agreement between the organ of state and a third party that produces revenue for the organ of state, and includes, but is not limited to, leasing and disposal of assets and concession contracts, excluding direct sales and disposal of assets through public auctions;

“tender validity period” means the period within which a tenderer’s offer remain fixed. However, NMBM has a right to approach a tenderer within this fixed period to extend the term or duration of the offer, especially in instances where the tender will not be awarded within the original validity period;

“the Constitution” means the Constitution of the Republic of South Africa Act 108 of 1996;

“the Policy” means the Supply Chain Management Policy (Version 8) of the Municipality;

“total revenue” bears the same meaning assigned to this expression in the *Codes of Good Practice*;

“Treasury Guidelines” mean any guidelines on supply chain management issued by the Minister of Finance in terms of Section 168 of the *Municipal Finance Management Act*;

“trust” means the arrangement through which the property of one *person* is made over or bequeathed to a *trustee* to administer such property for the benefit of another *person*;

“trustee” means any *person*, including the founder of a trust, to whom property is bequeathed in order for such property to be administered for the benefit of another *person*;

“urgency” means the need to do something quickly, because it is very important;

“verification certificate” means a B-BBEE certificate issued in compliance with the B-BBEE Codes of Good Practice and all Sector Codes issued in terms of Section 9(1) of the *Broad-Based Black Economic Empowerment Act*.

1. Preamble

The Supply Chain Management Policy seeks to encourage socio-economic transformation within the *Municipality* in line with the Preferential Procurement Policy Framework Act 5 of 2000, the Broad-based Black Empowerment Act 53 of 2003, the Construction Industry Development Board (CIDB) Act 38 of 2000, and *other applicable legislation*.

The Policy aims to, *inter alia*, promote economic empowerment, foster employment creation, and encourage greater participation in the economy for individuals or groups who have historically faced unfair discrimination based on factors like race, gender, and disability, including implementation of the programmes of the Reconstruction and Development Programme, to redress past inequalities, as published in Government Gazette No. 16085 dated 23 November 1994.

Moreover, it endeavors to enhance the involvement of small, medium, and micro-enterprises in driving economic growth through the procurement processes of the *Municipality*.

Additionally, the *Municipality* supports the Proudly South African Campaign and will strive to boost local production and content through its procurement procedures. The Proudly South African Campaign briefly entails working to combat the triple challenges of poverty, inequality and above all unemployment by encouraging local investment and trade, and consumption of local products.

Furthermore, *the Policy* aims to provide guidance on the procurement, disposal, and contracting of goods, work and/or services in accordance with relevant legislation.

CHAPTER 1: IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY

It should be noted that the numbering in *the Policy* follows the numbering of the *Regulations* as far as possible.

2. Supply Chain Management Policy

- (1) All officials and other role-players in the Supply Chain Management (SCM) system of the *Municipality* must implement *the Policy* in a way that –
 - (a) gives effect to Section 217 of *the Constitution* and Part 1 of Chapter 11 and other applicable provisions of the Local Government: Municipal Finance Management Act 56 of 2003;
 - (b) is fair, equitable, transparent, competitive and cost effective;

- (c) complies with the *Regulations* and any minimum norms and standards that may be prescribed in terms of Section 168 of the Local Government: Municipal Finance Management Act 56 of 2003;
 - (d) is consistent with *other applicable legislation*;
 - (e) does not undermine the objective for uniformity in Supply Chain Management systems between organs of state in all spheres; and
 - (f) is consistent with national economic policy concerning the promotion of investments and the conduct of business with the public sector.
- (2) *The Policy* applies when the *Municipality* –
- (a) procure goods, work and/or services, including construction works and consultant services;
 - (b) disposes of goods no longer needed and/or suitable for use;
 - (c) selects *contractors* to provide assistance with the provision of municipal services otherwise than in circumstances where Chapter 8 of the *Municipal Systems Act* applies;
 - (d) selects external mechanisms referred to in Section 80(1)(b) of the *Municipal Systems Act* for the provision of municipal services in circumstances contemplated in Section 83 of that Act;
 - (e) the procurement of goods and services under a contract secured by another *organ of state*, provided that the relevant supplier has agreed to such procurement.
- (3) *The Policy*, except where provided otherwise, does not apply in respect of the procurement of goods, work and/or services contemplated in Section 110(2) of the *Municipal Finance Management Act*, including, but not limited to -
- (a) water from the Department of Water Affairs or a public entity, another municipality or a municipal entity; and
 - (b) electricity from Eskom or another public entity, another municipality or a municipal entity.
- (4) Notwithstanding anything to the contrary in *the Policy*, the *Municipality* will not award a *contract* to a *contractor* in respect of the undertaking, carrying out or completion of any *construction works* or a portion thereof in terms of a competitive *tender* or quotation process provided for in *the Policy*, unless such *contractor* is registered with the Construction Industry Development Board established by Section 2 of the Construction Industry Development Board Act 32 of 2000.

3. Amendment and Adoption of Supply Chain Management Policy

- (1)** The *Accounting Officer* must at least annually review the implementation of this policy and, when necessary, submit proposals for the amendment thereof to the *Council* through the *Executive Mayor* acting in conjunction with the *Municipality's* Mayoral Committee, with a view to its adoption by the *Council*.
- (2)** If the *Accounting Officer* submits proposed amendments to this policy to the *Council*, he must ensure that same comply with the *Regulations* and *Treasury guideline* standards determining standards for municipal Supply Chain Management policies and any other policies governing supply chain management in local government.
- (3)** The *Accounting Officer* must report any deviation from the *Regulations* and *Treasury guideline* standards determining standards for municipal Supply Chain Management policies to the National and Eastern Cape Provincial Treasuries.
- (4)** When amending this policy, the need for uniformity in supply chain practices, procedures and forms between all spheres of organs of state particularly to promote accessibility of Supply Chain Management systems for small businesses, must be taken into account.

4. Delegation of Supply Chain Management Powers and Duties

- (1)** The *Council* hereby delegates all powers and duties to the *Accounting Officer* which are necessary to enable him -
 - (a)** to discharge the supply chain management responsibilities conferred on *Accounting Officers* in terms of -
 - (i)** chapters 8 or 10 of the *Municipal Finance Management Act*; and
 - (ii)** this policy; and
 - (b)** to maximise administrative and operational efficiency in the implementation of this policy; and
 - (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 responsibilities in terms of Section 115 and other applicable provisions of the *Municipal Finance Management Act*.
- (2)** Sections 79 and 106 of the *Municipal Finance Management Act* apply to the sub-delegation of powers and duties delegated to an *Accounting Officer* in terms of subparagraph 4(1).

- (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 that is not exclusively composed of municipal *officials*.
- (4) This paragraph may not be read as permitting an *official* to whom the power to make final awards has been delegated, to make a *final award* in a *competitive bidding process* otherwise than through the committee system provided for in paragraph 25 of *the Policy*.

5. Sub-delegations

- (1) The *Accounting Officer* may, in terms of Section 79 of the *Municipal Finance Management Act*, sub-delegate any Supply Chain Management powers and duties, including those bestowed upon him in terms of legislation or delegated to him in terms of *the Policy* or by resolution of the *Council*, but any such sub-delegation must be consistent with paragraph 4 of *the Policy*.
- (2) The power to make a *final award* -
- (a) above R10 million (VAT included) may not be sub-delegated by the *Accounting Officer*;
 - (b) above R2 million (VAT included), but not exceeding R10 million (VAT included), may be sub-delegated but only to –
 - (i) the *Chief Financial Officer*;
 - (ii) a *senior manager*; or
 - (iii) a *Bid Adjudication Committee* of which the *Chief Financial Officer* or a *senior manager* is a member;
 - (c) above R750 000 not exceeding R2 million (VAT included) may be sub-delegated but only to -
 - (i) the *Chief Financial Officer*;
 - (ii) a *senior manager*; or
 - (iii) a manager directly accountable to the *Chief Financial Officer* or a *senior manager*; or
 - (iv) a *Bid Adjudication Committee*.
 - (d) not exceeding R750 000 (VAT included) may be sub-delegated but only to -
 - (i) the *Chief Financial Officer*;
 - (ii) a *senior manager*;
 - (iii) a manager directly accountable to the *senior manager*.
- (3) An *official* or *Bid Adjudication Committee* to whom or which the power to make final awards has been sub-delegated in accordance with subparagraph 5(2) must, within five

days of the end of each month, submit to the *official* referred to in subparagraph 5(4) a written report containing particulars of each *final award* made by such *official* or Committee during that month, including –

- (a) the amount of the award;
- (b) the name of the *person* to whom the award was made; and
- (c) the reason why the award was made to that *person*.

(4) A written report referred to in subparagraph 5(3) must be submitted –

- (a) to the *Accounting Officer*, in the case of an award by -
 - (i) the *Chief Financial Officer*,
 - (ii) a *senior manager*, or
 - (iii) a Bid Adjudication Committee of which the *Chief Financial Officer* or a *senior manager* is a member;
- (b) to the *Chief Financial Officer* or the *senior manager* responsible for the relevant bid, in the case of an award by -
 - (i) a manager referred to in subparagraph 5(2)(c)(iii); or
 - (ii) a Bid Adjudication Committee of which the *Chief Financial Officer* or a *senior manager* is not a member.

(5) Subparagraphs 5(3) and 5(4) do not apply to procurements out of petty cash.

(6) This paragraph may not be interpreted as permitting an *official* to whom the power to make final awards has been sub-delegated, to make a *final award* in a *competitive bidding process* otherwise than through the committee system provided for in paragraph 26 of this policy.

(7) No supply chain management decision-making powers may be delegated to an advisor, *consultant* or a *person* who is not an *official* of the *Municipality*.

6. Oversight Role of the Council

(1) A *Councillor* cannot in terms of Section 117 of the *Municipal Finance Management Act* be a member of a bid committee or any other committee evaluating or approving tenders, quotations, contracts or other bids, nor attend any such meeting as an observer.

(2) The *Council* must maintain oversight over the implementation of *the Policy* to ensure that the *Accounting Officer* implements all Supply Chain Management activities in accordance therewith.

- (3) 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 this policy to the *Council* through its *Executive Mayor*;
 - (b) within 20 days of the end of each financial year the municipal entity is required to submit a report on the implementation of the Supply Chain Management policy to the Board of Directors, who must then submit it to the *Accounting Officer* of the *Municipality* for submission to *Council* in terms of subparagraph 3(a).
 - (c) whenever there are serious and material problems in the implementation of *the Policy*, immediately submit a report thereon to the *Council* through its *Executive Mayor*.
- (4) 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*.
- (5) The aforesaid reports must be made public in accordance with Section 21A of the *Municipal Systems Act*.

7. Supply Chain Management Unit

- (1) A Supply Chain Management Unit is established to implement *the Policy*.
- (2) The Supply Chain Management Unit must, where possible, operate under the direct supervision of the *Chief Financial Officer* or an *official* to whom this duty is hereby delegated by the *Accounting Officer* in terms of Section 82 of the *Municipal Finance Management Act*.

8. Training of Supply Chain Management Officials

- (1) The training of officials involved in implementing this policy should be in accordance with any *Treasury guidelines* on Supply Chain Management training and applicable prescribed competency level requirements.

CHAPTER 2: SUPPLY CHAIN MANAGEMENT SYSTEM

9. Format of Supply Chain Management System

The 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

- (1) The *Accounting Officer* must establish and implement an appropriate demand management system to ensure that the resources required by the *Municipality* support its operational commitments and strategic goals, as outlined in its Integrated Development Plan (IDP).
- (2) The demand management system must -
 - (a) include timely planning and management processes to ensure that all goods, work and/or services required by the *Municipality* are quantified, budgeted for and timely and effectively delivered at the right locations and at the critical delivery dates and are of the appropriate quality and quantity procured at a fair cost;
 - (b) be coordinated by the *Municipality's* SCM officials in consultation with end-users;
 - (c) ensure that the Procurement Plan is approved by the *Accounting Officer* within ten (10) days after the Budget and the IDP have been approved;
 - (d) take into account any benefits of economies of scale that may be derived in the case of acquisitions of a repetitive nature and ensure that market-related prices are considered;
 - (e) ensure that the SCM designated official:
 - (i) analyses the goods, works or services required;
 - (ii) conducts an analysis of the past expenditure;
 - (iii) compiles a list of the goods, works or services required;
 - (iv) advises on an appropriate procurement strategy.
 - (f) facilitate drafting the required specifications to ensure that municipal needs are met;

- (g) allow for the undertaking of appropriate industry analysis and research to ensure that innovations and technological benefits are maximised;
 - (h) make provision for the compilation of a Procurement Register that will manage the procurement for each requirement;
 - (i) make provision for the consideration of optimum methods to satisfy the need e.g. possibility of procuring goods, work and/or services using transversal or ad hoc contracts.
- (3) The SCM Unit is responsible for monitoring and assessing the validity and accuracy of and compliance with the Procurement Plan.
- (4) The *Accounting Officer* must, prior to making an invitation for *tenders* –
- (a) properly plan for and, as far as possible, accurately estimate the costs for the provision of services, works or goods for which an invitation for *tenders* is to be made;
 - (b) determine and stipulate, in such invitation, the appropriate preference point system to be utilised in the evaluation and adjudication of such *tenders*.
- (5) The *Accounting Officer* must indicate in the invitation to submit a *tender* and in the *tender* specification –
- (a) whether the following are applicable to the tender –
 - (i) pre-qualification criteria;
 - (ii) subcontracting;
 - (iii) *specific goals* and the number of points that will be awarded to each goal, including proof of the claim for such goal; and
 - (iv) objective criteria;
 - (b) whether such *tender* will be evaluated on the basis of *functionality* criterion. In this regard, the following must be clearly stated:
 - (i) the objective evaluation criteria for measuring *functionality*;
 - (ii) the points allocated to each criterion should not be generic but should be determined for each *tender* on a case by case basis;
 - (iii) the applicable points that will be utilised when scoring each sub-criterion should be objective;
 - (iv) the minimum qualifying score for *functionality* to enable the bid concerned to be further evaluated in terms of this policy, with the aforesaid qualifying score to meet the following criteria:
 - aa) should not be generic but be determined separately for each bid, on a case-by-case basis; and

- bb) should 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 jeopardises the fairness of the Supply Chain Management system;
- cc) the fact that no *tender* will be regarded as an acceptable *tender* if it fails to achieve the minimum qualifying score for *functionality* as indicated in the invitation to *tender* and the relevant tender specification; and
- dd) that tenders that have achieved the minimum qualification score for *functionality* will be evaluated further in terms of the preference point systems referred to in **Annexure A** of *the Policy*.

(6) Any system designed in terms of this paragraph will take cognizance of the provisions of *the Policy*.

PART 2: ACQUISITION MANAGEMENT

11. System of Acquisition Management

- (1) The *Accounting Officer* must implement an efficient system of acquisition management in order to ensure -
- (a) that goods, work and/or services are procured by the *Municipality* in accordance with authorised processes only;
 - (b) that goods, work and/or services are procured by the *Municipality* from service providers listed on the *Central Suppliers Database*;
 - (c) that bidders who are not registered on the *Central Supplier Database* are not precluded from submitting their bids but must, however, be registered on said database prior to the award of that particular *bid*;
 - (d) that expenditure on goods, work and/or services is incurred in terms of an approved budget in terms of Section 15 of the *Municipal Finance Management Act*;
 - (e) that the threshold values for the different procurement processes are complied with;
 - (f) that *bid* documentation, evaluation and adjudication criteria and the general conditions of a *contract*, are in accordance with any applicable legislation;
 - (g) that any National *Treasury guidelines* on acquisition management are properly taken into account; and
 - (h) that the *Municipality* may not enter into any *contract* that will impose financial obligations beyond three years covered in the annual budget for that financial

year, unless the requirements of Section 33 of the *Municipal Finance Management Act* have been fully complied with.

- (i) that infrastructure procurement which is the procurement of goods, work and/or services, including any combination thereof, associated with the acquisition, refurbishment, rehabilitation, alteration, maintenance, operation or disposal of infrastructure must be procured by the *Municipality* in accordance with the Local Government Framework for Infrastructure Delivery and Procurement Management (LGFIDPM) (refer **Annexure B**).
- (2) When procuring goods, work and/or services from an *organ of state*, as contemplated in Section 110 (2) of the *Municipal Finance Management Act*, the *Accounting Officer* must make public the fact that such goods, work and/or services are procured otherwise than through the *Municipality's* Supply Chain Management system, including –
- (a) the kind of goods, work and/or services; and
 - (b) the name of the supplier.

12. Range of Procurement Processes

- (1) Goods, work and/or services may be procured only by way of -
- (a) petty cash purchases up to a transaction value of R2 000 (VAT included)
 - (b) *formal written price quotations* for procurement of a transaction value over R2 000 up to R750 000 (VAT included), or the relevant amount approved by National Treasury.
 - (c) a *competitive bidding process* for –
 - (i) procurement above a transaction value of R750 000 (VAT included) or the relevant amount approved by National Treasury; and
 - (ii) the procurement of *long-term contracts* (exceeding one year).
- (2) The *Accounting Officer* may, in writing:
- (a) lower but not increase, the different threshold values specified in subparagraph 12(1); or
 - (b) direct that -
 - (i) a *competitive bidding process* be followed for any specific procurement of a transaction value lower than the competitive bidding thresholds specified in subparagraph 12(1)(c).
- (3) Calls for quotations and bids for the procurement of goods, work and/or services may not be deliberately split into parts or items of a lesser value merely to avoid complying with the requirements of *the Policy* or any applicable legislation. When determining transaction

values, a requirement for goods, work and/or services consisting of different parts or items must, as far as possible, be treated and dealt with as a single transaction.

13. General Preconditions for Consideration of Formal Written Price Quotations or Bids

- (1) *A formal written price quotation or bid* may not be considered unless the provider who submitted the quotation or *bid* concerned –
- (a) has furnished his -
 - (i) full name(s), including trading name;
 - (ii) identification number or company or other registration number; and
 - (iii) tax reference number and VAT registration number (where applicable);
 - (b) has authorised the *Municipality* to obtain a tax compliance status from the South African Revenue Services so that the *Municipality* may confirm that the bidder's tax matters are in order.
 - (c) has provided the *Municipality* with a "Certificate of Independent Bid Determination" on Form MBD9 or a similar form;
 - (d) has certified that he and, in the event of the bidder being a company, also any of its directors, is not indebted to the *Municipality* or to any other municipality or municipal entity for rates, taxes and/or municipal service that have been in arrears for a period of more than three months and that no dispute exists between such bidder and the relevant municipality or municipal entity in respect of any such arrear amounts;
 - (e) has submitted an MBD4 certifying –
 - (i) that he/she is not *in the service of the state* or has not been *in the service of the state* in the previous twelve months;
 - (ii) that, in the event of the bidder not being a natural *person*, none of its directors, managers, principal shareholders or stakeholders are *in the service of the state* nor have been *in the service of the state* in the previous twelve months; or
 - (iii) that neither his spouse, child or parent nor 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.
 - (f) If it is a partnership, *joint venture* or *consortium*, has submitted an agreement in writing recording the establishment of such partnership, *joint venture* or *consortium*, signed by or on behalf of each of the parties thereto and providing *inter alia*:

- (i) full details of each of the parties thereto;
- (ii) which of the parties thereto is the leader and will represent it for the purposes of engagement with the *Municipality*;
- (iii) for the joint and/or several liability of the parties thereto to the *Municipality* for the due fulfilment of any *contract* concluded with the *Municipality* as a result of the *bid*;
- (iv) registration on the *Central Suppliers Database*.

(2) This paragraph must be read in conjunction with paragraph 20 of *the Policy*.

14. Lists of Accredited Prospective Providers

(1) The *Accounting Officer* must keep a list of *accredited prospective providers* of goods, work and/or services. The National Treasury's standardised and centralised electronic supplier database (CSD) must be used for the procurement requirements for *formal written price quotations*. Prospective suppliers must register on the *Central Suppliers Database* and thereafter submit the following documents as may be required:

- (a) Specific goal affidavit
- (b) NHBRC Certificate
- (c) CIDB CRS number (National Treasury Circular 81)
- (d) Certified copy of ID of signatory
- (e) Messenger's ID (upon submission).

(2) *Accredited prospective providers* must –

- (a) regularly update their *Central Supplier Database* profiles and ensure that their information is up to date at all times;
- (b) advise the *Municipality* when there is a change in status of the following documents by completing the *Municipality's* Verification Form for verification on the *Municipality's* Supplier Database:
 - aa) Specific goal affidavit/ EME Letter / Sworn Affidavit;
 - bb) NHBRC Certificate;
 - cc) CIDB grade (CRS number is required).

(3) Prospective suppliers must submit the following to the *Municipality's* Supply Chain Management Office, as the case may be:

- (a) Specific goal affidavit:
 - (i) The name and physical location of the measured entity;
 - (ii) The registration number and, where applicable, the VAT number of the measured entity;
 - (iii) The date of issue and date of expiry;

- (iv) The certificate number for identification and reference;
 - (v) The scorecard that was used (*Specific Goals* of the entity);
 - (vi) The name and / or logo of the Verification Agency;
 - (vii) The SANAS logo;
 - (viii) The signature of the authorised *person* from the Verification Agency concerned; and
- (b) EME Letter:
- (i) The Auditor/Accounting Officer's letterhead with full contact details;
 - (ii) The Auditor/Accounting Officer's practice numbers;
 - (iii) The name and the physical location of the measured entity;
 - (iv) The registration number and, where applicable, the VAT number of the measured entity;
 - (v) The date of issue and date of expiry;
 - (vi) The *Specific Goals* of the entity
- (c) Sworn Affidavit:
- (i) Signatory (full name and surname)
 - (ii) Identity number
 - (iii) Enterprise name
 - (iv) Trading name
 - (v) Registration number
 - (vi) Enterprise name
 - (vii) Documentation verifying *Specific Goals*
 - (viii) Current financial year
 - (ix) Deponent signature
 - (x) Date
 - (xi) Commissioner of Oaths signature and date stamp
- (4) 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 must be disallowed.
- (5) The aforesaid list must be updated at least quarterly to include any additional prospective providers and any new commodities or types of services. Prospective providers must be allowed to submit applications for listing at any time.
- (6) The aforesaid list must also be compiled per commodity and per type of service.

15. Petty Cash Purchases

- (1) The conditions for the procurement of goods by means of petty cash purchases referred to in paragraph 12(1)(a) of *the Policy*, are that minor items are purchased for up to R2 000 (VAT included) where it is impractical, impossible or not cost effective to follow the official procurement process and is strictly of a reimbursing nature.
- (2) A monthly reconciliation report from each *senior manager* must be provided to the *Chief Financial Officer*, including (a) the total amount of petty cash purchases for that month; and (b) receipts and appropriate documents for each purchase.
- (3) Petty cash transactions should be made in accordance with the petty cash policy/guidelines/standard operating procedure as determined by the *Chief Financial Officer from time to time*.
- (4) The *Accounting Officer* may delegate responsibility for the management of petty cash to an *official* directly or indirectly reporting to the *Chief Financial Officer*.
- (5) The *Accounting Officer*, guided by the applicable Policy and applicable Regulations, may, from time to time, determine the maximum amount of the permissible petty cash expenditure per month.

16. Formal Written Price Quotations

- (1) The conditions for the procurement of goods, work and/or services through *formal written price quotations*, are as follows:
 - (a) Quotations must be obtained in writing from at least three different providers whose names appear on the Central Supplier Database and the *Municipality's* supplier database;
 - (b) In the event of it not being possible to obtain quotations from at least three different providers whose names appear on the list of *accredited prospective providers* of the *Municipality*, quotations may be obtained from providers who are not so listed, provided that such providers meet the listing criteria set out in paragraph 14 of this policy and, provided further, that the reasons for obtaining such quotations from the providers concerned must be recorded on the invitation to submit quotations and be approved by the *Accounting Officer* or delegated *official*.
 - (c) If it is not possible to obtain at least three quotations, the reasons must be recorded and approved by the *Chief Financial Officer* or his delegated *official*.

(2) A delegated *official*, as contemplated in paragraph 16(1)(b), must within three (3) days of the end of each month, report to the *Chief Financial Officer* on any approvals given during that month.

17. Procedures for Procuring Goods or Services Through Formal Written Price Quotations

(1) Procurement of goods and services through *formal written price quotations* will be as follows:

(a) All requirements in excess of R2 000 up to a transaction value of R750 000 (VAT included), must be procured by means of *formal written price quotations* and be advertised on the website and the official notice board of the *Municipality* in this manner:

(i) R2 000 – R15 000 to be advertised for a minimum of three (3) working days

(ii) R15 001 – R30 000 to be advertised for a minimum of five (5) working days

(iii) R30 001 – R750 000 to be advertised for a minimum of seven (7) working days;

(b) The *Accounting Officer* must take all reasonable steps to ensure that the procurement of goods and services through *formal written price quotations* is not abused and offers received must be evaluated on a comparative basis taking into account unconditional discounts;

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

(d) Offers up to R750 000 (all applicable taxes included) must be awarded based on compliance with specifications, conditions of contract, ability, capacity and capability to deliver the required goods, work and/or services, preference points; with the formula referred to in subparagraph 17(1)(e) to be used to calculate points for *price*. Refer to **80/20 preference points system for acquisition of goods and/or service for rand value equal to or below R50 million** in **Annexure A**;

(e) Prior to the award of a *contract* with a *price* in excess of R2 000, the delegated *official* must verify the status of recommended bidders (including their directors(s), owners(s) or *trustee*(s) by checking the Data Base of Restricted Suppliers maintained by National Treasury in order to ensure that no recommended bidder or any of its directors/owners/trustees are listed as companies or *persons* prohibited from doing business with the public sector;

- (f) A call for *formal written price quotations* in terms of afore-going paragraphs must be in writing and contain a specification for the goods, work and/or services to be procured as well as details of the preference points system to be used in evaluating and adjudicating quotations or bids;
- (g) The delegated *official* must, in writing, notify the *Chief Financial Officer* within 10 days after the end of each month of all *formal written price quotations* accepted, or approvals given in terms of the afore-going subparagraphs;
- (h) The *Chief Financial Officer* must ensure that adequate systems are in place to meet the requirements for proper record-keeping;
- (i) Acceptable offers must be awarded to the bidder who scored the highest points in accordance with the stipulated preference points system (refer **Annexure A**);
- (j) Single source selection may be appropriate only if it presents a clear advantage over competition:
 - (i) for services that represent a natural continuation of previous work carried out by the *consultant*, and continuity of downstream work is considered essential;
 - (ii) where rapid selection is essential;
 - (iii) for very small appointments;
 - (iv) when only one *consultant* is qualified or has experience of exceptional worth for the project.
- (k) The reasons for single-source selection must be fully motivated in a report and approved by the *Chief Financial Officer* or an *official* delegated by the *Chief Financial Officer* prior to conclusion of a *contract*, provided that the award is for an amount not exceeding R750 000 (VAT included). In cases where the estimated value of fees for a single-source selection of a *consultant* exceeds R750 000 (VAT included) the appointment must be approved by the Bid Adjudication Committee.
- (l) *Specific Goals* will be applied in respect of *formal written price quotations* for bids up to R750 000 as set out in any further policy or implementation guideline for specific goals that may be issued by the *Municipality* from time to time.

18. Competitive Bidding Process

- (1) Subject to paragraph 12 of this policy, goods, works and/or services above a transaction value of R750 000 (VAT included) and long-term contracts may only be procured through a *competitive bidding process*.
- (2) No requirement for goods, work and/or services above an estimated transaction value of R750 000 (VAT included) may deliberately be split into parts or items of lesser value merely for the sake of procuring the goods, work and/or services otherwise than through a *competitive bidding process*.
- (3) The *Accounting Officer* may split unduly large quantities of work into smaller *contracts* (units) to promote manageability and provide opportunities for emerging entrepreneurs. This procedure may only be followed when it is technically, logistically, and financially feasible.
- (4) To promote the development of *emerging micro enterprises*, subcontracting will be considered for projects with a contract value equal to or above R7.5 million for the construction sector, and equal to or above R5 million for other sectors, such as services sector.

Sub-Contracting

- (5) A bidder awarded a contract may-
 - (a) enter into a sub-contracting arrangement only with the approval of the *Municipality*.
 - (b) not sub-contract more than 25% of the value of the *contract* to any other enterprise that does score at least 50% of the score for Specific Goals awarded to the bidder concerned.

19. Process for Competitive Bidding

- (1) The procedures for the following stages of a *competitive bidding process* are as follows:
 - (a) Compilation of bidding documentation, as detailed in paragraph 20;
 - (b) Public invitation of bids as detailed in paragraph 21;
 - (c) Advertisement of bids on *Municipality's e-Tender portal*;
 - (d) Site meetings or briefing sessions, as detailed in paragraph 22;
 - (e) Handling of bids submitted in response to public invitation, as detailed in

paragraph 22;

- (f) Evaluation of bids, as detailed in paragraph 27;
- (g) Award of *contracts*, as detailed in paragraph 28;
- (h) Administration of *contracts* - after the award of a bid, the *Accounting Officer* and the bidder must enter into a written agreement;
- (i) Proper record-keeping - original/legal copies of written *contracts* agreements should be kept in a secure place for reference and audit purposes.

20. Bid Documentation for Competitive Bids

- (1) Bid documentation for a *competitive bidding process* must, in addition to the requirements of paragraph 13 –
 - (a) Take into account the following –
 - (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 Construction Industry Development Board (CIDB), in the case of a bid relating to *construction works*;
 - (iv) relevant proof of business locality requirements;
 - (v) relevant portfolio of evidence for *Specific Goals*.
 - (b) Include the preference points system to be used in evaluating and adjudicating bids, namely 80/20 or 90/10 as prescribed in the *Preferential Procurement Regulations* (refer to **Annexure A**).
 - (c) Indicate the period for which bids are to remain valid and binding.
- (2) The validity period is calculated from the bid closure date. *Bids* will remain in force and binding until the end of the final *day* of that period.
- (3) The validity period may be extended by the director responsible for Supply Chain Management provided that the original validity period has not expired and that all bidders are given an opportunity to extend such period. Any such extension will be given by the bidder in writing.
- (4) Bidders who fail to respond to the request referred to in clause 20(3) before the validity of their bids expire, or who decline such a request will not be considered further in the evaluation process. Such bidders will be deemed to have accepted that the evaluation process will not be regarded as having been completed by their failure to extend the validity period of their bids, and that such evaluation process will be completed in such

bidder's absence until an award of the tender in question has been made.

- (5) Bidders must submit a "Certificate of Independent Bid Determination" on form MBD 9 or similar document.
- (6) The relevant MBDs must be utilised for procurement by means of *formal written price quotations*, advertised *competitive bids* or proposals.
- (7) If the value of the transaction is expected to exceed R10 million (VAT included), bidders are required to furnish -
 - (i) if the bidder is required by law to prepare annual financial statements for auditing, his audited annual financial statements -
 - (a) for the past three years; or
 - (b) since establishment, if established during the past three years;
 - (ii) a certificate signed by the bidder certifying that he has no undisputed commitments for municipal services towards the *Municipality*, other municipality and/or municipal entity in respect of which payment is overdue for more than 30 days;
 - (iii) particulars of any *contracts* awarded to the bidder by an *organ of state* during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such *contracts*;
 - (iv) a statement indicating whether or not any portion of the goods, work and/or services required by the *Municipality* are expected to be sourced from outside the Republic of South Africa and, if so, what portion and also whether or not any portion of the payment to be made by the *Municipality* is expected to be transferred out of the Republic of South Africa; and
- (8) Bid documentation must stipulate that disputes must be settled by means of mutual consultation, mediation (with or without legal representation), or, when unsuccessful, in a South African court of law.

21. Public Invitation for Competitive Bids

- (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 (i) a public advertisement in newspapers commonly circulating locally, (ii) the website of the *Municipality*, (iii) the National Treasury E-Tender Publication Portal, CIDB and (iv) in any other appropriate manner (which may include an advertisement in the Government Tender Bulletin);

- (b) the information contained in a public advertisement, must include -
- (i) subject to subparagraph 21(2), the closure date for the submission of bids, which may not be less than 30 days in the case of transactions over R10 million (VAT included) or which are of a long-term nature, or 14 days in any other case, reckoned from the date on which the advertisement is placed in a newspaper;
 - (ii) a statement that bids may be submitted only on the original stamped bid documentation provided by the *Municipality*; and
 - (iii) the date, time and venue of any compulsory site meeting or briefing session;
 - (iv) a statement to the effect that a bid from a prospective bidder who did not attend a prescribed compulsory site meeting or briefing session referred to in subparagraph 21(1)(b)(iii) will not be considered.
 - (v) a statement that tenders are valid for a period of at least **120 days**.
 - (vi) a statement that the period of validity may be extended by the *Accounting Officer* or his/her delegate due to unforeseen circumstances, provided that the original validity period has not expired and that all bidders are given an opportunity to extend such period, and such extension will be agreed upon by the bidder in writing.
 - (vii) a statement that if it is anticipated that the letter of acceptance will not be signed before the bid validity period expires, the bidders should be formally requested to consider extending their bid validity. Once that process is done, the validity period ceases to exist and falls away.
 - (viii) a statement that all bidders who have indicated that they are not extending their bid validity period and/or who have not responded to the extension of the validity period will not be evaluated further.
 - (ix) a statement that the bids of those bidders who responded confirming the extension of the validity period of their bids on the same terms and conditions will be evaluated accordingly.
- (2) The *Accounting Officer* may determine a closure date for the submission of *bids* that is less than the 14 or 30 days' requirement, but only if such shorter period can be justified on the grounds of *urgency* and *emergency* or in any exceptional case where it is impractical or impossible to follow the *official* procurement process, and such fact will, for auditing purposes, be recorded in the authority to invite bids (SCM Regulation 36).
- (3) *Bids* submitted, must be sealed and marked in a manner stipulated in the invitation to *bid*.

- (4) Where *bids* are requested in electronic format, such *bids* must be supplemented by sealed hard copies, which must reach the *Accounting Officer* or delegated *official* before the closing time for the receipt of *bids* on the *bid* closing date, as stipulated in the invitation to *bid*.
- (5) Where the *Municipality* invites *bids* for *construction works* with a transaction value greater than R30 000, it must publish such invitations on the website of the Construction Industry Development Board.
- (6) The *Municipality* must also comply with the applicable provisions of the Standard for Uniformity in Construction Procurement contained in Board Notice No. 86 of 2010, issued by the Construction Industry Development Board, insofar as such provisions relate to the invitation of *bids*.

22. Procedure for Handling, Opening and Recording of Bids

- (1) The procedures for the handling, opening and recording of *bids* are as follows:
 - (a) Bids –
 - (i) must be opened only in public;
 - (ii) must be opened at the same time and as soon as possible after the published closing time or period for the submission of *bids*; and
 - (iii) received after the published closing time or period should not be considered and be immediately returned to the bidder, unopened.
 - (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*; except where the two-envelope system has been used, only the bidder's name will be read out.
 - (c) No information, except the information referred to in subparagraph (d), relating to a *bid* should be disclosed to bidders or other *persons* until the successful bidder is notified of the award of the relevant *bid*; and
 - (d) A minimum of four delegated officials opening received *bids* must -
 - (i) date stamp the returnable schedules, and pricing schedule, as well as the bill of quantities;
 - (ii) record in a register to be provided for these purposes, all *bids* received before the closing time or period for the submission of same;
 - (iii) make the aforesaid register available for public inspection during the normal

- office hours of the *Municipality*; and
- (iv) publish the entries in the aforesaid register and the *bid* results on the website of the *Municipality*.

23. Negotiations with Preferred Bidders

- (1) The *Accounting Officer* or delegated *official* may negotiate the final terms of a *contract* with bidders identified through a *competitive bidding process* as preferred bidders, provided that such negotiation:
 - (a) does not allow any preferred bidder a second or unfair opportunity;
 - (b) is not to the detriment of any other bidder; and
 - (c) does not lead to a higher *price* than the *bid* submitted;
 - (d) will not be contrary to any legal requirement or amount to a prohibited practice.

- (2) The *Accounting Officer* or delegated *official* may:
 - (a) negotiate a market-related price with the tenderer scoring the highest points, or cancel the *tender*;
 - (i) if the tenderer does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the second highest points, or cancel the *tender*;
 - (ii) if the tenderer scoring the second highest points does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the third highest points, or cancel the *tender*.
 - (iii) if a market-related price is not agreed as envisaged in paragraph (2)(a)(i) or (ii), the *Municipality* must cancel the *tender*.

- (3) Minutes of such negotiations must be kept for record and audit purposes.

24. Two-stage Bidding Process

- (1) A two-stage bidding process is permissible for -
 - (a) large complex projects;
 - (b) projects where it may be undesirable to prepare complete detailed technical specifications; or
 - (c) long-term projects with a duration period exceeding three years.

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

- (3) In the second stage, final technical proposals and priced *bids* should be invited.

25. Committee System for Competitive Bids

- (1) A committee system for *competitive bids* must be established, consisting of the following committees for procurement as the *Accounting Officer* may determine:

- (a) a Bid Specification Committee;
- (b) a Bid Evaluation Committee; and
- (c) a Bid Adjudication Committee.

- (2) The *Accounting Officer* must,

- (a) in writing, appoint the members of each committee, taking into account the provisions of Section 117 of the *Municipal Finance Management Act* in terms of which no *Councillor* may be a member of any such Committee or attend any of its meetings as an observer.
- (b) ensure that appointed Bid Committee Members sign the **Code of Conduct for Supply Chain Management Practitioners and Other Role Players**. Refer **Annexure “C”**.
- (c) ensure that the Bid Committees’ chairpersons compile and submit monthly reports to him.

- (3) A neutral or independent observer, appointed by the *Accounting Officer*, may attend or oversee a Committee when this is appropriate for ensuring fairness and promoting transparency.

- (4) The committee system must be consistent with -

- (a) paragraphs 26, 27 and 28 of this policy; and
- (b) any *other applicable legislation*.

26. Bid Specification Committees

- (1) The Bid Specification Committee must consist of at least three members, one of whom must be a Supply Chain Management Practitioner.

- (2) A Bid Specification Committee will be composed of an appointed Chairperson, Supply Chain Management Practitioner, one or more officials of the *Municipality*, preferably the manager responsible for the function involved, and may, when appropriate, include external specialist advisors.

- (a) A Bid Specification Committee must compile specifications for procurement of goods, work and/or services by the *Municipality* and where feasible, ensure:

- (i) that large projects are unbundled; and
 - (ii) that 25% of the *contract* value is subcontracted to the groups targeted for *Specific Goals* for contracts with a value equal to or above R7.5 million for the construction sector, and equal to or above R5 million for the other sectors such as the services sector.
- (b) No *person*, advisor or corporate entity involved with the Bid Specification Committee, or any director of such a corporate entity, may *bid* for any resulting *contracts*.
 - (c) If a *bid* specification is compiled based on findings and recommendations from a prior associated feasibility study, the *person*, advisor or corporate entity who prepared the said feasibility study is prohibited from bidding for the resulting *contracts* if they might gain an unfair advantage or where a conflict of interest may arise.
 - (d) Any *person* that assisted in the drafting of a *bid* specification is prohibited from bidding for the resulting contracts if such *person*, advisor or corporate entity may obtain an unfair advantage or where a conflict of interest may arise.

General Requirements

- (3) Any specification referred to in paragraph 26 must be approved by the *Accounting Officer* or delegated *official* in writing prior to the publication of the invitation for *bids*.
- (4) Specifications –
 - (a) must be drafted in an unbiased manner to allow all potential suppliers to offer their goods, work and/or services to the *Municipality*;
 - (b) must take account of any accepted standards such as those issued by the South Africa Bureau of Standards (SABS), the International Standards Organization (ISO) or an authority accredited or recognized by the South African National Accreditation System (SANAS) 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 form of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labelling of conformity certification;
 - (e) may not make reference to any particular trademark, 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) must indicate each *Specific Goal* for which points may be awarded in terms of the

points system set out in **Annexure A** and **Implementation Guidelines for Specific Goals** this policy or as set out in any further policy or implementation guideline for specific goals that may be issued by the *Municipality* from time to time;

- (g) must specify the terms applicable to the application of the preference point system and be consistent with the Procurement Section of this policy or as set out in any further policy or implementation guideline for specific goals that may be issued by the *Municipality* from time to time.

Samples

(5) The following applies in respect of samples:

- (a) 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) will be delivered separately to the addressee mentioned in the *bid* documents.
- (b) *Bids* must not be included in parcels containing samples.
- (c) If samples are not submitted as required in the *bid* documents or within any further time stipulated by the Chairperson of the Bid Evaluation Committee in writing, the *bid* concerned may be declared *non-responsive*.
- (d) Samples will be supplied by a bidder at his/her own expense and risk. The *Municipality* will not be obliged to pay for such samples or compensate for the loss thereof, unless otherwise specified in the *bid* documents, and will reserve the right not to return such samples and to dispose of them at its own discretion.
- (e) 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.
- (f) All goods/materials supplied must comply in all respects to that *contract* sample.

Functionality

(6) Where *functionality* is utilised as an evaluation criterion, the specifications must clearly specify:

- (a) the evaluation criteria for measuring functionality (which criteria must be objective), the weight of each criterion, the applicable values, and the minimum qualifying score for functionality.
- (b) the minimum qualifying score for functionality for a tender to be considered further-
 - (i) must be determined separately for each tender; and
 - (ii) may not be so-
 - aa) low that it may jeopardise the quality of the required goods, work and/or services; or

- bb) high that it is unreasonably restrictive.
- (c) the fact that no tender will be regarded as an acceptable tender if it fails to achieve the minimum qualifying score for functionality, as indicated in the tender specification concerned;
- (d) that tenders that have achieved the minimum qualification score for functionality will be evaluated further in terms of the preference point systems; and
- (e) that points scored for functionality must be rounded off to the nearest two decimal places.

80/20 Preference Points System (refer to also Annexure A and Implementation Guidelines for Specific Goals)

- (7) A *bid* must include the following preference point evaluation system for the acquisition of goods, works and/or services above R750 000 up to a *Rand value* of R50 Million (*all applicable taxes* included) **(Refer to Annexure A)**:
 - (a) The 80/20 preference point system will apply, allocating 80 points for *price* and 20 points for *Specific Goals*.
 - (b) The *Municipality* will determine the *Specific Goals* to apply in any combination format, depending on its preferred targets for a specific *bid*.
 - (c) The Bid Specification Committee will identify *Specific Goals* aligned with the objectives outlined in the *Municipality's* IDP and SDBIP, the RDP, and/or the NDP, which must be included in the tender document, where appropriate.
 - (d) The following groups may be targeted for *Specific Goals*:
 - (i) *Black people*
 - (ii) Women
 - (iii) Youth
 - (iv) Persons with disabilities
 - (v) Co-operatives
 - (vi) Military Veterans
 - (vii) Business Enterprises within the locality of *Municipality* or Sarah Baartman or Eastern Cape. Points will be awarded on a sliding scale.
 - (e) Any combination of *Specific Goals* may be applied, with the total points allocated adding up to 20 points.
 - (f) When evaluating *bids* of *Joint Ventures/Consortia*, the following will apply –
 - (i) preference points must be allocated proportionately for such bidders in terms of their attributes or qualification for the relevant *Specific Goal* that is being scored, subject to the *joint venture/consortium* submitting the relevant proof of substantiation of points claimed as stipulated in the bidding documents.

- (ii) The points scored for the *Specific Goals* must then be added to the points scored for *price* and rounded off to the nearest two decimal points.

90/10 Preference Points System (refer to also Annexure A and Implementation Guidelines for Specific Goals)

- (8) A bid must include the following preference points evaluation system for the acquisition of services, works or goods with a *Rand value* above R50 million (*All applicable taxes included*) **(Refer to Annexure A):**
 - (a) The 90/10 preference point system will apply, where 90 points will be allocated towards price and 10 points towards Specific Goals.
 - (b) The *Municipality* will determine the *Specific Goals* to apply in any combination format depending on its preferred targets for a specific *bid*.
 - (c) The Bid Specification Committee will determine *Specific Goals* which are aligned to the objectives set out in the *Municipality's* IDP and SDBIP, the RDP and/or the NDP which must form part of the tender document, where appropriate.
 - (d) The following groups may be targeted for *Specific Goals*:
 - (i) *Black people*
 - (ii) Women
 - (iii) Youth
 - (iv) Persons with disabilities
 - (v) Co-operatives
 - (vi) Military Veterans
 - (vii) Business Enterprise within the locality of *Municipality* or Sarah Baartman or Eastern Cape. Points will be awarded on a sliding scale.
 - (e) Any combination of *Specific Goals* may be used. The points allocated must add up to 10 points.

Income Generating Contracts (refer to also Annexure A and Implementation Guidelines for Specific Goals)

- (9) Specifications must also provide, as a special condition of *tender* –
 - (a) the 80/20 preference point system for tenders for income generating contracts with a *Rand value* equal to or below R50 million.
 - (b) the 90/10 preference point system for tenders for income generating contracts with a *Rand value* above R50 million.
- (10) If there is uncertainty regarding the preference points system to be applied, the *Municipality* must advertise the *tender* indicating that the *tender* will be evaluated using

either the 80/20 or 90/10 preference point system. Once tenders are received, the *highest acceptable tender* must be used to determine the preference points system to be applied for the evaluation of tenders.

- (11) The responsive *bid* that scores the highest number of adjudication points must be recommended for acceptance unless objective criteria, in addition to those Specific Goals contemplated in section 2 of the PPPFA, justify the acceptance of another *bid*. Such objective criteria include whether the recommended bidder:
- (a) has not demonstrated that it has the necessary resources and skills required to fulfil its obligations in terms of the bid document at the price tendered;
 - (b) poses any material risk to the *Municipality*;
 - (c) is a supplier to whom notice has been served regarding abuse of the supply chain management system;
 - (d) is a supplier with whom the *Municipality* has cancelled a contract as a result of an unremedied breach by the Supplier, for inter alia, non-performance within the last 5 years.

Miscellaneous Special Conditions of Tender

- (12) A *bid* specification must, inter alia, include the following conditions as Special Conditions of *Tender*:
- (a) General:
 - (i) only a tenderer who has completed and signed the declaration part of the tender documentation may be considered;
 - (ii) when comparative prices must be calculated, any discounts which have been offered unconditionally will be taken into account;
 - (iii) a discount which has been offered conditionally will, despite not being taken into account for evaluation purposes, be implemented when payment to a tenderer in respect of an accepted *tender* is effected;
 - (iv) points scored will be rounded off to the nearest 2 decimal places.
 - (v) in the event that two or more tenders score equal total points, the successful tender will be the one scoring the highest number of preference points for *Specific Goals*.
 - (vi) if two or more tenders score equal total points in all respects, the award must be decided by the *drawing of lots*.

Declarations

- (13)** A tenderer must -
- (a)** declare that the information provided in a tender document is true and correct;
 - (b)** declare that the signatory to a tender document is duly authorised; and
 - (c)** undertake to submit documentary proof regarding any tendering issue when required to the satisfaction of the *Municipality*.

Remedies

- (14)** Upon detecting that a tenderer submitted false information in respect of which a point has been allocated for either functionality or regarding its Specific Goals status, or any other matter required in terms of the *Regulations* which will affect or has affected the evaluation of a *tender*, or where a tenderer has failed to declare any subcontracting arrangements, the *Accounting Officer* or delegated *official* must-
- (a)** inform the tenderer accordingly;
 - (b)** give the tenderer an opportunity to make representations within 14 days as to why-
 - (i)** the tender submitted should not be disqualified, or
 - (ii)** if the *tender* has already been awarded to the tenderer, the *contract* should not be terminated in whole or in part;
 - (iii)** if the successful tenderer subcontracted a portion of the *tender* to another *person* without disclosing it, the tenderer should not be penalised up to 10 percent of the value of the *contract*, and
 - (iv)** the tenderer should not be restricted by the National Treasury from conducting any business for a period not exceeding 10 years with any *organ of state*.
 - (c)** If, after considering the representations referred to in subparagraph 26(12)(a), the *Municipality* concludes that such information is false—
 - (i)** disqualify the tenderer or terminate the *contract* in whole or in part; and
 - (ii)** if applicable, claim damages from the tenderer.
- (15)** In addition to the action contemplated in paragraph 26(14) of this policy which will be read in conjunction with this subparagraph:
- (a)** The *Municipality* will, upon detecting that points for functionality or the Specific Goals status and/or local production and content certification has/have been claimed or obtained by a tenderer on a fraudulent basis, or any of the conditions of a *contract* awarded to such tenderer or *contractor* have not been fulfilled, act against such tenderer or *person* awarded the ensuing contract.
 - (b)** The *Municipality* may, in addition to any other remedy it may have against the *person* contemplated in subparagraph 26(14) above-
 - (i)** disqualify the *person* concerned from the bidding process;

- (ii) recover all costs, losses or damages it has incurred or suffered as a result of that person's conduct;
 - (iii) cancel the relevant *contract* and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation.
- (c) The *Municipality* may restrict a tenderer or *contractor*, its shareholders and directors, or only the shareholders and directors, as the case may be, who acted on a fraudulent basis in connection with a *tender*, from obtaining business from the *Municipality* for a period not exceeding 10 years, provided that, before exercising this right, the *Municipality* will give the persons or parties concerned an opportunity to make representations and be heard in defence of such contemplated action; and
- (d) The *Municipality* may refer any fraudulent action on the part of a tenderer or *contractor* or any party aforesaid to the South African Police Services (SAPS) with a view to criminal prosecution.
- (e) The *Municipality* may penalise a successful tenderer who subcontracted a portion of the *tender* to another *person*, contrary to this policy, up to 10% of the value of the *contract*.
- (f) The *Municipality* must -
 - (i) inform the National Treasury, in writing, of any actions taken in terms of subparagraph 26(14);
 - (ii) provide written submissions as to whether the tenderer should be restricted from conducting business with any *organ of state*; and
 - (iii) submit written representations from the tenderer as to why that tenderer should not be restricted from conducting business with any *organ of state*.
- (g) The National Treasury may request the *Municipality* to submit further information pertaining to subparagraph 26(14) within a specified period.
- (h) The National Treasury must –
 - (i) after considering the representations of the tenderer and any other relevant information, decide whether to restrict the tenderer from doing business with any *organ of state* for a period not exceeding 10 years; and maintain and publish on its official website a list of restricted suppliers.

27. Bid Evaluation Committees

- (1) A Bid Evaluation Committee must as far as possible be composed of at least three (3) members, including but not limited to:
 - (a) a chairperson appointed by the *Accounting Officer*;
 - (b) a supply chain management practitioner of the *Municipality*;

- (c) *official/s* from departments requiring the goods, work and/or services;
 - (d) a representative from Legal Services, as and when required and
 - (e) an external specialist/expert, to provide advise to the Bid Evaluation Committee as and when required.
- (2) A Bid Evaluation Committee must -
- (a) evaluate *bids* in accordance with the relevant *bid* specification, inclusive of unconditional discounts, sub-contracting requirements, and in accordance with *the Policy*; and
 - (b) check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not in arrears, and
 - (c) in the event that it is determined that none of the bidders responding to a particular invitation to *tender* have submitted acceptable tenders, the matter must be referred to the Bid Adjudication Committee for cancellation.
 - (d) evaluate each bidder's ability to execute the *contract* provided that, where *bids* are invited on the basis of *functionality* as a criterion, they must be evaluated in the following two stages:
 - (i) **First stage - evaluation of functionality**
 - aa) *bids* must be evaluated in terms of the evaluation criteria embodied in the *bid* specification. The amendment of evaluation criteria, weights, applicable values and/or the minimum qualifying score for *functionality* after the closure of *bids* is not allowed as this may jeopardize the fairness of the process;
 - bb) a *bid* will be considered further if it achieves the prescribed minimum qualifying score for *functionality*;
 - cc) *bids* that fail to achieve the minimum qualifying score for *functionality* must be disqualified;
 - dd) score sheets should be prepared and provided to panel members to evaluate the *bids*;
 - ee) a score sheet should contain all the criteria and the weight for each criterion as well as the values to be applied for evaluation as indicated in the *bid* specification;
 - ff) each panel member should, after thorough evaluation, independently award his own value to each individual criterion;
 - gg) score sheets should be signed by panel members and if necessary, a written motivation may be requested from panel members where vast discrepancies in the values awarded for each criterion exist - provided that if the minimum qualifying score for *functionality* is indicated as a

percentage in the *bid* specification, the percentage scored for *functionality* may be calculated as follows:

- (i) the value awarded for each criterion should be multiplied by the weight for the relevant criterion to obtain the score for the various criteria;
- (ii) the scores for each criterion should be added to obtain the total score; and
- (iii) the following formula should be used to convert the total score to percentage for *functionality*:

$$P_s = \frac{S_o}{M_s} \times 100$$

Where:

Ps = percentage scored for *functionality* by *bid* under consideration

So = total score of *bid* under consideration

Ms = maximum possible score

hh) the percentage of each panel member should be added and divided by the number of panel members to establish the average percentage obtained by each bidder for *functionality*.

(ii) Second stage - Evaluation in terms of the 80/20 or 90/10 preference point systems

aa) Only *bids* that achieve the minimum qualifying score / percentage for *functionality* must be evaluated further in accordance with the *bid* specification.

(e) evaluate *bids* based on a *stipulated minimum threshold* as required in the relevant *bid* specification in the following two stages:

(i) First stage – Evaluation in terms of the stipulated minimum threshold

aa) *bids* must be evaluated in terms of the evaluation criteria stipulated in the *bid* specification. The amendment of the *stipulated minimum threshold* after the closure of *bids* is not allowed as this may jeopardize the fairness of the process;

(ii) Second stage - Evaluation in terms of the 80/20 or 90/10 preference point systems

aa) only *bids* that achieve the minimum stipulated threshold must be evaluated further in accordance with the relevant preference point system referred to in the *bid* specification.

- bb)** where appropriate, prices may be negotiated only with short listed or preferred bidders. Such negotiations must, however, not prejudice any other bidders.
- (f)** check in respect of the recommended bidder whether or not such bidder's municipal rates and taxes and municipal service charges are not in arrears;
- (g)** disqualify and exclude from further evaluation and adjudication, all tenders which are not acceptable as defined, in particular and without derogating from the generality of a foregoing:
 - (i)** Tenders that do not include the information or documents prescribed in paragraph 13 and 20 hereof.
 - (ii)** Tenders that are not tax compliant as prescribed by South African Revenue Services (SARS).
 - (iii)** Tenders that do not include the certificate as prescribed by subparagraph 13(1)(d) hereof, or in regard to which the tenderer or any of its directors are in fact indebted to the *Municipality* for rates, taxes and/or municipal services that are in arrears (and where it is contended that arrangements have been made with the *Municipality*, written proof thereof is not supplied).
 - (iv)** Tenders submitted by a tenderer that failed during the five years preceding the closing date for the submission of tenders to perform satisfactorily on any *contract* with the *Municipality* or any other *organ of state* in respect of which the bidder has been given written notice his/its performance was unsatisfactory.
 - (v)** Tenders submitted by a tenderer who or which is listed on the National Treasury's Register for Tender Defaulters in terms of the Prevention and Combating of Corrupt Activities Act 12 of 2004 or who or which is included on the List of Restricted Suppliers and is accordingly prohibited from doing business with *organs of state*.
 - (vi)** Tenders submitted by a partnership/*joint venture/consortium* which do not include the agreement prescribed in subparagraph 13(1)(f) hereof.
 - (vii)** Tenders in which information has been inserted by means of pencil or in which deletions have been affected by the use of tippex or similar product or which contain alterations or amendments which have not been signed in full and dated by the tenderer or its authorised signatory.
- (h)** the status of recommended bidders (including their directors(s), owners(s) or *trustee(s)*) by checking the Data Base of Restricted Suppliers maintained by National Treasury in order to ensure that no recommended bidder or any of its directors/owners/trustees are listed as companies or persons prohibited from doing business with the public sector.
- (i)** submit to the Bid Adjudication Committee a report and recommendations regarding

the award of the *bid* or any other related matter provided that:

- (i) a *contract* must be awarded to the bidder who scored the highest total number of points in terms of the preference points systems referred to in paragraph 26; and
- (ii) in exceptional circumstances and as provided in subparagraph 26(11) of this policy, a *contract* may be awarded to a bidder that did not score the highest number of points provided that the reasons for such a recommendation are recorded for audit purposes and be defensible in a court of law.

28. Bid Adjudication Committees

- (1) A Bid Adjudication Committee must consist of at least four (4) senior managers of the *Municipality* and must include -
 - (a) the *Chief Financial Officer* or, if the *Chief Financial Officer* is not available, another manager in the Budget and Treasury Office reporting directly to the *Chief Financial Officer* and delegated by the *Chief Financial Officer*; and
 - (b) at least one (1) senior Supply Chain Management practitioner who is an *official* of the *Municipality*; and
 - (c) a technical expert in the relevant field who is an *official* of the *Municipality* if the institution has such an expert.
- (2) The *Accounting Officer* must appoint the chairperson of the committee who will preferably be the *Chief Financial Officer* or a *senior manager*. If the chairperson is absent from a meeting, the members of the committee who are present must elect one of them to preside over the meeting, and such election must be recorded in the minutes of the meeting concerned.
- (3) Only with the consent of the *Accounting Officer* and upon request by the Bid Adjudication Committee, a member of a Bid Specification Committee, Bid Evaluation Committee and/or an advisor or *person* assisting these committees may be a member of a Bid Adjudication Committee for the purpose of providing clarity and an explanation of difficult technical aspects relating to the *bid* being adjudicated.
- (4) A Bid Adjudication Committee must –
 - (a) consider the report and recommendations of the Bid Evaluation Committee submitted in terms of paragraph 27(2)(h); 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* on how to proceed with the relevant procurement.
 - (c) ensure that –
 - (i) all necessary *bid* documents have been submitted;
 - (ii) disqualifications are justified and that valid and accountable reasons/motivations were furnished for passing over of *bids*;
 - (iii) scoring has been fair, consistent and correctly calculated and applied; and
 - (iv) bidders declarations of interest have been taken cognizance of.
- (5) 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 whether the preferred bidder's municipal rates and taxes, and municipal service charges are not in arrears.
 - (b) Where the recommended bidder is not tax compliant, the bidder should be notified of their non-compliant status and the bidder must be requested to submit to the *Municipality* or municipal entity, within 7 working days, written proof from SARS of their tax compliance status or proof from SARS that they have made an arrangement to meet their outstanding tax obligations.
 - (c) Notify the *Accounting Officer* of the deviation from the Bid Evaluation Committee recommendation.
- (6) The Bid Adjudication Committee must also consider and rule on all recommendations/reports regarding the amendment, variation, extension, cancellation or transfer of contracts awarded.
- (7) The Bid Adjudication Committee may also, if and when required to do so, consider for approval the recommendations of the Bid Specification Committee in order to ensure the following:
- (a) A proper and unbiased specification is compiled for the specific requirement.
 - (b) Proper and clear Terms of Reference are drawn up for the service required.
 - (c) The scope of the requirement and the ratio between *price* and *functionality* are indicated.
 - (d) The evaluation criteria as well as their weights and values are stated.
 - (e) Strategic sourcing principles were applied and that the market was properly researched and analysed.
 - (f) The necessary funds are available.
 - (g) If and when applicable, in addition to the General Conditions of Contract, appropriate Special Requirements and Conditions of Contract are specified.

- (h) The preference point system is prescribed and appropriate goals are identified and the points allocated for these goals are consistent with the requirements of the *Preferential Procurement Regulations*.
 - (i) Where appropriate, ranges have been set indicating breakdown of the points/percentages, as provided for in the relevant sliding scales for the selected specified goals.
- (8) The *Accounting Officer* may -
 - (a) after due consideration of the reasons for the deviation, ratify or reject the decision of the Bid Adjudication Committee referred to in subparagraph 28(5)(c); 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.
- (9) 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.
- (10) If a *tender* other than the one recommended in the normal course of implementing this policy is approved, the *Accounting Officer* must, in writing and within 10 working days, notify the Auditor-General and the National and Provincial Treasuries of the reasons for deviating from such recommendation.
- (11) Subparagraph 28(10) does not apply if a different *tender* was approved in order to rectify an irregularity.
- (12) The Bid Adjudication Committee may recommend to the *Accounting Officer* prior to the award of a *tender*, by notice in the media in which the original *tender* was advertised, to cancel such *tender* in the following circumstances:
 - (a) If, due to changed circumstances, there is no longer a need for the goods, services or works requested;
 - (b) If funds are no longer available to cover the total envisaged expenditure;
 - (c) If no acceptable *bids* are received;
 - (d) If, in the event that, in the application of the 80/20 preference point system as stipulated in the *bid* documents, all *bids* received exceed the estimated *Rand value* of R50 million;
 - (e) If, in the event that, in the application on the 90/10 preference point system as stipulated in the *bid* documents, all *bids* received are equal to, or below R50 million;
 - (f) If there is a material irregularity in the tender process.

- (13) The *Accounting Officer* must re-invite *tenders* cancelled in terms of subparagraphs 28(12)(d) and (e) and must, in the new *tender* documents, stipulate the correct preference point system to be applied.
- (14) The decision to cancel a *tender* invitation must be published in the same manner in which the original *tender* invitation was advertised.
- (15) The *Municipality* may only with the prior approval of the *Accounting Officer* cancel a *tender* invitation for the second time.

29. Procurement of Banking Services

- (1) A *contract* for banking services -
 - (a) must be procured through *competitive bids*;
 - (b) must be consistent with Section 7 or 85 of the *Municipal Finance Management Act*; and
 - (c) may not be for a period of more than five (5) years at a time.
- (2) The process for procuring a *contract* for banking services must commence at least nine (9) months before the end of an existing *contract*.
- (3) The closing date for the submission of *bids* may not be less than 60 days from the date on which the advertisement is placed in a newspaper in terms of paragraph 21(1).
- (4) *Bids* must be restricted to banks registered in terms of the Banks Act 94 of 1990.

30. Procurement of Information and Communication Technology (ICT) Related Goods, Work and/or Services

- (1) The *Accounting Officer* may request the State Information Technology Agency (SITA) to assist in acquiring ICT related goods, work and/or services through a *competitive bidding process*.
- (2) Both parties must enter into a written agreement to regulate the services rendered by, and the payments to be made to SITA.

- (3) The *Accounting Officer* must notify the SITA together with a motivation of the ICT needs if -
- (a) the transaction value of ICT related goods, work and/or services required in any financial year will exceed R50 million (VAT included); or
 - (b) the transaction value of a *contract* to be procured, whether for one or more years, exceeds R50 million (VAT included).
- (4) If SITA comments on the submission and the *Municipality* does not agree with such comments, the comments and the reasons for rejecting or not following such comments must be submitted to the *Council*, the National and Provincial Treasuries and the Auditor-General.
- (5) All ICT related procurements must be approved by the ICT Steering Committee before following the Supply Chain Management process.

31. Procurement of Goods, Work and/or Services Under Contracts Secured by Other Organs of State

- (1) The *Accounting Officer* may procure goods, work and/or services under a *contract* secured by another *organ of state*, but only if –
- (a) the contract has been secured by that other *organ of state* by means of a competitive bidding process applicable to that *organ of state*;
 - (b) there is no reason to believe that such contract was not validly procured;
 - (c) there are demonstrable discounts or benefits to do so; and
 - (d) that other *organ of state* and the provider have consented to such procurement in writing.
- (2) Subparagraphs 31(1) do not apply if –
- (a) an entity of the *Municipality* procures goods, work and/or services through a *contract* secured by the *Municipality*; or
 - (b) the *Municipality* procures goods, work and/or services through a *contract* secured by its municipal entity.
- (3) The *Municipality* may dispense with the *competitive bidding process* in terms of regulation 32 of the Municipal SCM Regulations, provided that:
- (a) The *Municipality* complies with subparagraph 31(1);
 - (b) The goods or services that were procured by the *organ of state* are exactly the same in every respect including the terms and conditions required by the *Municipality*.

32. Procurement of Goods Necessitating Special Safety Arrangements

- (1)** The acquisition and storage of goods in bulk (other than water), including gasses and fuel, which necessitate special safety arrangements should be avoided wherever possible.
- (2)** Where the storage of goods in bulk is justified, such justification must be based on sound reasons, including the total cost of ownership, cost advantages and environmental impact, and must be approved by the *Accounting Officer*.

33. Proudly South African Campaign

- (1)** In supporting the Proudly South African Campaign, the *Accounting Officer* may include in any invitation to bid that only locally produced goods, services or works will be considered, on condition that such prescript and threshold(s) are in accordance with the specific directives issued for this purpose by the Department of Trade, Industry and Competition (DTIC) in consultation with National Treasury and, in such event, the requirements stipulated in subparagraph 32 will be inserted in the tender specification.

Local Production

- (2)** Where local production and content is of critical importance, the tender specification must clearly state as a special condition of *contract* 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 tender specification must also stipulate:
 - (a)** that the exchange rate to be used for the calculation of *local content* or local production will be the exchange rate published by the South African Reserve Bank (SARB) at 12:00 on the date, one week (7 calendar days) prior to the closing date of the invited bid;
 - (b)** that only the South African Bureau of Standards (SABS) approved Technical Specification Number SATS 1286:201x will be used to calculate *local content* in accordance with the following formula:

$$LC = 1 - \frac{X}{y} \times 100$$

Where

x = *imported content*

y = bid price, excluding Value Added Tax (VAT)

and that the prices referred to in the determination of x must be converted to Rand (ZAR) by using the exchange rate published by the South African Reserve Bank (SARB) at 12:00 on the date, one week (7 calendar days) prior to the closing date of the bid;

- (c) that the Form MBD 6.2 (Declaration Certificate for *Local Content*) duly completed and signed, must form part of the bid documentation;
 - (d) that the *Municipality* reserves the right to verify the accuracy of the rates of exchange quoted by the bidder in paragraph 4.1 of the aforesaid Certificate.
 - (e) the specification document must indicate clearly that:
 - (i) if a tenderer fails to complete and submit form MBD 6.2 that no preferential points for this specific goal will be allocated.
 - (ii) if a tenderer does not comply with *stipulated minimum threshold* for local production and content, in accordance with the specific directives issued by the Department of Trade and Industry in consultation with National Treasury, no preferential points for this specific goal will be allocated.
- (4) Where necessary, bid specifications for *tenders* referred to in paragraph 24 may state that a two-stage tendering process will be followed. The first stage will involve *functionality* and minimum threshold for local production and content. The second stage will involve *price* and *Specific Goals*. In the case of short-listed tenderers only and to effect cost savings in circumstances where the tendered prices are obviously inflated or to ensure the award of the *tender* concerned within budgetary constraints, provided that where such negotiations take place, the principles contained in paragraph 24 of *the Policy* will be applied.
- (5) Any *tender* specification issued in terms of this subparagraph must be capable of being measured and audited.
- (6) A *tender* that fails to meet the minimum stipulated threshold for local production and content is an unacceptable *tender*.

34. Appointment of Consultants

- (1) The *Accounting Officer* may procure consulting services, provided that any *Treasury guidelines* or CIDB guideline, where applicable, in respect of consulting services are taken into account when such procurement is made.
- (2) In accordance with Section 5 of the Municipal Cost Containment Regulations, the *Municipality* will only appoint consultants if an assessment of the needs and requirements confirms that *the Municipality* does not have the requisite skills or resources in its full time employ to perform the function.
- (3) A *contract* for the provision of consultancy services must be procured through *competitive bids* if –
 - (a) the value of the *contract* exceeds R750 000 (VAT included);
 - (b) the period of the *contract* exceeds one year.
- (4) When appointing consultants, the *Accounting Officer* must:
 - (a) appoint consultants on a time and cost basis with specific start and end dates;
 - (b) only *contract* with consultants after a gap analysis report has confirmed that the *Municipality* does not have the requisite skills or resources in its permanent employment to perform the services required;
 - (c) where practical, appoint consultants on an output-specified basis, subject to a clear specification of deliverables and associated remuneration;
 - (d) ensure that contracts with consultants include overall cost ceilings by specifying whether the contract price is inclusive or exclusive of travel and subsistence disbursements;
 - (e) ensure the transfer of skills by consultants to the relevant officials of *the Municipality* and/or its entity/ies, where possible;
 - (f) develop consultancy reduction plans;
 - (g) ensure that evidence of acute planning of the project is visible to all relevant persons, including the administration and political oversight mechanisms in place in the *Municipality*;
 - (h) ensure that consultants, including construction and infrastructure related services, are remunerated at the rates equal to or below those:
 - (i) determined in the “Guidelines on fees for audits done on behalf of the Auditor-General South Africa”, issued by the South African Institute of Chartered Accountants (SAICA);
 - (ii) set out in the “Guide on Hourly Fee Rates for Consultants”, by the Department of Public Service and Administration (DPSA); or

- (iii) prescribed by the body regulating the profession of the *consultant*;
 - (i) ensure that an exacting “specification” of the work to be accomplished accompanies the *tender* and is used as a monitoring tool, are appropriately recorded and monitored;
 - (j) ensure that contracts for consultants include retention or penalty clauses for poor performance and in this regard, the *Accounting Officer* must invoke such clauses, where deemed necessary;
 - (k) ensure that travel and subsistence costs for the appointment of consultants are in accordance with the travel policy of government and that the contract price specifies all travel and subsistence costs;
 - (l) ensure that in the event that travel and subsistence costs for appointed consultants are exclusive of the *contract*, the costs are in accordance with the following provisions:
 - (i) Hotel accommodation may not exceed the regulated amount contained in the Cost Containment Regulation.
 - (ii) Only Economy Class air tickets may be purchased for flights.
 - (iii) Only Group B vehicles or lower may be hired for engagements.
 - (iv) Kilometers claimed for the use of private vehicles may not exceed the rates approved by the National Department of Transport, as updated from time to time.
- (5) It is mandatory that *Accounting Officers* or delegated *officials* conclude on the best “value for money”, i.e., matching fees against quality and benchmarked practices.
- (6) All engagements of consultants must be undertaken in accordance with the Preferential Procurement *Regulations* and this policy.
- (7) 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 (5) years; and
 - (b) any similar consultancy services provided to an *organ of state* in the last five (5) years.
- (8) The *Accounting Officer* may establish a database of pre-qualified consultants in various fields as may be determined in an SCM procedure manual.
- (9) The *Accounting Officer* must ensure that copyright on any document produced, and the patent rights or ownership in any plant, machinery, thing, system or process designed or

devised by a *consultant* in the course of the consultancy service, is vested in the *Municipality*.

35. 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, work and/or services through any convenient process, which may include direct negotiations, but only in respect of -

(i) any contract relating to an emergency (as described below) where it would not be in the interests of the *Municipality* to invite *bids*;

(ii) any goods, work and/or services which are produced or available from a single provider only;

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

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

(v) any other exceptional case where it is impractical or impossible to follow the *official* procurement processes, including but not limited to:

(aa) any purchase on behalf of the *Municipality* at a public auction sale;

(bb) any contract in respect of which compliance therewith would not be in the public interest;

(cc) any ad hoc repairs to plant and equipment where it is not possible to ascertain the nature and extent of the work required in order to call for bids;

(dd) In the event of a major system failure; or

(ee) The event where the delivery of municipal services would be significantly restricted.

(b) ratify any minor breaches of the procurement processes by an *official* or Committee acting in terms of delegated powers or duties that are purely of a technical nature.

(2) The *Accounting Officer* must record the reasons for any deviations in terms of subparagraphs 35(1)(a) and (b) of *the Policy* and report them to the next meeting of the *Council* and also include such reasons as a note to the Annual Financial Statements.

(3) Subparagraph 35(2) does not apply to the procurement of goods, work and/or services contemplated in paragraph 11(2) of this policy.

- (4) The conditions warranting emergency dispensation should include the existence of one or more of the following:
- (d) The possibility of human injury or death;
 - (e) The prevalence of human suffering or deprivation of rights;
 - (f) The possibility of damage to property, or suffering and death of livestock and animals;
 - (g) The interruption of essential services, including transportation and communication facilities or support services critical to the effective functioning of the *Municipality* as a whole;
 - (h) The possibility of serious damage occurring to the natural environment;
 - (i) The possibility that failure to take necessary action may result in the *Municipality* not being able to render an essential community service;
 - (j) The possibility that the security of the state could be compromised.
- (5) The prevailing situation or imminent danger should be of such a scale and nature that it could not readily be alleviated by interim measures, in order to allow time for the formal procurement process. Emergency dispensation will not be granted in circumstances other than those contemplated above.
- (6) The procurement procedure to be followed in an emergency situation will be determined by the *Accounting Officer*.

36. Unsolicited Bids

- (1) An unsolicited *bid* is a *bid* that is submitted by a prospective supplier to the *Municipality* without any procurement requirement first having been identified and advertised. This situation arises when a supplier identifies an opportunity to render services or supply products not ordinarily required by the *Municipality*.
- (2) In accordance with Section 113 of the *Municipal Finance Management Act*, there is no obligation on the *Municipality* to consider unsolicited bids received outside the normal bidding processes.
- (3) The *Accounting Officer* may decide in terms of Section 113(2) of the *Municipal Finance Management Act* to consider an unsolicited *bid*, but 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 the *Municipality* or have exceptional cost advantages;

- (c) the *person* who made the *bid* is the sole provider of the product or service concerned; and
 - (d) the reasons for not going through the normal bidding processes are found to be sound by the *Accounting Officer*.
- (4) If the *Accounting Officer* decides to consider an unsolicited *bid* that complies with subparagraph 36(3), his 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 on the proposal within 30 days of the publication of the relevant notice.
- (5) The *Accounting Officer* must submit all written comments received pursuant to subparagraph 36(4), including any responses from the unsolicited bidder to the National and Provincial Treasuries for comment.
- (6) Subject to subparagraphs 36(7) and (8) below, the Bid Adjudication Committee must consider the unsolicited *bid* and may, depending on its delegations, award the *bid* or make a recommendation to the *Accounting Officer*.
- (7) A meeting of the Bid Adjudication Committee to consider an unsolicited *bid* must be open to the public.
- (8) When considering the matter, the Bid Adjudication Committee must take into account -
 - (a) any comments submitted by the public; and
 - (b) any written comments and recommendations of the National and Provincial Treasuries.
- (9) If any recommendations of the National and Provincial Treasuries are rejected or not followed, the *Accounting Officer* must submit to the Auditor-General and the National and Provincial Treasuries the reasons for rejecting or not following those recommendations.
- (10) Such submission must be made within seven (7) 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 thirty (30) days of the submission.
- (11) The processes to be followed by the *Municipality* with regard to the acceptance or rejection of an unsolicited *bid* must clearly be made known to the bidder who submits the

unsolicited *bid* concerned.

- (12) The *Council* must exercise caution when interviewing a potential supplier or a *person* who may wish to offer services to the *Municipality* in circumstance that may be tantamount to the submission of or negotiation with regard to an unsolicited *bid* and may not do anything or cause anything to be done that may be contrary to this policy.

37. Combating of Abuse of Supply Chain Management System

(1) The *Accounting Officer* must-

- (a) take all reasonable steps to prevent the 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 Services;
- (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 and are in arrears for more than three months; or
 - (ii) who, during the last five years, 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) such *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*.
- (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 of 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 12 of 2004.

(2) The *Accounting Officer* must inform the National and Provincial Treasuries in writing of any actions taken in terms of subparagraphs 37(1)(b)(ii), (e) or (f) above.

PART 3: LOGISTICS, DISPOSAL, RISK AND PERFORMANCE MANAGEMENT

38. Logistics Management

- (1) The *Accounting Officer* must establish and implement an effective system of logistics management, which must include -
- (a) the monitoring of spending patterns on types or classes of goods, work and/or services incorporating, where practical, the coding of items to ensure that each item has a unique number;
 - (b) the setting of inventory levels, to include minimum and maximum levels and lead times wherever goods are placed in stock;
 - (c) the placing of manual or electronic orders for all acquisitions other than those from petty cash;
 - (d) before payment is approved, certification by the responsible officer that the goods, work and/or services are received or rendered on time and are in accordance with the order, the general conditions of *contract* and specifications, where applicable, and that the *price* charged is as quoted in terms of a *contract*;
 - (e) appropriate standards of internal control and warehouse management to ensure that goods placed in stores are secure and used only for the purpose for which they were purchased;
 - (f) regular checking to ensure that all assets including official vehicles are properly managed, and maintained and used only for official purposes; and
 - (g) monitoring and review of the supply vendor performance to ensure compliance with specifications and *contract* conditions for particular goods, work and/or services.

39. Disposal Management

- (1) In terms of Section 14 of the Municipal Finance Management Act, the *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.
- (2) The *Municipality* may transfer ownership or otherwise dispose of a capital asset other than one as contemplated in subparagraph 39(1), but only after the *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.
- (3) Assets may be disposed of by -
 - (a) transferring the asset to another *organ of state* in terms of a provision of the Municipal Finance Management Act enabling the transfer of assets;
 - (b) transferring the asset to another *organ of state* at market related value or, when appropriate, free of charge;
 - (c) selling the asset; or
 - (d) destroying the asset.
- (4) The *Accounting Officer* must ensure that -
 - (a) when immovable property is sold by means of a *competitive bidding process*, the highest price offered, is accepted, provided such *price* is equal to or higher than the market related price for the relevant immovable property;
 - (b) in other cases, such as an auction, only at a market related price, except when the public interest or the plight of the poor demands otherwise, in which event the sale price must be determined in accordance with the applicable land disposal or indigent policy adopted by the *Council*;
 - (c) movable assets are sold either by way of *formal written price quotations*, a *competitive bidding process*, or by public auction at the highest offered price, provided such price is market related;
 - (d) firearms are not sold or donated to any *person* or institution within or outside the Republic of South Africa, unless approved by the National Conventional Arms Control Committee;
 - (e) immovable property is let at market related rentals, except when the public interest or the plight of the poor demands otherwise in which event the rental must be

determined in accordance with the applicable land disposal or indigent support policy adopted by the *Council*;

- (f) all fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property are annually reviewed;
 - (g) where assets are traded in for other assets, the highest possible trade-in price is negotiated; and
 - (h) in the case of the free disposal of computer equipment, the provincial Department of Education is first approached to indicate, within thirty (30) days, whether any of the local schools are interested in the equipment.
- (5) This paragraph must be read with and applied in conjunction with the Municipal Asset Transfer Regulations contained in Government Notice R. 878 of 22 August 2008 and the associated policies adopted by the *Council*. In the event of conflict, the provisions of the aforesaid Regulations must be applied.

40. Risk Management

- (1) The *Accounting Officer* must establish and implement an effective system of risk management for the identification, consideration and avoidance of potential risks in the Supply Chain Management system.
- (2) Risk management must include the development of an annual SCM risk management strategy -and execution plan.
- (3) The *Municipality's* SCM risk mitigation strategy must include:
 - (a) the identification of risks on a case-by-case basis;
 - (b) the allocation of risks to the party best suited to manage such risks;
 - (c) acceptance of the cost of the risk where the cost of transferring the risk is greater than that of retaining it;
 - (d) the management of risks in a pro-active manner and the provision of adequate cover for residual risks;
 - (e) the assignment of relative risks to the contracting parties through clear and unambiguous *contract* documentation; and
 - (f) the instituting and promoting of good governance and capacitation of SCM role-players.

41. Performance Management

- (1) The *Accounting Officer* must establish and implement an internal monitoring system in order to determine, on the basis of a retrospective analysis, whether authorised Supply Chain Management processes were followed and whether the objectives of this policy were achieved.
- (2) Monthly monitoring of service providers and blacklisting thereof will be in line with the *Treasury guidelines*.

PART 4: OTHER MATTERS

42. Prohibition on Awards to Persons Whose Tax Matters Are Not in Order

- (1) No award above R15 000 may be made in terms of this policy to a *person* whose tax matters have not been declared by the South African Revenue Service to be in order.
- (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.
- (3) If SARS does not respond within seven (7) days of request for confirmation in terms of subparagraph 42(2), such person's tax matters may for the purposes of subparagraph 42(1) be presumed not to be in order.

43. Prohibition on Awards to Persons in the Service of the State

- (1) Irrespective of the procurement process followed, no award may be made to a *person* in terms of *the 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) who is an advisor or *consultant contracted with the Municipality*.

44. Awards to Close Family Members of Persons in the Service of the State

- (1) The *Accounting Officer* must ensure that the notes to the Annual Financial Statements disclose particulars of any award of more than R2 000 to a *person* who is a spouse, child or parent of a *person in the service of the state*, or has been *in the service of the state* in the previous twelve months, including -

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

45. Ethical Standards

- (1) A code of ethical standards, as set out in subparagraph 45(2) below, 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 in which business can be conducted with integrity and in a fair and reasonable manner.

- (2) An *official* or other role-player involved in the implementation of *the 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 45(2)(c) above, 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 –
 - (ii) any alleged fraud, corruption, favouritism or unfair conduct;

- (iii) any alleged contravention of this policy; or
- (iv) any alleged breach of this code of ethical standards.

- (3) Declarations in terms of subparagraphs 45(2)(d) and (e) above –
 - (a) must be recorded in a register that the *Accounting Officer* must keep for this purpose;
 - (b) must be made by the *Accounting Officer* to the Executive Mayor of the *Municipality*, who must ensure that such declarations are recorded in the applicable register.
- (4) The National Treasury’s code of conduct must also be taken into account by Supply Chain Management practitioners and other role-players involved in Supply Chain Management.
- (5) A breach of the code of 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) of the *Municipal Systems Act*;
 - (b) in the case a role-player who is not an employee, through other appropriate means, in recognition of the severity of the breach.
 - (c) in all cases, financial misconduct must be dealt with in terms of Chapter 15 of the *Municipal Finance Management Act*.

46. Inducements, Rewards, Gifts and Favours to Municipalities, Officials and other Role Players

- (1) No *person* who is a provider or prospective provider of goods, work and/or services or a recipient or prospective recipient of goods disposed of 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 this policy.
- (2) The *Accounting Officer* must promptly report any alleged contravention of subparagraph 46(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.

- (3) Subparagraph 46(1) does not apply to gifts less than R350 in value.

47. Sponsorships

- (1) The *Accounting Officer* must promptly disclose to the National and Eastern Cape 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, work and/or services to the *Municipality*; or
 - (b) a recipient or prospective recipient of goods disposed of or to be disposed of by the *Municipality*.

48. Objections, Complaints and Appeals

- (1) *Persons* aggrieved by decisions or actions taken by *the Municipality* in the implementation of its Supply Chain Management system, may lodge with the *Accounting Officer*, within fourteen (14) days of the decision or action, a written objection or complaint against the decision or action concerned.
- (2) The tender objections or complaints process will be detailed in the SCM Standard Operating Procedures.
- (3) Appeals will be dealt with in line with Section 62 of the *Municipal Systems Act* and *Regulations*.
- (4) In terms of section 62 of the Municipal Systems Act, a person whose rights are affected by a decision of the *Municipality* may appeal against that decision by giving written notice of the appeal and reasons to the Accounting Officer within 21 days of receipt of notification of the decision.
- (5) Bid documents must state that any appeal in terms of paragraph 48(4) must be submitted to the Accounting Officer at the address stated, and must contain the following:
- (a) must be in writing;
 - (b) reasons for the appeal;
 - (c) the way in which the appellant's rights have been effected;
 - (d) the remedy sought by the appellant;
 - (e) a copy of the notification advising the person of the decision.
- (6) The preferred bidder will not commence any work until:
- (a) The fourteen (14) days objection and complaints period has expired, or

- (b) The twenty one (21) day appeal period has expired, or
- (c) The objection or complaint has been resolved; or
- (d) Confirmation in writing of subparagraph 48(2)(a) or (b), that none of the involved parties wish to appeal the outcome of the objection or complaints process was received, or
- (e) Confirmation that no appeals are received in terms of section 62 of the Municipal Systems Act within the twenty-one 21-day period.
- (f) Confirmation in writing of the appropriate resolution of any appeals that may have been lodged in respect of the *bid*.

49. Resolution of Disputes, Objections, Complaints and Queries

- (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*.
- (2) The *Accounting Officer* or another *official* delegated by the *Accounting Officer* is responsible for assisting the appointed *person* in performing his functions effectively.
- (3) The *person* appointed must –
 - (a) strive to resolve promptly all disputes, objections, complaints or queries received; and
 - (b) submit monthly reports to the *Accounting Officer* on all disputes, objections, complaints or queries received, attended to or resolved.
- (4) A dispute, objection, complaint or query may be referred to the Eastern Cape Provincial Treasury if –
 - (a) the dispute, objection, complaint or query is not resolved within sixty (60) days of being lodged; or
 - (b) no response is forthcoming within sixty (60) days of the lodgement of the dispute, objection, complaint or query.

(5) If the Eastern Cape Provincial Treasury does not or cannot resolve the matter, the dispute, objection, complaint or query concerned may be referred to the National Treasury for resolution.

(6) This paragraph must not be read as affecting a person's rights to approach a court for such order as may be just and necessary in the circumstances at any time.

50. **Contracts Providing for Compensation Based on Turnover**

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

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

51. **Procurement from Tertiary Institutions**

(1) Where the *Municipality* is in need of a service provided by only tertiary institutions, such services must be procured through a tendering process with the identified tertiary institutions.

(2) Tertiary institutions referred to in subparagraph 51(1) will be required to submit their *bid(s)* as detailed in the preferential point system to be used in the adjudication process.

(3) Should the *Municipality* require a service that can be provided by one or more tertiary institutions or public entities and enterprises from the private sector, the appointment of a *contractor* will be done by means of a tendering process.

(4) For purposes of this paragraph, a tendering process includes a written offer in a prescribed or stipulated form in response to an invitation by the *Municipality* for the provision of services, works or goods, through *price* quotations, advertised competitive tendering processes or proposals.

52. **Contracts and Contract Management**

(1) A *contract* or agreement procured through the *Municipality's* Supply Chain Management system or its municipal entity/ies must-

- (a) be in writing;

- (b) stipulate the terms and conditions of the *contract* or agreement, which must include provisions providing for-
 - (i) the termination of the *contract* or agreement in the case of non- or under-performance;
 - (ii) dispute resolution mechanisms to settle disputes between the parties;
 - (iii) a periodic review of the *contract* or agreement once every three years in the case of a *contract* or agreement for longer than three years; and
 - (iv) any other matters that may be prescribed.
- (2) The *Accounting Officer* or *delegated official* must-
- (a) take all reasonable steps to ensure that a *contract* or agreement procured through *the Policy* or its municipal entity/ies is properly enforced;
 - (b) monitor on a monthly basis the performance of the *contractor* under the *contract* or agreement;
 - (c) establish capacity in the administration of the *Municipality* or its municipal entity/ies-
 - (i) to assist the *Accounting Officer* in carrying out the duties set out in subparagraphs 52(2) (a) and (b); and
 - (ii) to oversee the day-to-day management of the *contract* or agreement; and
 - (d) regularly report to the *Council* or the board of director of the entity, as may be appropriate, on the management of the *contract* or agreement and the performance of the *contractor*.
- (3) A *contract* or agreement procured through *the Policy*, may be amended by the parties in accordance with Section 116(3) of the MFMA, but only after -
- (a) the reasons for the proposed amendment have been tabled in the *Council* or, in the case of a municipal entity, in the council of its parent municipality; and
 - (b) the local community -
 - (i) has been given reasonable notice of the intention to amend the *contract* or agreement; and
 - (ii) has been invited to submit representations to the *Municipality* or its municipal entity/ies.

53. Issue of Variation Orders

- (1) The *Accounting Officer* or *delegated official* may, subject to subparagraphs 53(2) - (4), authorise the issue of variation orders in respect of *contract* specifications or conditions of *contract* in order to accommodate costs for additional work, either unforeseen, when *contracts* were awarded for infrastructure projects, essential or necessary additional work,

or in instances where factors beyond the control of an appointed *contractor* have led to or will lead to a delay in a *contract* completion date.

- (2) A variation order may be issued only after -
 - (a) the need for such order has been fully motivated by the responsible project manager and supported by the *Head of Department* concerned; and
 - (b) the *Chief Financial Officer* has certified that funds are available to cover the cost of the required additional work.
- (3) A request for the issuance of a variation order exceeding R750 000 must first be referred to the Bid Adjudication Committee that reviewed the initial bid for approval. However, the *Accounting Officer* has the authority to establish a new Bid Adjudication Committee for this purpose. In addition, the Bid Adjudication Committee may not approve variations exceeding 20% of the original *contract* value for construction-related contracts and 15% for contracts involving goods, work, and/or services. Any variation beyond these thresholds must be reported to the *Council*.
- (4) No request for a variation order may be approved in circumstances where new bids may be invited for the additional work concerned.
- (5) The *line manager* responsible for the implementation of a project undertaken either departmentally or through an appointed *contractor* must keep a proper record of all variation orders issued in respect of a project.
- (6) The original copy of an issued variation order must be filed with the original *bid* and *contract* documents.
- (7) The responsible *line manager* must, on completion of additional work or the expiry of any extended *contract* period authorised by a variation order, certify that the terms and conditions of such variation order have been complied with.

54. Application of Policy to Municipal Entities

- (1) The provisions of *the Policy* generally do not apply to its municipal entities.
- (2) The Supply Chain Management system of a municipal entity must be applied with due regard to the provisions of this policy and *the Regulations*, and, in the event of a conflict, the provisions of *the Regulations* will prevail.

55. Fronting

- (1) For the purposes of this paragraph, “*fronting*” will include the under-mentioned acts on the part of a tenderer, or any *person* or party associated with a tenderer:
 - (a) **Window-dressing:** This includes cases in which *Black people* are appointed or introduced to an enterprise on the basis of tokenism and may subsequently be discouraged or inhibited from substantially participating in the core activities of the enterprise concerned and/or be discouraged or inhibited from substantially participating in the declared areas and/or levels of their participation;
 - (b) **Benefit Diversion:** This includes initiatives where the economic benefits received by an organization for having B-BBEE Status do not flow to *Black people* in the ratio specified by law;
 - (c) **Opportunistic Intermediaries:** This includes enterprises that have concluded agreements with other enterprises in order to leverage the opportunistic intermediary's favourable B-BBEE status in circumstances where the agreement involves:
 - (i) significant limitations or restrictions on the identity of the opportunistic intermediary's suppliers, service providers, clients or customers;
 - (ii) the maintenance of their business operations in a context reasonably considered improbable having regard to resources; and
 - (iii) terms and conditions that are not negotiated at arms-length on a fair and reasonable basis.
- (3) Where the *Accounting Officer* detects *fronting*, he/she must act against a tenderer concerned in terms of paragraph 37 and, in addition, report such *fronting* to the Department of Trade and Industry.

56. Commencement and Review

- (1) This policy takes effect on the first *day* of the month following its adoption by the *Council*.
- (2) This policy will be called the Supply Chain Management Policy (Version 8).
- (3) This policy will supersede any other prior supply chain management policies adopted by *Council*.
- (4) *The Policy* reviews will be undertaken in accordance with paragraph 3 of this policy.

ANNEXURE “A”: CALCULATION OF PREFERENTIAL PROCUREMENT POINTS

Introduction

1. Where this Policy does not provide for a matter regulated by the Preferential Procurement Regulations the provisions of the regulations will prevail in respect of a “tender” as defined in the regulations.

Definitions

2. In this Policy, unless the context indicates otherwise, any word or expression to which a meaning has been assigned in the PPPFA must bear the meaning so assigned—
 - 2.1 “**highest acceptable tender**” means a tender that complies with all specifications and conditions of tender and that has the highest price compared to other tenders;
 - 2.2 “**lowest acceptable tender**” means a tender that complies with all specifications and conditions of tender and that has lowest price compared to other tenders;
 - 2.3 “**price**” means an amount of money tendered for goods or services, and includes all applicable taxes less all unconditional discounts;
 - 2.4 “**Rand value**” means the total estimated value of a contract in Rand, calculated at the time of the tender invitation;
 - 2.5 “**specific goals**” means specific goals as contemplated in section 2(1)(d) of the PPPFA which may include contracting with persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of race, gender and disability including the implementation of programmes of the Reconstruction and Development Programme as published in Government Gazette No. 16085 dated 23 November 1994;
 - 2.6 “**tender**” means a written offer in the form determined by an organ of state in response to an invitation to provide goods or services through price quotations, competitive tendering process or any other method envisaged in legislation;
 - 2.7 “**tender for income-generating contracts**” means a written offer in the form determined by an organ of state in response to an invitation for the origination of income-generating contracts through any method envisaged in legislation that will result in a legal agreement between the organ of state and a third party that produces revenue for the organ of state, and includes, but is not limited to, leasing and disposal of assets and concession contracts, excluding direct sales, income from earned from tariffs and disposal of assets through public auctions; and

Identification of preference point system

3. The tender document must stipulate —
 - 3.1 the applicable preference point system as envisaged in Preferential Procurement Regulations 4, 5, 6 or 7; and
 - 3.2 the specific goal in the invitation to submit the tender for which a point may be awarded, and the number of points that will be awarded to each goal, and proof of the claim for such goal.
 - 3.3 the specific goals referenced in 3.2, are contained in the Preferential Procurement Guideline, as updated and approved by the Accounting Officer.
4. If it is unclear whether the 80/20 or 90/10 preference point system applies, the tender documents must stipulate in the case of—
 - 4.1 an invitation for tender for income-generating contracts, that either the 80/20 or 90/10 preference point system will apply and that the highest acceptable tender will be used to determine the applicable preference point system; or
 - 4.2 any other invitation for tender, that either the 80/20 or 90/10 preference point system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system.

80/20 preference point system for acquisition of goods or services with Rand value equal to or below R50 million (Preferential Procurement Regulations 4)

5. The following formula must be used to calculate the points out of 80 for price in respect of an invitation for a tender with a Rand value equal to or below R50 million, inclusive of all applicable taxes:

$$Ps = 80 \left[1 - \frac{(Pt - Pmin)}{Pmin} \right]$$

Where :

Ps = Points scored for price of the tender under consideration; Pt

= Price of tender under consideration; and

Pmin = Price of lowest acceptable tender.

- 5.1 A maximum of 20 points may be awarded to a tenderer for the specific goal specified for the tender.
- 5.2 The points scored for the specific goal must be added to the points scored for price and the total must be rounded off to the nearest two decimal places.
- 5.3 Subject to section 2(1)(f) of the PPPFA, the contract must be awarded to the tenderer scoring the highest points.

90/10 preference point system for acquisition of goods or services with Rand value above R50 million (Preferential Procurement Regulations 5)

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

$$Ps = 90 \left[1 - \frac{(Pt - Pmin)}{Pmin} \right]$$

Where :

Ps = Points scored for price of the tender under consideration;

Pt = Price of tender under consideration; and

Pmin = Price of lowest acceptable tender.

- 6.1 A maximum of 10 points may be awarded to a tenderer for the specific goal specified for the tender.
- 6.2 The points scored for the specific goal must be added to the points scored for price and the total must be rounded off to the nearest two decimal places.
- 6.3 Subject to section 2(1)(f) of the PPPFA, the contract must be awarded to the tenderer scoring the highest points.

80/20 preference points system for tenders for income-generating contracts with Rand value equal to or below R50 million (Preferential Procurement Regulations 6)

7. The following formula must be used to calculate the points for price in respect of an invitation for tender for income-generating contracts, with a Rand value equal to or below R50 million, inclusive of all applicable taxes:

$$Ps = 80 \left[1 + \frac{(Pt - Pmax)}{Pmax} \right]$$

Where :

Ps = Points scored for price of the tender under consideration;

Pt = Price of tender under consideration; and

Pmax = Price of highest acceptable tender.

- 7.1 A maximum of 20 points may be awarded to a tenderer for the specific goal specified for the tender.
- 7.2 The points scored for the specific goal must be added to the points scored for price and the total must be rounded off to the nearest two decimal places.
- 7.3 Subject to section 2(1)(f) of the PPPFA, the contract must be awarded to the tenderer scoring the highest points.

90/10 preference point system for tenders for income-generating contracts with Rand value above R50 million (Preferential Procurement Regulations 7)

8. The following formula must be used to calculate the points for price in respect of a tender for income-generating contracts, with a Rand value above R50 million, inclusive of all applicable taxes:

$$P_s = 90 \left[1 + \frac{(P_t - P_{max})}{P_{max}} \right]$$

Where :

P_s = Points scored for price of the tender under consideration;

P_t = Price of tender under consideration; and

P_{max} = Price of highest acceptable tender.

- 8.1 A maximum of 10 points may be awarded to a tenderer for the specific goal specified for the tender.
- 8.2 The points scored for the specific goal must be added to the points scored for price and the total must be rounded off to the nearest two decimal places.
- 8.3 Subject to section 2(1)(f) of the PPPFA, the contract must be awarded to the tenderer scoring the highest points.

Criteria for breaking deadlock in scoring

9. If two or more tenderers score an equal total number of points, the contract must be awarded to the tenderer that scored the highest points for specific goals.
10. If two or more tenderers score equal total points in all respects, the award must be decided by the drawing of lots.

Remedies

11. If the NMBM is of the view that a tenderer submitted false information regarding a specific goal, it must—
- 11.1 inform the tenderer; accordingly, and
- 11.2 give the tenderer an opportunity to make representations within 14 days as to why the tender may not be disqualified or, if the tender has already been awarded to the tenderer, the contract should not be terminated in whole or in part.
12. After considering the representations referred to above, the NMBM may, if it concludes that such information is false—
- 12.1 disqualify the tenderer or terminate the contract in whole or in part; and
- 12.2 if applicable, claim damages from the tenderer.

ANNEXURE “B”: LOCAL GOVERNMENT FRAMEWORK FOR INFRASTRUCTURE DELIVERY AND PROCUREMENT MANAGEMENT (LGFIDPM)

1. INTRODUCTION

- a) The Integrated Development Plan (IDP) is the principal strategic planning instrument for municipalities. The IDP process requires a robust process of gathering and synthesising information related to the medium to long-term management of the municipality’s infrastructure needs.
- b) The preparation of Roads and Storm Water Services, Water and Sanitation Services, Waste Disposal Services, Electricity Services and Community Facilities and Municipal Buildings, Infrastructure Asset Management Plans (IAMPs) enables municipalities to rank projects and determine budgets, based on a holistic view of local needs and priorities; and serves as a source of valuable information in preparing the IDP.
- c) Through the Infrastructure Delivery Management System, Cities Infrastructure Delivery Management System was developed to provide a holistic system for the management of infrastructure based on the requirements of SANS 55001: Asset management tailored for application in South African metropolitan spaces and specifically in support of the country’s spatial transformation agenda.
- d) There is need to develop an infrastructure delivery management system tailor-made for all municipalities (excluding cities) which should integrate asset management strategy, policy to guide infrastructure planning, delivery management and decision making. The LGFIDPM introduces the initial process focusing on the project processes of the infrastructure delivery management and infrastructure procurement.
- e) The Framework for Infrastructure Procurement Management should be implemented together with the project management processes, to ensure alignment, integration and efficient and effective service delivery.

2. SCOPE

- 2.1 The Local Government FIDPM applies to organs of state which are subject to the Municipal Finance Management Act (MFMA).
- 2.2 The Framework provides minimum requirements for the implementation of Infrastructure Delivery and Procurement Management through the:
 - a) Project processes for infrastructure delivery management, and
 - b) Infrastructure procurement gates.
- 2.3 The Framework specifies the allocation of responsibilities for performing activities and making decisions at project stages and procurement gates.

3. TERMS AND DEFINITIONS

Approved: Officially agreed and signed-off by an *Accounting Officer* or a delegated person / body.

Construction: Everything constructed or resulting from construction operations.

Employer: Organ of state intending to, or entering into, a contract with a contractor.

Gate: A control point at the end of a process where a decision is required before proceeding to the next process or activity.

Gateway review: An independent review of the available information at a gate upon which a decision is made whether to proceed to the next process, or not.

Infrastructure:

- a) Immovable asset, which is acquired, constructed or results from construction operations; or
- b) Movable asset, which cannot function independently from purpose-built immovable asset(s).

Infrastructure delivery: The combination of all planning, technical, administrative and managerial actions associated with the construction, supply, refurbishment, rehabilitation, alteration, maintenance, operation or disposal of infrastructure.

Infrastructure procurement: The procurement of goods, work and/or services, including any combination thereof, associated with the acquisition, refurbishment, rehabilitation, alteration, maintenance, operation or disposal of infrastructure.

Organ of State: Any department of state or administration in the national, provincial and local sphere of government.

Procurement strategy: The selected packaging, contracting, pricing and targeting strategy and procurement procedure for a particular procurement.

Project: A unique set of processes consisting of coordinated and controlled activities with start and end dates, performed to achieve the project objective.

Stage: A collection of periodical and logically related activities in the Project Management Control Stages, that culminates in the completion of an end of stage deliverable.

4. ABBREVIATIONS

| | |
|-------|--|
| CIDB | Construction Industry Development Board |
| FIDPM | Framework for Infrastructure Delivery and Procurement Management |
| IDP | Integrated Development Plan |
| MFMA | Municipal Finance Management Act |
| PPPFA | Preferential Procurement Policy Framework Act |
| PSP | Professional Service Provider |
| SCM | Supply Chain Management |
| SDBIP | Service Delivery Budget Implementation Plan |

5. NORMATIVE REFERENCES

5.1 Acts of Parliament

The following referenced Acts of Parliament are indispensable in the application of this document:

- Architectural Profession Act 44 of 2000
- Broad-Based Black Economic Empowerment Act 53 of 2003
- Constitution of the Republic of South Africa, Act 108 of 1996
- Construction Industry Development Board Act 38 of 2000
- Division of Revenue Act (Annual)
- Engineering Profession Act 46 of 2000
- Landscape Architectural Profession Act 45 of 2000
- Municipal Finance Management Act 56 of 2003
- Local Government: Municipal Systems Act 32 Of 2000
- National Archives and Record Services of South Africa Act 43 of 1996
- Occupational Health and Safety Act 85 of 1993
- Preferential Procurement Policy Framework Act 5 of 2000
- Project and Construction Management Professions Act 48 of 2000
- Public Finance Management Act 1 of 1999
- Quantity Surveying Profession Act 49 of 2000
- Other Sector Specific Acts of Parliament.

5.2 Regulations issued in terms of the MFMA and MFMA Circulars

- Regulations issued in terms of the MFMA
- Preferential Procurement Policy Framework Act Regulations (as amended from time to time) and circulars.

5.3 Standards

- Applicable Construction Industry Development Board Standard for Uniformity
- Construction Sector Code.

5.4 Management System

- Infrastructure Delivery Management System (IDMS)
- Cities Infrastructure Delivery Management Toolkit (CIDMT).

5.5 National Treasury Guidelines

- Local Government Capital Asset Management Guideline and Planning Guidelines
- Budget Facility for Infrastructure (BFI).

5.6 Department of Cooperative Governance and Traditional Affairs Guidelines

- Guidelines for Infrastructure Asset Management in Local Government.

6. FRAMEWORK FOR INFRASTRUCTURE DELIVERY

6.1 The Infrastructure Delivery Management Project Processes

- a) The project process of infrastructure delivery management contains control stage deliverables at the end of each stage. Table 1 outlines the stage deliverables that must be approved. The control stages are specific to project management processes; and outline and describe the stages in the life of a project from start to end. The specific stages are determined by the specific project's governance and control needs. The stages follow a logical sequence with a specified start and end. The deliverable is considered to have passed through the relevant stage when it is approved and signed off. The project then moves on to the next sequential stage. It is expected that the municipality's organisation reflects an engagement between the Budget Treasury Office, Engineers and Planners when developing and approving projects. It is also expected that there should be engagements with the National and Provincial Treasury where appropriate or where projects dictate so.

Table 1: Project Stage Deliverables

| Stage | | Project Stage Deliverables |
|-------|------------|---|
| No. | Name | End of Stage Deliverables |
| 1 | Initiation | <p>Initiation Report or Pre-Feasibility Report</p> <p>(i) The Initiation Report defines the project objectives, needs, acceptance criteria, the NMBM's priorities and aspirations, and procurement strategies, which set out the basis for the development of the Concept Report.</p> <p>Or</p> <p>(ii) A Pre-Feasibility Report is required on Mega Capital Projects, to determine whether to proceed to the Feasibility Stage; where sufficient information is presented to enable a final project implementation decision to be made. Mega capital projects should be determined in the municipality's IDP approved by the Municipal Council.</p> <p>Stage 1 is complete when the Initiation Report or Pre-Feasibility Report is approved.</p> |
| 2 | Concept | <p>Concept Report or Feasibility Report</p> <p>(i) The Concept Stage presents an opportunity for the development of different design concepts to satisfy the project requirements developed in Stage 1. This stage presents alternative approaches and an opportunity to select a particular conceptual approach. The objective of this stage is to</p> |

| Stage | | Project Stage Deliverables |
|-------|------|---|
| No. | Name | End of Stage Deliverables |
| | | <p>determine whether it is viable to proceed with the project, premised on available budget, technical solutions, time frame and other information that may be required.</p> <p>(ii) The Concept Report should provide the following minimum information:</p> <ol style="list-style-type: none"> a) Document the initial design criteria, cost plan, design options and the selection of the preferred design option; or the methods and procedures required to maintain the condition of infrastructure, or the project. b) Establish the detailed brief, scope, scale, form and cost plan for the project, including, where necessary, the obtaining of site studies and construction and specialist advice. c) Provide an indicative schedule for documentation and construction, or maintenance services, associated with the project. d) Include a site development plan, or other suitable schematic layouts, of the works. e) Describe the statutory permissions, funding approvals and utility approvals required to proceed with the works associated with the project. f) Include a baseline risk assessment for the project and a health and safety plan, which is a requirement of the Construction Regulations issued in terms of the Occupational Health and Safety Act. g) Contain a risk report, need for further surveys, tests, investigations, consents and approvals, if any, during subsequent stages. <p>(iii) A Feasibility Report must provide the following minimum information:</p> <ol style="list-style-type: none"> a) Details regarding the preparatory work covering: <ul style="list-style-type: none"> • A needs and demand analysis with output specifications. • An options analysis. b) A viability evaluation covering: <ul style="list-style-type: none"> • A financial analysis. • An economic analysis, if necessary. c) A risk assessment and sensitivity analysis; d) A professional analysis covering: <ul style="list-style-type: none"> • A technology options assessment. • An environmental impact assessment. • A regulatory due diligence. e) An implementation readiness assessment covering: <ul style="list-style-type: none"> • Institutional capacity. • A procurement plan. |

| Stage | | Project Stage Deliverables |
|-------|----------------------|--|
| No. | Name | End of Stage Deliverables |
| | | Stage 2 is complete when the Concept Report or the Feasibility Report is approved. |
| 3 | Design Development | <p>Design Development Report</p> <p>i. The Design Development Report must, as necessary:</p> <p>(a) Develop, in detail, the approved concept to finalise the design and definition criteria.</p> <p>(b) Establish the detailed form, character, function and costings.</p> <p>(c) Define the overall size, typical detail, performance and outline specification for all components.</p> <p>(d) Describe how infrastructure, or elements or components thereof, are to function; and how they are to be safely constructed, be commissioned and be maintained.</p> <p>(e) Confirm that the project scope can be completed within the budget, or propose a revision to the budget.</p> <p>Stage 3 is complete when the Design Development Report is approved.</p> |
| 4 | Design Documentation | <p>Design Documentation</p> <p>(i) Design documentation provides:</p> <p>(a) the production information that details performance definition, specification, sizing and positioning of all systems and components that will enable construction;</p> <p>(b) the manufacture, fabrication and construction information for specific components of the work, informed by the production information.</p> <p>Stage 4 is complete when the Design Documentation Report is approved.</p> |
| 5 | Works | <p>Completed Works capable of being used or occupied</p> <p>i. Completion of the Works Stage requires:</p> <p>(a) Certification of the completion of the works in accordance with the provisions of the contract; or</p> <p>(b) Certification of the delivery of the goods, work and/or associated services in accordance with the provisions of the contract.</p> <p>Stage 5 is complete when the Works Completion Report is approved.</p> |
| 6 | Handover | <p>Works which have been taken over by the user or owner; Completed Training; Record Information</p> <p>i. The handover stage requires the following activities to be undertaken:</p> |

| Stage | | Project Stage Deliverables |
|-------|-----------|--|
| No. | Name | End of Stage Deliverables |
| | | <p>(a) Finalise and assemble record information which accurately reflects the infrastructure that is acquired, rehabilitated, refurbished or maintained;</p> <p>(b) Hand over the works and record information to the user organisation and, if necessary, train end user staff in the operation of the works.</p> <p>Stage 6 is complete when the Handover/Record Information Report is approved.</p> |
| 7 | Close-out | <p>Defects Certificate or Certificate of Final Completion; Final Account; Close-Out Report</p> <p>(i) The Close-Out Stage commences when the end user accepts liability for the works. It is complete when:</p> <p>(a) Record information is archived;</p> <p>(b) Defects certificates and certificates of final completion are issued in terms of the contract;</p> <p>(c) Final amount due to the contractor is certified in terms of the contract;</p> <p>(d) Close-Out Report is prepared by the Implementer and approved by the Municipality.</p> <p>Stage 7 is complete when the Close-out Report is approved.</p> |

- b) Procurement of PSPs and Contractors can occur at different points in the project stages.
- c) Additional stages may be added to the described stages above, if deemed necessary. For example, additional stages could include those necessary to ensure that project activities are appropriately carried out and stages linked. Contract activities would, in many instances, be contingent upon the requirements of the specific contract being used.
- d) For project progress using the project stages, reporting must be for the deliverable achieved in the stage immediately prior to the 'in progress' stage. For example, if a project is shown as being at Stage No. 3 (Design Development), it implies that the deliverable for Stage No. 2 (i.e. the Concept Report) has been achieved; and that the deliverable for Stage 3 (i.e. the Design Development Report) is in the process of being prepared.
- e) Where an organ of state engages another organ of state to provide agency services, a service delivery agreement must be developed that outlines the roles and responsibilities for each organ of state; and establishes a relationship between the client and the implementer. The development of all deliverables should be carried out in a cooperative and consultative manner between the Client and Implementer parties. All deliverables must be developed and signed off in compliance with the specific service delivery agreement.

6.2 Gateway Reviews

6.2.1 Gateway reviews for mega capital projects

- a) The MFMA (Act 56 of 2003), section 19 (2) states: "Before approving a capital project in terms of subsection (1)(b), the council of a municipality must consider the projected cost covering

- all financial years from the start until the project is operational; and the future operational costs and revenue on the project, including municipal tax and tariff implications.”
- b) The LGFIDPM prescribes the Gateway Review at the end of stage 2, as the minimum requirement to comply with section (i) above.
 - c) The focus of such a review must be on the quality of the documentation in the first instance, and thereafter on:
 - (i). Deliverability: the extent to which a project is deemed likely to deliver;
 - (ii). Expected benefits: within the declared cost, time and performance area;
 - (iii). Affordability: the extent to which the project’s level of expenditure and financial risk can be accepted, given the organisation’s overall financial position, both singly, and when considering its other current and projected commitments; and
 - (iv). Value for money: The optimum combination of whole life costs and quality (or fitness of purpose), to meet the user’s requirements.
 - d) A gateway review team must comprise of not less than three persons who are neither involved, nor associated with the project, but have a broad understanding of the subject matter.
 - e) A gateway review must be led by a person who has experience in the planning of infrastructure projects and is registered as a professional with a statutory council under the built environment professions. The members of the team must, as relevant, have expertise in the key technical areas, cost estimating, scheduling and implementation of similar projects.
 - f) It is the duty of the institution’s *Accounting Officer* or Authority to appoint a team responsible for the gateway review of his or her institution.
 - g) The gateway review team must base its findings primarily on:
 - (i). The information contained in the end-of-stage deliverable;
 - (ii). Supplementary documentation, if any, provided by key staff and obtained during an interview process; and
 - (iii). Interviews with key staff members and stakeholders.
 - h) The gateway review team must issue a report at the conclusion of a gateway review, which reflects the team’s assessment of the information at the end of a stage; and provides findings or recommendations on areas where further work should be undertaken to improve such information.
 - i) The gateway review findings must be classified by the gateway review team as:
 - (i). Critical: Findings that pose adverse effect to the project or package. Critical findings are findings related to the stage deliverable that are wholly unacceptable.
 - (ii). Major: Findings that pose a potentially adverse effect to the project or package. Major findings are serious findings and are in direct violation of key legislation, e.g. The Constitution of the Republic of South Africa, the MFMA or the PPPFA.
 - (iii). Minor: Findings that do not pose any adverse effect to the project or package. Minor findings indicate the need for improvement of practices and processes.
 - j) A Stage 2 deliverable must not be approved until such time that all findings have been resolved.

7. FRAMEWORK FOR INFRASTRUCTURE PROCUREMENT

7.1 Introduction

The framework for infrastructure procurement outlines the minimum infrastructure procurement policy requirements for municipal planning and implementation.

The strategic direction set in the Integrated Development Plan (IDP) informs the framework for infrastructure procurement. For example, procurement strategies must be aligned to the municipality’s developmental and internal transformation needs, as specified in the IDP.

7.2 Minimum Requirement for Infrastructure Procurement

7.2.1 Infrastructure procurement must be undertaken in accordance with all applicable Infrastructure Procurement related legislation and this Framework.

- 7.2.2 Infrastructure procurement must be implemented in accordance with the institutional Supply Chain Management System, which promotes differentiated procurement for infrastructure.
- 7.2.3 Infrastructure procurement must be implemented in accordance with the procurement gates prescribed in clause 6.3 below.
- 7.2.4 The *Accounting Officer* must ensure that a budget is available for the duration of the project, in line with MFMA provisions for capital and operating budgets.
- 7.2.5 The *Accounting Officer* must ensure that cash flow management processes are in place to meet payment obligations within the time periods specified in the contract.
- 7.2.6 Procurement gates provided in 6.3 below must be used, as appropriate, to:
- a) Authorise commencement of activities that lead to the next control gate;
 - b) Confirm conformity with requirements; and/or
 - c) Provide information to eliminate any cause of non-conformity and to prevent reoccurrence.
- 7.2.7 The authorisation to proceed to the next procurement gate must be given by a delegated person or body. The delegated person or body must be able to apply relevant built environment knowledge and skill to achieve the intended results required at the relevant procurement gate. The level of detail contained in the documentation on which a decision to proceed to the next procurement gate is made, must be sufficient to enable an informed decision.
- 7.2.8 The *Accounting Officer* must develop and implement effective and efficient emergency procurement procedures, including relevant approval delegation, in compliance with relevant legislation.
- 7.2.9 The *Accounting Officer* must develop and implement an effective and efficient infrastructure disposal policy in line with the Municipal Asset Transfer Regulations. The institution may consider disposal strategies aligned to their internal disposal policy, prior to proceeding with the procurement strategy.
- 7.2.10 The *Accounting Officer* must keep records of Procurement Gate Approvals, in a manual or electronic format, with the following minimum requirements: a) Procurement gate;
- b) Delegated person/s or body;
 - c) Date on which the approval request was received;
 - d) Date on which the approval was actioned; and
 - e) Signature of the delegated person or body.
- 7.2.11 All assets must be recorded in the municipal asset register as required by the GRAP standards.

7.3 Infrastructure Procurement Gates

7.3.1 Procurement **Gate 1 (PG 1)**

- a) Initiate a procurement process;
- b) **Minimum Requirement for PG 1:**
 - (i). Establish and clarify the procurement need, aligned to the municipality's development and transformation priorities specified in the IDP.
 - (ii). Determine a suitable title for the procurement, to be applied as the project description.
 - (iii). Prepare the broad scope of work for the procurement.
 - (iv). Perform market analysis.
 - (v). Estimate the financial value of proposed procurement and contract for budgetary purposes, based on the broad scope of work.
 - (vi). Confirm the budget.
 - (vii). Compliance with section 33 of the MFMA with respect to community and stakeholder consultation.
- c) **PG 1 is complete when a designated person or body makes the decision to proceed/not to proceed, with the procurement of the infrastructure.**

7.3.2 Procurement **Gate 2 (PG 2)**

- a) Approve procurement strategy to be adopted.
- b) **Minimum Requirement for PG 2:**

- (i). Develop a procurement strategy aligned to the institutional procurement strategy:
 - aa)** Establish contracting and pricing strategy comprising of an appropriate allocation of responsibilities and risks; and the methodology for contractor payments.
 - bb)** Identify service required for works.
 - cc)** Decide on contracting strategy.
 - dd)** Decide on pricing strategy.
 - ee)** Decide on form of contract.
 - ff)** Establish opportunities for promoting preferential procurement in compliance with legislative provisions and the Construction Sector Code.
- c) **PG 2 is complete when a delegated person or body approves the procurement strategy that is to be adopted.**

7.3.3 Procurement **Gate 3 (PG 3)**

- a) Approve procurement documents.
- b) **Minimum requirements for PG 3:**
 - (i). Prepare procurement documents that are compatible with:
 - aa)** approved procurement strategies.
 - bb)** project management design documentation.
- c) **PG 3 is complete when the Bid Specification Committee approves the procurement document. .**

7.3.4 Procurement **Gate 4 (PG 4)**

- a) Confirm that cash flow processes are in place to meet projected contractual obligations.
- b) **Minimum requirement for PG 4**
 - (i). Confirm that cash flow processes are in place to meet contractual obligations.
 - (ii). Establish control measures for settlement of payments within the time period specified in the contract.
- c) **PG 4 is complete when a delegated person or body confirms in writing that cash flow processes are in place; and control measures are established for the procurement to take place.**

7.3.5 Procurement **Gate 5 (PG 5)**

- a) Solicit tender offers.
- b) **Minimum requirements for PG 5**
 - (i). Invite contractors to submit tender offers.
 - (ii). Receive tender offers.
 - (iii). Record tender offers.
 - (iv). Safeguard tender offers.
- c) **PG 5 is complete when tender offers received are recorded and safeguarded by a delegated person from the SCM unit.**

7.3.6 Procurement **Gate 6 (PG 6)**

- a) Evaluate tender offers premised on undertakings and parameters established in procurement documents.
- b) **Minimum Requirement for PG 6:**
 - (i). Determine whether tender offers are complete.
 - (ii). Determine whether tender offers are responsive.
 - (iii). Evaluate tender submissions.
 - (iv). Review minimum compliance requirements for each tender.
 - (v). Perform a risk analysis.
 - (vi). Prepare a report on tender offers received, and on their achievement of minimum compliance.
- c) **PG 6 is complete when the chairperson of the Bid Evaluation Committee approves the BEC report.**

7.3.7 Procurement **Gate 7 (PG 7)**

- a) Award the contract.
- b) **Minimum Requirement for PG 7:**
 - (i). Bid adjudication committee review of the BEC evaluation report.
 - (ii). Bid Adjudication Committee makes an award.
 - (iii). *Accounting Officer* approval of the tender process.
 - (iv). Notify successful tenderer and unsuccessful tenderers of the outcome.
 - (v). Sign contract document.
 - (vi). Formally accept tender offer.
- c) **PG 7 is complete when the Accounting Officer, or the Bid Adjudication Committee where delegated, confirms that the tenderer has provided evidence of complying with all requirements stated in the tender data and formally accepts the tender offer in writing, and issues the contractor with a signed copy of the contract.**

7.3.8 Procurement **Gate 8 (PG 8)**

- a) Administer and monitor the contract.
- b) **Minimum Requirements for PG 8:**
 - (i). Finance department to:
 - aa)** Capture contract award data.
 - bb)** Manage cash flow projection.
 - cc)** Administer contract in accordance with the terms and provisions of the contract.
 - (ii). Delivery department to:
 - aa)** Ensure compliance with contractual requirements.

PG 8 is complete when a delegated person captures the contract completion/termination data (close out reports and relevant documents), including payment certificates due.

ANNEXURE “C”: NMBM 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 NMBM 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 which implies 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 gratuity from any *person*, or provider / *contractor* either for themselves, their family, their friends and business associates.

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 also not abuse the power and authority vested in them.

2. Conflict of interest

- 2.1** An *official* or other role player involved with supply chain management -
- (a)** must treat all providers and potential providers equitably and fairly;
 - (b)** may not use his/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 NMBM;
 - (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

- 3.1** Practitioners are accountable for their decisions and actions to the public.
- 3.2** Practitioners should use public property scrupulously.
- 3.3** Only *Accounting Officers* or their delegates have the authority to commit the NMBM to any transaction for the procurement of goods, work and/or services.
- 3.4** 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.

- 3.5** Practitioners must assist the *Accounting Officer* in combating fraud, corruption, favouritism and unfair and irregular practices in the Supply Chain Management system.
- 3.6** 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 but not limited to -
- (a)** any alleged fraud, corruption, favouritism or unfair conduct;
 - (b)** any alleged contravention of the policy on inducements, rewards, gifts and favours to municipalities or municipal entities, officials or other role players; and
 - (c)** any alleged breach of this code of conduct.
- 3.7** 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 Executive Mayor who must ensure that such declaration is recorded in the register.

4. Openness

- 4.1** 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

- 5.1** Any information that is the property of the NMBM 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.
- 5.2** 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

- 6.1** Bid specification, evaluation and adjudication committees should implement supply chain management on behalf of the NMBM in an honest, fair, impartial, transparent, cost-effective and accountable manner.
- 6.2** 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.
- 6.3** 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.
- 6.4** No *person* should -
- (a)** interfere with the supply Chain Management system of the NMBM; or
 - (b)** amend or tamper with any price quotation / bid after its submission

7. **Combative Practices**

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

- (a) suggestions to fictitious lower quotations;
- (b) reference to non-existent competition;
- (c) exploiting errors in price quotations / bids;
- (d) soliciting price quotations / bids from bidders / *contractors* whose names appear on the Register for Tender Defaulter.