

SEKHUKHUNE DISTRICT MUNICIPALITY

SUPPLY CHAIN MANAGEMENT POLICY

PART A GOODS AND SERVICES

PART B INFRASTRUCTURE PROCUREMENT POLICY

2023/2024

PART A GOODS AND SERVICES

MUNICIPAL SUPPLY CHAIN MANAGEMENT POLICY

LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003

The Sekhukhune District Municipality resolves in terms of section 111 of the Local Government Municipal Finance Management Act (No. 56 of 2003), to adopt the following proposal as per Preferential Procurement Regulation 2022 , as the Supply Chain Management Policy of the municipality.

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TERMS AND DEFINITIONS

TERMS	DEFINITIONS
Acceptable Tender	Any tender which, in all respects, complies with conditions of tender and specifications as set out in the tender documents.
Accounting Authority	The Board as appointed by the MEC in terms of Section 10, of the SDM Act, to act as the Accounting Authority.
Acquisition Management	<p>The process of procurement of goods and services and includes <i>inter alia</i> the following:</p> <ul style="list-style-type: none"> • Identification of preferential policy objectives; • Determination of market strategy; • Application of the total cost of ownership principle; • Identification of procurement needs that require fulfilment • Identification of potential suppliers; • Creation and maintenance of an approved list of suppliers; • Compilation of bid documentation, including terms & conditions; • Determination of evaluation criteria; • Evaluation of bids and tabling of recommendations; • Compilation and signing of contract documents; • Contract administration; • Correct accounting and reporting of goods/ services acquired; and • Application of depreciation rates.
Adjudication points	the points referred to in the Preferential Procurement Regulations, 2011 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, unemployment insurance fund contributions and skills development levies.
Asset	<p>A resource controlled by an entity as a result of past events and from which future economic benefits or service potential is expected to flow to the entity. It has the following characteristics:</p> <ul style="list-style-type: none"> • It possesses service potential or future economic benefit that is expected to flow to the entity; • It is controlled by the entity; and • It originates as a result of a past transaction or event.
Asset Register	The register in which all the movable and immovable assets of the SDM are recorded, and which ensures that accountability for SDM assets are maintained at all times. Excludes assets that are nondurable in nature e.g. inventory.
Authoriser	The person responsible for approving a Procurement Requisition in each Unit or Cost Centre Manager.
Authority	The right or power attached to a rank or appointment permitting the holder thereof to make decisions, to take command or to demand action by others.
B-BBEE	Broad-based black economic employment as defined in section 1 of the Broad-Based Black Economic Empowerment Act.
B-BBEE status level of contributor	The B-BBEE status received by a measured entity based on its overall performance using the relevant scorecard contained in the

TERMS	DEFINITIONS
	codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act.
Bid	A written offer in a prescribed or stipulated form in response to an invitation for any tender issued by the SDM for the provision of goods, services or works estimated transaction value exceeding R200 000.
Bid Adjudication Committee	The Committee of the Municipality that: <ul style="list-style-type: none"> • reviews the evaluation of bids; • adjudicate over bids; • adjudicates over the SDM's sourcing strategy; and • rejects/ recommend awards bids as per the recommendations of the Bid Evaluation Committee on tenders issued by the SDM, where the transaction value of the bid is above R200 000 or makes a recommendation to the MM for approval.
Bid Documentation	The standard documentation used when soliciting a proposal or quotation.
Bid Specification Committee	The Committee that compiles the specification for each procurements of goods/ services drafted in an unbiased manner that allows all potential suppliers opportunity to put forward their proposal. The specification must take into account acceptable standards that the goods/ workmanship must comply with: <ul style="list-style-type: none"> - Must where possible describe requirement i.t.o performance rather that in terms of descriptive characteristics of design; and - Must indicate the specific goals/ attributes for which points may be awarded i.t.o. the preferential procurement system
Bidder	Any person submitting a competitive quotation, bid, proposal to contract.
Black Economic Empowerment	An integrated and coherent socio-economic process that directly contributes to the economic transformation of SA and brings about a significant increase in the number of Black people that manage, own and control the country's economy, as well as a significant increase in national equality.
Black Empowered Company	A company owned and managed (25.1%) by Black persons and where there is a substantial Black Management Control.
Black Influenced Company	A company that is 5 to 25% owned and managed by Black persons.
Black People	Is a generic term which means Africans, Coloureds and Indians as per the BBBEE Act.
Black Women – Owned Enterprise	An enterprise with at least 25.1% representation of black woman within the black equity and management portion.

Broad-Based Black Economic Empowerment	<p>The economic empowerment of all black people including women, workers, youth, people with disabilities and people living in rural areas through diverse but integrated socio-economic strategies that include, but are not limited to:</p> <ul style="list-style-type: none"> • increasing the number of black people that manage, own and control enterprises and productive assets; • facilitating ownership and management of enterprises and productive assets by communities, workers, cooperatives and other collective enterprises; • human resource and skills development;
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TERMS	DEFINITIONS
	<ul style="list-style-type: none"> • achieving equitable representation in all occupational categories and levels in the workforce; • preferential procurement; and • investment in enterprises that are owned or managed by black people.
Broad-Based Black Economic Empowerment Act	Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
Targetted groupings for BBBEE	Specific BBBEE level, Qualifying Micro Enterprises (QMEs); Exempted Micro Enterprises (EMEs) which are 51% owned by either of the following: Black people, Black youth, Black women, Black people living with disabilities, Black people living in rural or underdeveloped areas or townships, cooperatives owned by black people, Black people who are military veterans.
Capital Asset	Any immovable asset such as land, property or buildings; or any movable asset that can be used continuously or repeatedly for more than one year in the production or supply of goods or services, for rental to others or for administrative purposes, and from which future benefit can be derived, such as plant, machinery and equipment.
Municipal Manager	The Municipal Manager has the general responsibility of running the Municipality on day to day basis, accountable to the Council, and to assist the Council in discharging the duties as prescribed in the MFMA and perform such duties and responsibilities as have been delegated to him / her.
Chief Financial Officer	The CFO has the general responsibility to assist the Municipal Manager and Council in discharging the duties
Closing Date	The date that is stipulated as the last date on which a bidder may submit documentation or proposals in connection with a tender, in the Request for Tender document.
Closing Time	Stipulated time (e.g. 12H00) on a particular date on which the tender closes.
Co-Bidding	The practice whereby a tenderer separately teams up with two or more other renderers on a particular bid.
Code of Conduct	SDM's Code of Conduct.
Comparative Price	The price that results after the factor of a non-firm price and all unconditional discounts that can be utilized.
Competitive Bidding Process	a competitive bidding process referred to in Regulation 12 (1) (d) of the SCM Regulations.

Competitive Bid	a bid in terms of a competitive bidding process.
Council	The Council of the Municipal in term of the MFMA.
Construction Industry Development Board (CIDB) Act	Construction Industry Development Board Act, 38 of 2000 and includes the regulations pertaining thereto.
Construction Works	any work in connection with: <ul style="list-style-type: none"> - the erection, maintenance, alteration, renovation, repair, demolition or dismantling of or addition to a building or any similar structure; - the installation, erection, dismantling or maintenance of a fixed plant;

TERMS	DEFINITIONS
	<ul style="list-style-type: none"> - the construction, maintenance, demolition or dismantling of any bridge, dam, canal, road, railway, sewer or water reticulation system or any similar civil engineering structure; or - the moving of earth, clearing of land, the making of an excavation, piling or any similar type of work.
Contract participation goal	The amount equal to the sum of the value of work for which the prime contractor contracts to engage specific target groups in the performance of the contract, expressed as a percentage of the bid sum less provisional sums, contingencies and VAT.
Consortium or joint venture	As 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
Consultant	The term consultant includes, among others, consulting firms, engineering firms, construction managers, management firms, procurement agents, inspection agents, auditors, other multinational organizations, investment and merchant banks, universities, research agencies, government agencies, nongovernmental organizations (NGO"s) and individuals (Practice Note Number SCM 3 of 2003) or a person or entity providing services requiring knowledge based expertise, and includes professional service providers.
Consumable Item	A non-permanent item that are consumable or expendable and which are not depreciated.
Contract	The agreement that results the from the acceptance of a bid or quote by the SDM, which is concluded when the Municipality accepts, in writing, a bid or quote submitted by a provider.
Contractors	Any person or entity shoe bid or quote has been accepted by the municipality or a contractor as per the CIDB Act No 5 of 2006.
Damage	Injury to an item that impairs its usefulness.
Day(s)	Calendar days unless the context indicates otherwise.

Delegation Authority	any person or committee delegated with authority by the Municipality in terms of the provisions of the Municipal Finance Management Act.
Demand Management	The planning process that ensures that the resources required to support the strategic objectives are delivered at the correct time, at the right price, location, quantity and quality that will satisfy the needs of the users.
Depreciation	The reduction in the value of assets resulting from wear and tear through use in the ordinary course of business, age or obsolescence. The consumption of capital is recognized as a cost of production.
Designated sector	A sector, sub-sector or industry that has been designated by the Department of Trade and Industry in line with national development and industrial policies for local production, where only locally produced services, works or goods or locally manufactured goods meet the stipulated minimum threshold for local production and content.
Disposal Management	A process that ensures that all unserviceable, redundant or obsolete assets are subjected to a formal process of removal from operations in a cost-effective, but transparent and responsible

TERMS	DEFINITIONS
	manner. It also entails the maintenance of records and documents as prescribed.
Emerging Contractor	Is an enterprise owned by one or more individuals who may not necessarily have at its disposal all the required skills, experience, resources to meet business requirements.
End-User	The end-user is the person who utilizes the items / services procured.
Equipment	Non-consumable items issued for use in the business operations and which is accounted for as an asset in the register.
Emergency	Are cases where immediate action is necessary in order to avoid a dangerous or risky situation.
Empowerment Indicator	a measure of an enterprise/business's contribution towards achieving the goals of government's Reconstruction and Development Program. This indicator will relate only to certain specific goals for the purposes of this Policy.
Ex Post Factor	The Extension of the approval backwards in time. The approval that was otherwise not prohibited at the time the procurement transaction occurred.
Exempted Capital Asset	a municipal capital asset which is exempted by section 14(6) or 90(6) of the MFMA from the other provisions of that section.
Executive Authority	Members of the board as appointed by Gauteng Provincial MEC for Roads and Transport.
Final Award	The final decision on which bid or quote to accept

Firm Price	The price in a contract that is fixed, and not subject to any adjustments on the basis of the contractor's costs in performing on the contract. The only subject to adjustments in accordance with an actual increase or decrease - resulting from the change, imposition or abolition of customs or excise duty and any other duty, levy, or tax, which, in terms of the law or regulation, is binding on the contractor and demonstrably has an influence on the price of any supplies, or rendering costs of any service, for execution of the contract.
Formal Written Price Quotation”, “Written Price Quotation”, “Quotation” or “Quote”	a written or electronic offer to the Municipality in response to an invitation to submit a quotation.
Framework Contract	Is that contract concluded for a specific group, type or class of goods or service, in which both the contractor and standard price are pre-determined and is usually for a specific duration of time.
Functionality	The measure, according to predetermined criteria, of the suitability of a proposal, design or product for the use for which it is intended, and may also include a measure of the competency of a supplier. “Functionality” is also referred to as “Quality”.
Fronting	The misrepresentation of facts relating to an enterprise to benefit from the awarding of a contract on standard or preferential terms and conditions.
Functionality	The measurement according to predetermined norms, as set out in the tender documents, of a service or commodity that is designed to be practical and useful, working or operating, taking into account, among other factors, the quality, reliability, viability and durability of a service and the technical capacity and ability of a tenderer, “Functionality” is also referred to as “Quality”.
Functionality Criteria	The supplier's ability to meet the service delivery, specification and quality requirements.
Generic Scorecard	The scorecard that is promulgated in terms of the BBBEE Act.

TERMS	DEFINITIONS
Government	The Government of the Republic of South Africa.
Granting of Rights	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.
Green Procurement	Taking into account environmental criteria for goods and services to be purchased in order to ensure that the related environmental impact is minimised.
Historically Disadvantaged Individual	A South African citizen who, due to the apartheid policy, had no franchise in national elections prior to the introduction of the Constitution of the Republic of South Africa, or the Constitution of the Republic of South Africa; and / or who is a female; and / or who has a disability; provided that a person who obtained South African citizenship on or after the coming into effect of the Interim Constitution is deemed not to be an HDI.

Immovable Asset	As defined by the Government's Immovable Asset Management Act.
Implementing Agent	The decision maker/manager mandated by the Municipality to implement projects and invite bids/quotations for procurement of any nature.
Incoming Tender	A submission by a supplier in response to an official published SDM Request for Tender advertisement.
Imported Content	That portion of the tender price represented by the cost of components, parts or material which have been or are still to be imported (whether by the supplier or its subcontractors) and which costs are inclusive of the costs abroad, plus freight and other direct importation costs, such as landing costs, dock dues, import duty, sales duty or other similar tax or duty at the South Africa port of entry.
Institution	All constitutional institutions, public entities as defined in the PFMA,
Integrated SCM	The Total Cost of Ownership concept, which has the effect of minimising the total procurement cost, and not necessarily the cost of individual items of goods or services. A TCO approach ensures that when procuring, the purchase costs as well as all related costs (ordering, delivery, subsequent usage, maintenance, supplier, and post delivery) are taken into consideration.
In the service of the state	a member of any municipal council, any provincial legislature or the National Assembly or the National Council of Provinces; an official of any municipality or municipal entity; an employee of any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1 of 1999; a member of the board of directors of any municipal entity; a member of the accounting authority of any national or provincial public entity; or an employee of Parliament or a provincial legislature.
Inventories	Including stock, consumable stores, maintenance materials, stationery, strategic stock, e.g. fuel, spare parts, work in progress and education / training course materials.
Inventory Management	Ensures accountability for all consumable items of the SDM at all times, and includes a materials planning and requisition system.

TERMS	DEFINITIONS
	Records shall be maintained and be made available that describe fully all consumable assets and work-in-progress.
Joint Venture	An association of persons/companies, close corporations/firms for the purpose of combining their expertise, property, capital, resources, efforts, skills and knowledge in order to discharge duties in the execution of any contract. The Joint Venture must be formalized by agreement between the parties.
Late Tender	A tender submission that is posted in the Tender Box after the closing date and closing time.
Local content	That portion of the tender price which is not included in the imported content, provided that local manufacture does take place.

Logistics Management	Ensures that goods and services are available at the right place and time and in the correct quantities required to execute the functions of SDM.
Management	The senior officials who have delegated and charged with the day-to-day management of the SDM. This also entails the power to determine policies, the direction of economic activities and the allocation and use of resources of the SDM.
Movable Assets	Are assets that are not fixed and which can be relocated to various destinations (e.g. machinery, equipment, vehicles, etc.).
Municipal Asset Transfer Regulations	The Municipal Asset Transfer Regulations published in Government Gazette 31346 of 22 August 2008.
Municipal Entity	Entity as defined in the Systems Act.
Municipal Finance Management Act (MFMA)	Local Government: Municipal Finance Management Act, 56 of 2003.
Municipal Manager	The Municipal Manager has the general responsibility of running the Municipality on day to day basis, accountable to the Council, and to assist the Council in discharging the duties as prescribed in the MFMA and perform such duties and responsibilities as have been delegated to him / her.
Net Present Value	NPV is the difference between the present value of cash inflows and the present value of cash outflows, or the value that results after discounting a series of outflows over time to the present value. NPV is used in capital budgeting to analyse the comparative costs of alternative investments, or the profitability of an investment or project. Generally, if the NPV is positive the project in question is potentially worth undertaking, or when evaluating alternative investments that will require outflows of cash, the investment with the lowest present value is generally acceptable.
One-off Contract	Discrete contract where specified goods, services or construction works are supplied for an approved contract sum.
Non-exempted Capital Asset	Municipal capital asset which is not exempted by section 14(6) or 90(6) of the MFMA, from the other provisions of that section.
Non-firm price	All prices other than "firm" prices.
Obsolescence	A decline in the utility, competitiveness or value of an item of asset or inventory, due to the development of an improved or superior item, or due to a change in user requirements or preferences. Obsolescence is distinct from a decline due to physical deterioration through use, and wear and tear.
Official Person	An employee of the SDM.
Policy	A juristic person which includes a natural or juristic entity. Supply Chain Management
Practitioner	A person who practices a profession or art, or is an expert in a particular field.
Preference Points	Points allocated to preference in terms of the PPPFA.

TERMS	DEFINITIONS
Preference Procurement Regulations	The regulations pertaining to PPPFA.
Prime Contractor	Shall have the same meaning as Contractor
Provider	A provider is the private person or institution that provides goods, services or works to the SDM.

Promotion of Administration Justice Act	The promotion Administration Justice Act No. 3 of 2000.
Public Private Partnership	<p>A commercial transaction between public institution and a private party in terms of which the private party performs an institutional function on behalf of the institution; and / or it acquires the use of state property for its own commercial purposes; and assumes substantial financial, technical and operational risks in connection with the performance of the institutional function and / or use of state property; and receives a benefit for performing the institutional function or from utilizing the state property, either by way of:</p> <ul style="list-style-type: none"> • Consideration to be paid by the institution which derives from a revenue fund or where the institution is a national government business enterprise or a provincial government business enterprise, from the revenues of such an institution; or • Charges or fees to be collected by the private party from users or customers of a service provided to them; or a combination of such consideration and such charges or fees.
Quotation (Written)	A written offer by means of a fax, e-mail, letter or any other written form, in response to a verbal or written request which need not follow normal tender procedures. A written offer in a prescribed or stipulated form in response to a request for quote by the SDM for the provision of goods, services or works with a transaction value threshold below R500 000.
Rand Value	Total estimated value of a contract in South African currency, calculate at the time of tender invitations, and includes all applicable taxes and excise duties.
Redundant	No longer needed or useful.
Republic	Republic of South Africa
Responsibility	The obligation imposed on an official to properly exercise the authority vested in him to carry relevant functions or act in a particular manner within the limits of his authority. This involves the power to command and to demand action in the proper execution of the relevant duties. (Responsibility may be delegated).
Responsiveness (Eligibility) Criteria	The criteria or requirements that are stipulated in the tender documents, which the suppliers must achieve in order to qualify to be evaluated.
Risk Appetite	The quantum of risk that an organization is willing to accept within its overall capacity, linked to capital, liquidity and borrowing capacity, in the pursuit of its goals and objectives.
Risk Management	The identification, measurement and economic control of risks that threaten the assets and earnings of a business or other enterprise.
SCM Unit	The SCM function established in the SDM is rendered by person(s) with the relevant authority or delegated authority.
SCM Official	<p>A SCM Official means:</p> <ul style="list-style-type: none"> • A person employed by SDM performing the SCM function; or

TERMS	DEFINITIONS
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	<ul style="list-style-type: none"> • A person contracted to the SDM to render service to perform the SCM function.
SCM Regulation	The National Treasury Regulations 16A.
Set-Aside	Reserving the award of a tender exclusively to a select class or group of tenderers. This is generally unconstitutional in terms of Section 217 of the Constitution as it is discriminatory.
Small Medium and Micro Enterprise (SMME's)	As defined in the National Small Business Act, No. 102 of 1996. Employing a maximum of 100 employees in any sector except manufacturing or construction where the maximum is 200 employees.
Sole Supplier	<p>A supplier that has exclusive and/ or patent rights or is a unique original equipment manufacturer (OEM). The product source is of a proprietary nature and can only be sourced from a specific supplier.</p> <p>Products or services that are enhancements or additions to existing systems or equipment that is in use at the Municipality, for which no other alternative source option is available.</p> <p>Sole source purchase where there is only one supplier available in the market for the goods or service sought or supplier has sole distribution rights.</p> <p>NOTE: It is important to note that the writing of tight specifications or the adoption of a specific supplier's specifications or the procurement of specific branded products or services, which have the effect of eliminating competition is not acceptable, as this can only encourage and perpetuate sole supplier status and high prices by sole suppliers</p>
Single Source Supplier	<p>In the absence of a vendor database, the supplier utilized shall be a sole supplier for the type of goods or services being procured. Proof must be available to justify the sole supplier status.</p> <p>For emergency situations or where the needs of the business preclude the use of competitive quotations or proposals. This method may be used when one of the other purchasing procedures is impractical or otherwise inappropriate.</p> <p>In this case, comparison of prices with goods or services of like complexity must be used as a substitute for competitive procurement processes. This method is recommended under the following circumstances:</p> <ol style="list-style-type: none"> For the appointment of unique professional services, where individual expertise is desired. For business relationship where goods or services may be provided in a partnership arrangement. <p>Requirements in excess of the initial quantities ordered for the same need, identified through a further need which may arise through unforeseen circumstances, urgency and where the adherence to normal procedures may either prove to be expensive or hinder progress of a project and the invitation of competitive quotes will not be advantageous. Proof must be available to justify sole supplier status.</p>
Sourcing	is the process to be followed in order to identify a suitable provider of goods, services and works.
Strategic Objectives	Concrete and specific action plans to achieve the strategic goals of the organisation within specified timeframes.

TERMS	DEFINITIONS
Strategic Goals	Provide a high level priority list of outcomes that will address areas of organisational performance that are critical to the achievement of the Municipality's mission and vision.
Stipulated threshold minimum	That portion of local production and content as determined by the Department of Trade and Industry.
Sub-contract	Primary contractor's assigning, leasing, making out work to, or employing, another person to support such as primary contractor in the execution of part of a project in terms of the contract.
Supplier / Service Provider	A vendor that provides goods or services to the SDM.
Supply Chain Management	An integral part of financial management. This function is the collaborative strategy that integrates the planning, procurement and provisioning processes in order to eliminate the non-value adding cost infrastructure, time and activities. SCM seeks to introduce international best practices, whilst at the same time addressing Government's preferential procurement policy objectives and serving the end-users and customers efficiently.
System Act	The local Government – Municipal System Act, 32 of 2000.
Tax Clearance Certificate	Is an original and current clearance certificate, issued annually by the SARS certifying that the taxes payable by the taxpayer / vendor are up to date or that suitable alternative arrangements have been made with SARS.
Tender	A written offer in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of services, works or goods, though price quotations, advertised competitive tendering processes or proposals.
Tender Box	The identifiable, lockable box marked Tender Box: which is situated at the Reception Area of The Fire Station in Groblersdal.
Tender Document	The standard documentation utilised by the SDM when soliciting a tender.
Tender Number	A unique serial number that is allocated to each individual tender issued from and recorded in the SDM Tender Register by the SCM Unit at the time that a tender is published.
Term Contractor	A supplier who has been awarded a contract with the SDM to supply specified goods or performs specified services or works for a specified period.
The State	The government of the Republic of South Africa and any of its organ or institutions.
Total Cost of Ownership	The sum of direct spends, related to spend, process to spend and, opportunity cost associated within a specific commodity and service.
Trust	The arrangement through which the property or one person is made over of bequeathed to a trustee to administer such property for the benefit of another person
Trustee	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
Unserviceable	The condition resulting in when an item is no longer suitable for use and, which cannot be economically repaired.

Unsolicited Bid	An offer submitted by any person at its own initiative without having been invited by the Municipality to do so. This practice must be avoided by the Municipality.
Urgency	A situation where, in the best interest of the SDM, immediate action is deemed necessary to continue with or to complete a project.
Value For Money	The best available outcome when all relevant costs and benefits over the procurement cycle are considered.
TERMS	DEFINITIONS
Variation Order	An order generated for requirements in excess of initial ordered quantities, identified through a further need or through unforeseen circumstances and where adherence to the normal procurement process is not practical.

Note:

1. The following words have (in some instances) been used interchangeably:
 - the word "Bid" and "Tender";
 - the words "Procurement Unit" and "SCM Unit";
 - the words "Procurement" and "Supply Chain Management";
 - the words "supplier", "vendor" and "service provider".

2. All monetary values stipulated in this document, are in Rand and are inclusive of VAT

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

ACRONYMS AND ABBREVIATIONS

ACRONYMS	ABBREVIATIONS
AG	Auditor General
AO/ AA	Accounting Officer/ Municipal Manager
B-BBEE	Broad-Based Black Economic Empowerment
B-BBEEA	Broad Based Black Economic Empowerment Act
BAC	Bid Adjudication Committee
BEC	Bid Evaluation Committee
BEE	Black Economic Empowerment
BVA	BEE Verification Agency
C-AMP	Custodian Asset Management Plan
CEO	Chief Executive Officer
CFO	Chief Financial Officer
CIDB	The Construction Industry Development Board
DAC	Disposal and Acquisition Committee
DN	Delivery Note
DRT	Department of Roads and Transport
EME's	Exempted Micro Enterprises
EPWP	Expanded Public Works Programme
EXCO	Executive Management Committee
GCC	General Conditions of Contract
GIAMA	Government Immovable Asset Management Act
GRN	Goods Received Note
SDM	Sekhukhune District Municipality
HDI	Historically Disadvantaged Individual
IRBA	Independent Regulatory Board of Auditors
ISO	International Standards Organisation
LOA	Letter of Acceptance
MANCO	Management Committee Meeting
MFMA	Municipal Finance Management Act,
MM	Municipal Manager
MTEF	Medium Term Expenditure Framework
PCCAA	Prevention and Combating of Corrupt Activities Act
PFMA	Public Finance Management Act
PPP	Public Private Partnership
PPPPFA	Preferential Procurement Policy Framework Act
PSA	Public Service Act
QBS	Quality Based Selection
QCBS	Quality and Cost Based Selection
QSE	Qualifying Small Enterprises
RDP	Reconstruction and Development Program
RFI	Request for Information
RFP	Request for Proposal
RFQ	Request for Quotation
RFT	Request for Tender
SANAS	South African National Accreditation System
SAPS	South African Police Service
SARB	South African Reserve Bank
SARS	South Africa Revenue Service
SASAE	South African Standard on Assurance Engagements

SCC	Special Conditions of Contract
SCM	SCM
SCO	Supply Chain Officer
SCOPA	Standing Committee on Public Accounts
ACRONYMS	ABBREVIATIONS
SIF	Supplier Information Forms
SLA	Service Level Agreement
SM	Senior Manager
SMME	Small Medium and Micro Enterprise
SSS	Supplier Selection Sheet
TCO	Total Cost of Ownership
TOR	Terms of Reference
VAT	Value Added Tax

3 GUIDING PRINCIPLES

1. The SDM, as an institution identified in the national legislation, undertakes all of its procurement and tendering in accordance with a system which is fair, equitable, transparent, competitive and cost-effective. The SDM ensures effective competition and transparency in its procurement processes, in line with the provisions of Section 217 (1) of the Constitution of the Republic of South Africa, through the use of the Request for Quote, Request for Proposal and public tender processes. The following principles will guide the SDM's procurement process:

Value for Money	The SDM shall strive for procurement effectiveness and shall carry out its procurement processes as cost effectively as possible.
Competitiveness	The SDM shall fulfil its requirements through open and effective competition, unless there are justifiable reasons to act to the contrary.
Accountability	Management shall be accountable for decisions and actions relative to procurement responsibilities, the procurement process, as well as the implementation, management and conclusion of any related contract. Accountability cannot be delegated and line management remains accountable.
Transparency	The SDM shall strive to standardise and simplify procedures where appropriate and subscribe to open communication and engagement at all times. Any information reported publicly or otherwise provided to third parties as part of the procurement process, shall at all times be furnished in a responsible manner with the required level of attention to detail, accuracy and completeness, and with due consideration for any reliance that may be placed on any such representations by SCM officials.
Ethics	Vendors shall at all times be dealt with fairly and without any unfair discrimination. SCM officials shall abide by the SDM Code of Conduct, ensuring the highest level of integrity, honesty and fair-dealing in the discharge of all work responsibilities.

Fairness	The procurement process shall be open and fair, and shall afford each and every bidder timely access to the same and accurate information.
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2. This policy should be read in conjunction with the following acts and regulations:

Document Reference Library Document File Name	Context and Relevance
Broad Based Black Economic Empowerment Act,	Act No. 53 of 2003
Constitution of the Republic of South Africa Act	Act No.113 of 1997
Corporate Governance	King III
Municipal Finance Management Act	Act No 69 of 2003
National and Provincial SCM practice notes and circulars	All SCM practice notes
National Treasury Regulations in terms of the Municipal Finance Management Act	Government Gazette Number 27388 of 15 March 2005; 27636 of 30 May 2005 and 29967 of 1 July 2007
Preferential Procurement Policy Framework Act,	Act No. 5 of 2000
Prevention and Combating of Corruption Activities Act	Act No.12 of 2004
Promotion of Equality and Prevention of Unfair Discrimination Act	Act No. 4 of 2000
SCM a Guide for Accounting Officer / Authorities	Date of issue February 2004
State Information Technology Act and regulations	Act No. 88 of 1998

3. This document describes the SCM policy of the SDM. It regulates the procurement of goods and services by the SDM.
4. The responsibility for developing, administering and enforcing this policy lies with the SCM Unit of the SDM, headed up by the CFO.
5. The SCM Unit shall:
 - a. Act as the procurement advisor for best practice and execution of the SCM process in the SDM;
 - b. Be the official buyer for the SDM;
 - c. All procurement is done within SCM Unit (centralization of procurement)
 - d. Stop the procurement process at any stage where the SDM's procurement policies or prescribed practices may be at risk or compromised;
 - e. Ensure that all units within the SDM adhere to the SCM Policy;
 - f. Ensure that a standardised and consistent approach is developed for the execution of all procurement;
 - g. Ensure that all procurement transactions or contracts are properly implemented, managed, monitored and reported upon.

POLICY STATEMENT

Introduction

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

Goal

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

Objectives

7. The objectives of this Policy are:
 - 7.1 to give effect to section 217 of the Constitution of the Republic of South Africa by implementing a system that is fair, equitable, transparent, competitive and cost effective;
 - 7.2 to comply with all applicable provisions of the Municipal Finance Management Act including the Municipal SCM Regulations published under GN868 in Government Gazette 27636 30 May 2005 and any National Treasury Guidelines issued in terms of the MFMA;
 - 7.3 **to ensure consistency with all other applicable legislation and any regulations pertaining thereto, including:**
 - 7.3.1 the Preferential Procurement Policy Framework Act;
 - 7.3.2 the Broad-Based Black Economic Empowerment Act; 7.3.3 the Construction Industry Development Board Act;
 - 7.3.4 the Local Government: Municipal Systems Act; and
 - 7.3.5 the Promotion of Administrative Justice Act.
8. This Policy will also strive to ensure that the objectives for uniformity in SCM systems between organs of state, in all spheres are not undermined and that consistency with national economic policy on the promotion of investments and doing business with the public sector is maintained.

Oversight

9. Section 117 of the Municipal Finance Management Act prohibit a Municipality councillor from being a member of a bid committee or any other committee evaluating or approving quotations or bids nor may a Municipality councillor attend any such meeting as an observer.
10. Council, however, has an oversight role to ensure that the MM implements this SCM Policy.
11. The Mayor must provide general political guidance over the fiscal and financial affairs of the Municipality and may monitor and oversee the exercise of responsibilities assigned to the MM and CFO in terms of the Municipal Finance Management Act.
12. For the purposes of such oversight, the MM shall, within 10 (ten) days of the end of each quarter, submit a report on the implementation of this Policy to the Mayor and, within 30 days of the end of each financial year, shall submit a similar such report to Council.
13. In addition, if any serious problem arises in relation to the implementation of this Policy, the MM shall immediately report to Council accordingly.

14. All such reports shall be made public in accordance with section 21.(1)(a) of the Systems Act.

Compliance with Ethical Standards

15. In order to create an environment where business can be conducted with integrity and in a fair and reasonable manner, this Policy will strive to ensure that the MM and all representatives of the SDM involved in SCM activities shall act with integrity and in accordance with the highest ethical standards.
16. All SCM representatives shall adhere to the code of conduct of municipal staff contained in schedule 2 of the Systems Act, and this Policy's Code of Ethical Standards.

GENERAL PROVISIONS AND APPLICATION OF POLICY Commencement and Review

17. This Policy is effective from the date on which it is adopted by Council.
18. The MM must annually review the implementation of this Policy and if she/he considers it necessary, submit proposals for the amendment of the Policy to the Council for approval.

Application of Policy

19. **This Policy applies to:**
 - 19.1 the procuring of goods or services, including construction works and consultant services;
 - 19.2 the disposal by the Municipality of goods no longer needed;
 - 19.3 the selection of contractors to provide assistance in the provision of municipal services otherwise than in circumstances where chapter 8 of the Systems Act applies; or
 - 19.4 the selection of external mechanisms referred to in section 80 (1) (b) of the Systems Act for the provision of municipal services in circumstances contemplated in section 83 of that Act.
20. **Unless specifically stated otherwise, this Policy does not apply if the Municipality contracts with another organ of state for:**
 - 20.1 the provision of goods or services to the Municipality;
 - 20.2 the provision of a municipal service; or
 - 20.3 the procurement of goods and services under a contract secured by that other organ of state, provided that the relevant supplier has agreed to such procurement.

A report shall nevertheless be submitted to the Bid Adjudication Committee seeking authority to contract with another organ of state.

21. The Policy provides for the following SCM systems:

- 21.1 Demand management system;
- 21.2 Acquisition management system;
- 21.3 logistics management system;
- 21.4 disposal management system;
- 21.5 risk management system; and
- 21.6 performance management system.

22. These systems must be adhered to in all SCM activities undertaken by the Municipality.

Delegations

- 23. To the extent that it may be necessary, Council authorises the MM to delegate or sub-delegate to a staff member any power conferred on the MM in terms of the MFMA and the SCM Regulations relating to supply chain management.
- 24. No decision-making in terms of any SCM powers and duties may be delegated to an advisor or consultant.

Competency

- 25. The MM shall ensure that all persons involved in the implementation of this Policy meet the prescribed competency levels, and where necessary, shall provide relevant training.
- 26. The training of officials involved in implementing this Policy shall be in accordance with any National Treasury guidelines on SCM training.

SCM Unit

- 27. The Municipality must establish a SCM Unit to assist the MM to implement this Policy.

Communication with the Municipality

- 28. All correspondence with regard to this Policy shall be addressed to the Municipal Manager.

Availability of SCM Policy

- 29. A copy of the Policy and other relevant documentation should be made available on the Municipality's website.

DEMAND MANAGEMENT SYSTEMS Introduction

30. Demand management provides for an effective system to ensure that the resources required to support the strategic operational commitments of the Municipality are delivered at the correct time, at the right price and at the right location, and that the quantity and quality satisfy the needs of the Municipality.
31. The Municipality's Integrated Development Plan (IDP) is a comprehensive strategy document setting out how the Municipality intends to tackle its development challenges in a financial year. It is on the basis of the IDP that the resources of the municipality will be allocated and on which the budget is based.
32. In order to achieve effective demand management, the Manager: SCM shall continuously ensure:
 - 32.1 That efficient and effective provisioning and procurement systems and practices are implemented to enable the Municipality to deliver the required quantity and quality of goods and services to the communities;
 - 32.2 The establishment of uniformity in policies, procedures, documents and contract options and the implementation of sound systems of control and accountability;
 - 32.3 The development of a world-class professional SCM system which results in continuing improvement in affordability and value for money, based on total cost of ownership and quality of procurement as competition amongst suppliers is enhanced; and
 - 32.4 In dealing with suppliers and potential suppliers that the Municipality shall respond promptly, courteously and efficiently to enquiries, suggestions and complaints.

Major Activities

33. Demand management lies at the beginning of the supply chain and the major activities associated with identifying demand are:
 - 33.1 establishing requirements;
 - 33.2 determining needs; and
 - 33.3 deciding on appropriate procurement strategies.
34. Demand management accordingly shall involve the following activities:
 - 34.1 understanding the future needs;
 - 34.2 identifying critical delivery dates;
 - 34.3 identifying the frequency of the need;
 - 34.4 linking the requirement to the budget;
 - 34.5 conducting expenditure analyses based on past expenditure;

- 34.6 determining requirements,
- 34.7 conducting commodity analyses in order to check for alternatives; and
- 34.8 conducting industry analyses.
- 34.9 Strategy for achieving the PPPFA/BBBEE objectives
 - (a) **The demand management stage must identify in an informed way a pre-qualification provision to advance participation by the targeted groupings for BBBEE as defined per the PPPFA Guidelines of January 2017.**
 - (b) **The above groupings must also be targeted for empowerment by way of sub-contracting at least 30% of projects where feasible.**

ACQUISITION MANAGEMENT SYSTEM Introduction

- 35. The objectives of this acquisition management system are to ensure:
 - 35.1 that goods and services, including construction works and consultant services are procured by the Municipality only in accordance with the authorised procedures incorporated herein;
 - 35.2 that expenditure on goods and services, including construction works and consultant services are incurred in terms of an approved budget;
 - 35.3 that the threshold values of the different procurement procedures are complied with;
 - 35.4 that bid documentation, evaluation and adjudication criteria, and general conditions of contracts are in accordance with the requirements of relevant legislation including, the Preferential Procurement Policy Framework Act, and any conditions of the Construction Industry Development Board Act; and
 - 35.5 that procurement guidelines issued by the National Treasury are taken into account.

General Application

- 36. This acquisition management system contains the general conditions and procedures which are applicable, as amended from time to time, to all procurement, contracts, and orders for the Municipality.

Supplier Database

37. The MM must ensure that suppliers are sourced from the Treasury CSD database and that CSD reports of such vendors are kept.
38. The MM must also encourage non-profit entities that have prior agreements that deal with the Municipality, such as churches and traditional authorities also register on the relevant Section of the CSD.
40. The MM shall disallow the listing of any prospective provider whose name appears on the National Treasury's database as a person prohibited from doing business with the public sector.
41. For quotations (up to and including R200 000 (VAT Inclusive) bidders are required to be registered on the CSD on or before the closing date.
42. Where bids exceed R200 000 (VAT Inclusive), bidders who are not registered on the CSD Database are not precluded from submitting bids, but must however be registered prior to the evaluation of tenders in order for their bids to be responsive.
43. All parties to a Joint Venture must comply with the requirements of clauses 41 and 42 above.

Combating Abuse of the SCM Policy¹

44. The MM shall be entitled to take all reasonable steps to prevent abuse of the SCM system and to investigate any allegations against an official, or other role player, of fraud, corruption, favouritism, unfair, irregular or unlawful practices or failure to comply with the SCM system and when justified in terms of administrative law:
 - 44.1 shall take appropriate steps against such official or other role player; or
 - 44.2 shall report any alleged criminal conduct to the South African Police Service;
 - 44.3 must reject a recommendation for the award of a contract if the recommended bidder or person submitting a quote, or any of its directors, has committed a corrupt or fraudulent act in competing for the particular contract;
 - 44.4 must validate recommendations or decisions that were unlawfully or improperly made, taken or influenced, including recommendations or decisions that were made, taken or in any way influenced by:
 - 44.4.1 councilors in contravention of item 5 or 6 of the Code of Conduct for councilors in schedule 1 of the Systems Act; or
 - 44.4.2 municipal officials in contravention of item 4 or 5 of the Code of Conduct for Municipal Staff Members set out in schedule 2 of the Systems Act.
 - 44.5 must cancel a contract awarded to a person if:
 - 44.5.1 the person committed a corrupt or fraudulent act during the procurement process or the execution of the contract; or

44.5.2 an official or other role player committed any corrupt or fraudulent act during the procurement process or in the execution of the contract that benefited that person.

45. The MM may/must reject the bid or quote of any person if that person or any of its directors have:

45.1 failed to pay municipal rates and taxes or municipal service charges and such rates, taxes and charges are in arrears for more than three months;

45.2 failed, during the last five years, 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;

45.3 abused the SCM system of the Municipality or has committed any improper conduct in relation to this system;

45.4 been convicted of fraud or corruption during the past five years;

45.5 wilfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or

45.6 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 or has been listed on National Treasury's database as a person prohibited from doing business with the public sector.

46. The MM shall inform the Provincial Treasury of any actions taken in terms of clauses 44 to 45 above.

Appointment of Observer

47. Where appropriate, the MM may appoint a neutral or independent observer in order to ensure fairness and transparency in the application of this acquisition management system.

Contracts Having Budgetary Implications beyond three Financial Years

48. The Municipality may not enter any contract that will impose financial obligations beyond the 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.

49. Local Production and Proudly South African Campaign

49.1 Proudly South African

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

- Firstly – suppliers and businesses within the municipality or district;

- Secondly – suppliers and businesses within the relevant province;
- Thirdly – suppliers and businesses within the Republic.

49.2 Local Production and Content

(a) Tenders in respect of goods and services that have been designated for local production and content must contain a specific bidding condition that only locally production goods or services with a stipulated minimum threshold for local production and content per standards determined by DTI issued by Treasury. (b) Exchange rate used for calculating of local content must be the rate published by the SARB on the date of advertising the tender.

(c) Where feasible, tenders above R30million must have sub-contracting to advance the designated groupings.

Specialised Forms of Procurement

Acquisition of Goods or Services from other Organs of State or Public Entities

50. In the case of goods or services procured from another organ of state or public entity (including the Department of Water Affairs, Eskom or any other such entities), such procurement shall be made public, giving details of the nature of the goods or services to be procured and the name/s of the supplier/s.

Acquisition of Goods and Services under Contracts secured by other Organs of State

51. The Accounting Officer may procure goods or services under a contract secured by another organ of state, but only if:
- 51.1 the contract has been secured by that other organ of state by means of a competitive bidding process applicable to that organ of state;
 - 51.2 the municipality or entity has no reason to believe that such contract was not validly procured;
 - 51.3 there are demonstrable discounts or benefits for the municipality or entity to do so; and
 - 51.4 that other organ of state and the provider have consented to such procurement in writing.

Acquisition of Banking Services

52. Subject to section 33 of the Municipal Finance Management Act, any contract for the provision of banking services:

- 52.1 shall be procured through a competitive bidding process;
 - 52.2 shall be consistent with section 7 of the Municipal Finance Management Act; and
 - 52.3 may not be for a period longer than five years.
53. The process for procuring a contract for banking services must commence at least nine months before the end of an existing contract.
54. The closure date for the submission of bids for banking services may not be less than 60 days from the date on which the advertisement is placed in a newspapers commonly circulating locally.
55. Bids shall be restricted to banks registered in terms of the Banks Act, 94 of 1990.

Acquisition of IT Related Goods or Services

56. If the transaction value of IT related goods or services exceeds R50 million in any financial year, or if the transaction value of a single contract (whether for one or more years) exceeds R50 million, the MM must notify the State Information Technology Agency (SITA) together with a motivation of the IT needs of the Municipality.

If SITA comments on the submission and the Municipality disagrees with such comment, the comments and the reasons for rejecting or not following such comments must be submitted to the Council, the Provincial and National Treasury, and the Auditor General prior to awarding the bid.

57. Notwithstanding the above, the Accounting Officer may request the SITA to assist with the acquisition of IT related goods or services in which case the parties must enter into a written agreement to regulate the services provided by, and the payments to be made to, the SITA.

Acquisition of Goods Necessitating Special Safety Arrangements

59. Goods, other than water, which necessitate special safety arrangements (for example, flammable products, poisons), may not be acquired in excess of immediate requirements unless there is sound financial justification therefor.
60. Where the storage of goods, other than water in bulk is justified, the MM may authorize such storage and the decision must be based on sound reason including total cost of ownership and cost advantages for the Municipality.

Public-Private Partnerships

61. Part 2 of chapter 11 of the MFMA applies to the procurement of public-private partnership agreements. Section 33 also applies if the agreement will have multi-year budgetary implications for the Municipality within the meaning of that section.

Publications in Newspapers

62. In respect of any contract relating to the publication of official and legal notices and advertisements in the press by or on behalf of the Municipality, there is no requirement for a competitive bidding process to be followed.

Other Procurement that may be excluded from procurement processes

63. The CFO or Accounting Officer may approve the deviation of procurement of the following depending on the threshold value without following the SCM processes:
- 63.1. Procurement of vehicles related services;
 - 63.2. Procurement of legal service (only urgent matters);
 - 63.3. Procurement of training related services;
 - 63.4. Stripping parts – quotations;
 - 63.5. Procurement of towing the municipal vehicles;
 - 6.3.6. Sole supplier; and
 - 6.3.7. Any other urgent and emergency procurement.

Community Based Vendors

63. B. The CFO may approve the request for the quotations directly from Community Based Vendors in a specific area or from a specific community for the procurement of goods and services for amounts less than R10 000 (including construction works).

Range of Procurement Processes

64. "Goods and services, including construction works and consultant services, shall be procured through the range of procurement processes set out below.
- (1) Petty cash purchases, up to a transaction value of R 2000 (VAT included).
 - (2) Written or Verbal price quotations for procurement transactions with values over R 2000 up to R10 000 (VAT included).
 - (3) Formal written price quotations for procurement of a transaction value over R 10 000 to R 30 000 (VAT Included).
 - (4) Formal written price quotations for procurement of a transaction value over R 30 000 (VAT included) up to R 200 000 (VAT included), subject to section 2 (1) (b) (ii) of the Preferential Procurement Policy Framework Act of 2000, section 18 (a) (b) of the municipal supply chain management regulations and sections 4 (1) (2) (3) (4) of the Preferential Procurement Regulations of 2022.
 - (5) A competitive bidding process for –
 - (i) Procurement of a transaction value above R 200 000 (VAT included); and
 - (ii) Procurement of long-term contracts.
 - (iii) Goods or services may not deliberately be split into parts or items of a lesser value merely to avoid complying with the requirements of the policy. When determining transaction values, a requirement for goods or services consisting of different parts or items must as far as possible be treated

and dealt with as a single transaction.

- (iv) The municipality reserves the rights to appoint a panel of service providers or contractors for period not more than 36 months and allocation of work must be done on rotational basis considering the final ranking and the performance of the service provider
- 6. The accounting officer may, in writing –
 - a) Lower, but not increase, the different threshold values specified.
 - c) The delegated authority for the different threshold values is contained in the municipality's Delegations for Power: Delegation
 - 7. Goods or services may not deliberately be split into parts or items of a lesser value merely to avoid complying with the requirements of the policy. When determining transaction values, a requirement for goods or services consisting of different parts or items must as far as possible be treated and dealt with as a single transaction.
 - 8. The municipality reserves the rights to appoint a panel of Service Providers or Contractors For period not more than 36 months and allocation of work must be done on rotational Basis considering the final ranking and the performance of the service provider.

Competitive Bids

- 65.** Where the estimated transaction value exceeds R200 000 (VAT inclusive), or for any contract exceeding one year in duration (which includes any defects liability period, if applicable).

66 Term Bids

- 66.1 For the supply of goods and services or construction works that is of an ad-hoc or repetitive nature for a predetermined period of time.

66.2 Use of Panel of Pre-qualified Suppliers and Service Providers

- (a) A panel of suppliers and service providers must be appointed via a competitive bid/ pre-selection criteria.
- (b) The use of such term contractors/ panel shall be by rotation and equitable distribution of work amongst such suppliers.
- (c) End-user department in consultation with SCM must work out standard rates/ prices that will be applicable. Average rate may also be worked out, and a term contractor who agrees to the lesser or equal of the average rate may be used or rated accordingly.
- (d) SCM must monitor distribution of work amongst term contractors/panel and advise endusers accordingly to achieve equitable distribution. In the case of Legal services depending on each case, the Accounting Officer after consultation with Legal will decide on allocation.
- (e) The term contract shall not exceed (3) three year term unless the prescripts have been followed
- (f) Orders shall cover only goods or services falling within which the scope of work associated with the agreement which may not be amended for the duration of the contract
- (g) Orders may not be issued after the expiry of the agreement.

66.3 ROTATION OF SUPPLIERS IN LINE WITH THE ROTATION POLICY

- Quotations will be sourced from the existing panel of term contractors
- The Process for considering term bids shall be in terms of the evaluation and adjudication procedures for conventional competitive bids
- **The threshold for evaluation shall be line with the SCM Policy 45.19**
- **No service Provider in the Panel of Term contractors/consultants shall be awarded more than three contracts, irrespective of the value, until other service providers have been afforded the opportunity to render the service or supply goods**

66.4 ADDENDUM

- In terms of the supply chain management: a guide for accounting officers of municipalities and municipal entities
- Any additional information, clarification, correction of errors, or modifications of bidding documents will be sent to each recipient of the original bidding documents 7 (Seven) days from publishing date and submitted within seven (7) days before the deadline to enable the bidders to take an appropriate action. If necessary, the deadline should be extended.

Formal Written Price Quotations

67. Where the estimated transaction value exceeds R10 000 (VAT inclusive) and is less than or equal to R200 000 (VAT inclusive).
68. If it is not possible to receive at least three quotations, the reasons should be recorded and approved by the CFO.

Written or Verbal Price Quotations

69. Where the estimated transaction value exceeds R2 000 (VAT inclusive) and is less than or equal to R10 000 (VAT inclusive).
- In terms of Regulation 12 of the SCM Regulation the conditions for the procurement of goods and services through formal written price quotations as follows:
 - Quotations must be obtained in writing from different service providers whose names appear on the list of accredited prospective providers of the National Treasury Central Supplier Database
 - The names of Service Providers must be recorded.

69.2 Procedures of procuring goods and services through formal written price quotations

- In terms of Regulation 18 of the SCM Regulation the operational procedure for the procurement of goods or services through written price quotations or formal written price quotations are as follows:

- Specification for formal written quotations above R10 000.00 must be signed off by the relevant department/ Accounting Officer.

Procurement of Consulting Services

- 70.** Where the estimated value of fees exceeds R200 000 (VAT inclusive) or where the duration of the appointment will exceed one year, a competitive bidding process shall apply.
- 71.** Where the estimated value of fees is less than or equal to R200 000 (VAT inclusive) and the duration of the appointment will be less than one year, a selection process as described in this Policy, as amended from time to time, shall be applied.
- 72.** Where consultants are required to assist in the review of bids and/or providing professional opinion, such work must be performed within the Municipality's premises or such place designated by CFO and Director IWS.
- 73.** No bid documents must be taken possession of by the Consultants to their private practice or place.

Threshold Values

The Accounting Officer may:

72.1 lower, but not increase, the different threshold values specified in the acquisition management system of this Policy; or

72.2 direct that:

72.2.1 written or verbal quotations be obtained for any specific procurement of a transaction value lower than R10 000.

72.2.2 at least three written or verbal price quotations be obtained for any specific procurement of a transaction value lower than R10 000; or

72.2.3 at least three formal written price quotations be obtained for any specific procurement of a transaction value equal or more than R10 000; or

72.2.4 a competitive bidding process be followed for any specific procurement of a transaction value more than R200 000. Whereby specific goals will be applicable as per Preferential procurement Regulations 2022

72.2.5 If the lowest quote is not selected, the decision must be supported by written motivation to the CFO and/ or the

General Conditions Applicable to Bids and Quotations

- 73.** The Municipality shall not consider a bid or quote unless the bidder who submitted the bid or quote:
- 73.1 has furnished the Municipality with that bidder's:
 - 73.1.1 full name;
 - 73.1.2 identification number or company or other registration number; and
 - 73.1.3 tax reference number; and
 - 73.1.4 VAT registration number, if any;
 - 73.1.5 certificate of attendance at a compulsory site inspection, where applicable;
 - 73.2 has submitted an original and valid tax clearance certificate certifying that the provider's tax matters are in order
 - 73.3 has submitted an original or certified BBBEE contributor level certificate and
 - 73.4 has indicated whether:
 - 73.3.1 the provider is in the service of the state, or has been in the service of the state in the previous twelve months;
 - 73.3.2 if the provider is not a natural person, whether any of the directors, managers, principal shareholders or stakeholders is in the service of the state, or has been in the service of the state in the previous twelve months; or
 - 73.3.3 Whether a spouse, child or parent of the provider or of a director, manager, shareholder or stakeholder referred to in sub-clause 73.3.2 is in the service of the state, or has been in the service of the state in the previous twelve months.
- 74.** Irrespective of the procurement process, the Municipality may not make any award above R30 000, to a person who's tax matters have not been declared by the SARS to be in order.
- 75.** Before making an award the Municipality must check with SARS if the person's tax matters are in order and, if SARS does not respond within seven days such person's tax matters may, for the purposes of clause 74, be presumed to be in order.

76. Irrespective of the procurement process followed, the Municipality is prohibited from making an award to a person:
- 76.1 who is in the service of the state;
 - 76.2 if the person is not a natural person, of which any director, manager or principal shareholder or stakeholder is in the service of the state; or
 - 76.3 who is an advisor or consultant contracted with the Municipality (refer to clause 95 in this regard).
77. The Accounting Officer shall ensure that the notes to the annual financial statements of the Municipality disclose particulars of any award above R2000 to a person who is a spouse, child or parent of a person in the service of the state, or who has been in the service of the state in the previous twelve months, including:
- 77.1 the name of the person;
 - 77.2 the capacity in which the person is in the service of the state: and
 - 77.3 the amount of the award.

CODE OF CONDUCT OF COMMITTEE MEMBERS

Rights and Responsibilities

78 A person as a member of the Committee obtains certain rights such as a share in the control of the matter for which the meeting is constituted, and the member may exercise this right by making proposals, voting, etc. A member's conduct at the meeting must, however, not infringe on the rights of others. The rules of conduct are based on mutual respect for the rights of each other and respect for the meeting.

Members must accept that-

- a. The chairperson must be respected;
- b. The chairperson has the right to interrupt and ask a member to stop speaking if the address is repetitive or irrelevant to the matter under discussion;
- c. A member must stop speaking if ruled out of order by the chairperson;
- d. Decisions are taken by consensus or by a show of hands when a matter is decided upon by voting;
- e. Once a decision has been taken it is final and not open for discussion, unless additional information, which was not available at the time of decision making can be produced;
- f. Information and documentation are confidential;
- g. A member (including the chairperson or vice-chairperson) shall beforehand declare his/her interest regarding any matter serving before the Committee and the member will then recuses her/himself during the discussion of that matter. No discussion by the member concerned will be allowed prior to the serving of that submission /report. Any personal interest that may infringe, or might reasonably be deemed to infringe on a member's impartiality in any matter relevant to their duties must be recorded;

- h. Outvoted members must abide by the majority decision of the Committee; and
- i. No communication should be made with a bidder/ contractor by any member prior to or after any meeting.

COMPETITIVE BIDS

General

- 78.** Competitive bids must be called for any procurement of goods or services, construction works, or consultant services above a transaction value of R200 000 (VAT inclusive), or for any contract exceeding one year in duration.
- 79.** Goods or services, construction works, or consultant services may not be split into parts or items of lesser value merely to avoid complying with the requirements relating to competitive bids.
- 80.** When determining transaction values, a requirement for goods or services, construction works or consultant services consisting of different parts or items must as far as possible be treated and dealt with as a single transaction.

Bid Specifications

- 81.** Bid specifications must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services.
- 82.** Bid specifications must take account of any accepted standards such as those issued by South African National Standards, the International Standards Organisation, or any authority accredited or recognised by the South African National Accreditation System with which the equipment or material or workmanship should comply.
- 83.** Bid specifications shall, where possible, be described in terms of performance required rather than in terms of descriptive characteristics for design.
- 84.** Bid specifications may not create trade barriers in contract requirements in the forms of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labelling of conformity certification.
- 85.** Bid specifications may not make any reference to any particular trade mark, name, patent, design, type, specific origin or producer, unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the words "or equivalent".
- 86.** Bid specifications and/or bid documentation must indicate each specific goal for which adjudication points may be awarded.
- 87.** Bid specifications and/or bid documentation must be approved by the MM or his delegated authority prior to publication of the invitation for bids.
- 88.** Where specifications are based on standard documents available to bidders, a reference to those documents is sufficient.

Bid Specification Committee

89. All bid specifications and bid documentation must be compiled by an ad-hoc bid specification committee constituted for each project or procurement activity.
90. Where appropriate a representative of Internal Audit and/or Legal Services and/or an external specialist advisor may form part of this committee.
91. The Bid Specification Committee shall be comprised of at least three Municipality officials, an appointed Chairperson, a responsible official and at least one SCM Practitioner of the Municipality
92. Green procurement must be incorporated as far as reasonable possible, for all specifications of goods, services and construction works. In the development of bid specifications, innovative mechanisms should be explored to render the service or product more resource and energy efficient.
93. In the development of bid specifications, innovative mechanisms should be explored to render the service or product more resource and energy efficient
94. The MM, or his delegated authority, shall, taking into account section 117 of the MFMA, appoint the members of the Bid Specification Committees.
95. No person, advisor or corporate entity involved with the bid specification committee, or director of such corporate entity, may bid for any resulting contracts.
96. Bid Specification Committee meetings must be conducted in accordance with the applicable Rules of Order Regulating the Conduct of Meetings.

Compilation of Bid Documentation

97. If the bid relates to construction works as contemplated by the Construction Industry Development Board Act, then the requirements of that Act must be taken into account in the bid documentation.
98. General conditions of contract and SCM guidelines of the National Treasury in respect of goods and services must be taken into account when compiling bid documents.
99. Bid documentation must clearly indicate the terms and conditions of contract, specifications, criteria for evaluation and adjudication procedures to be followed where applicable, and include where, in exceptional circumstances, site inspections are compulsory.
100. An appropriate contract and/or delivery period must be specified for all contracts.
101. The requirements of the preferential procurement section of this Policy must be clearly set out in the bid documentation.
102. The bid documentation and evaluation criteria shall not be aimed at hampering competition, but rather to ensure fair, equitable, transparent, competitive and cost-effective bidding, as well as the protection or advancement of persons, or categories of persons, as embodied in the preferential procurement section of this Policy.
103. The bid documentation must require a bidder to furnish the following:

- 103.1 the bidders full name;
- 103.2 the identification number or company or other registration number;
- 103.3 the bidders tax reference number and VAT registration number, if any;
- 103.4 an original valid tax clearance certification from the South African Revenue Services stating that the bidders tax matters are in order;
- 104.** an original or certified copy of the B-BBEE certificate contributor level.
- 105.** Bid documentation must stipulate that disputes must be settled by means of mutual consultation, mediation (with or without legal representation) or, where unsuccessful, in a court of South African law.
- 106.** A provision for the termination/cancellation of the contract in the case of non-or underperformance must be included in the bid documentation.
- 107.** Unless otherwise indicated in the bid documents, the Municipality shall not be liable for any expenses incurred in the preparation and/or submission of a bid.
- 108.** Bid documentation must state that the Municipality shall not be obliged to accept the lowest bid, any alternative bid or any bid.
- 109.** Unless the MM otherwise directs bids are invited in the Republic only.
- 110.** Laws of the Republic shall govern contracts arising from the acceptance of bids.
- 111.** Bid documentation must compel bidders to declare any conflict of interest they may have in the transaction for which the bid is submitted.
- 112.** The bid documentation must require bidders to disclose:
 - 111.1 whether he or she is in the service of the state, or has been in the service of the state in the previous twelve months;
 - 111.2 if the bidder is not a natural person, whether any of its directors, managers, principal shareholders or stakeholder is in the service of the state, or has been in the service of the state in the previous twelve months; or
 - 111.3 whether a spouse, child or parent of the bidder or of a director, manager, shareholder or stakeholder referred to in sub-clause 111.2 is in the service of the state, or has been in the service of the state in the previous twelve months.
- 113.** Bid documentation for consultant services must require bidders to furnish the Municipality with particulars of all consultancy services, and any similar services (to the services being bid for) provided to an organ of state in the last five years.
- 114.** Bid documentation for consultant services must ensure that copyright in any document produced, and the patent rights or ownership in any plant, machinery, item,

system or process designed or devised by a consultant in terms of an appointment by the Municipality, shall vest in the Municipality.

Bids less than R10 million

115. If the estimated value of the transaction is less than R10 million, the bid documentation must require the bidders to furnish:

- **The Municipal rates for the bidder and its directors in respect of which payment is not overdue for more than 90 days or proof of lease agreement including rates for the landlord. In case where the Company or Director is registered in a rural area where the rates are not paid, please attach proof from Local Authority and Affidavit under oath indicating that there are no municipal rates payable**

116. Bids exceeding R10 million

- If the estimated value of the transaction exceeds R10 million, the bid documentation must require the bidders to furnish:
- if the bidder is required by law to prepare annual financial statements for auditing, their audited annual financial statements -
- for the past three years, or
- since their establishment if established during the past three years,
- **A certificate signed by the bidder certifying that the bidder and any of its directors has no undisputed commitments for municipal services towards a municipality or other service provider in respect of which payment is overdue for more than 30 days.**
- **The Municipal rates for the bidder and its directors in respect of which payment is not overdue for more than 30 days or proof of lease agreement including rates for the landlord. In case where the Company or Director is registered in a rural area where the rates are not paid, please attach proof from Local Authority and Affidavit under oath indicating that there are no municipal rates payable**
- particulars of any contracts awarded to the bidder by an organ of state during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract, and
- a statement indicating whether any portion of the goods or services are expected to be sourced from outside the Republic and, if so, what portion and whether any portion of payment from the Municipality is expected to be transferred out of the Republic.

117. Alternative Bids

- Bid documentation may state that alternative bids can be submitted provided that a bid free of qualifications and strictly in accordance with the bid documents is also submitted.
- An alternative bid shall be submitted on a separate complete set of bid documents and shall be clearly marked "Alternative Bid" to distinguish it from the unqualified bid referred to above.
- Bid documentation shall state that the Municipality will not be bound to consider alternative bids.

Public Invitation for Competitive Bids

- 118.** On completion of the bid specification and bid document processes the Municipality shall publicly invite bids.
- 119.** Bid invitation shall be by notice published in the National Treasury website, CIDB, notice board or in newspapers circulating in the Sekhukhune District Municipality area, in English and on the Municipality's official website.
- 120.** The bid documents shall as soon as possible be uploaded on the National Treasury E-portal.
- 121.** The bid notice may require payment of a non-refundable tender fee by bidders wanting to collect bid documents at the municipal offices. This tender fee shall be determined by the CFO from time to time.
- 122.** The public notice contemplated by clause 119 above shall specify:
- 122.1 the title of the proposed contract and the bid or contract reference number;
 - 122.2 such particulars of the contract as the Municipality deems fit;
 - 122.3 the date, time and location of any site inspection, if applicable;
 - 122.4 the place where the bid documentation is available for collection and the times between which bid documentation may be collected;
 - 122.5 that bids may only be submitted on the bid documentation provided by the Municipality;
 - 122.6 the deposit payable, if any;
 - 122.7 the place where bids must be submitted;
 - 122.8 the closing date and time for submission of bids; and
 - 122.9 the required CIDB contractor grading for construction work.

123. The bid notice shall further state that all bids for the contract must be submitted in a sealed envelope on which it is clearly stated that such envelope contains a bid and the contract title and contract or bid reference number for which the bid is being submitted.
124. Bid documentation shall be available for collection until the closing date of bids.

Issuing of Bid Documents

125. Bid documents and any subsequent notices may only be issued by officials designated by the CFO or his/her delegates from time to time.
126. Details of all prospective bidders who have been issued with bid documents must be recorded by the issuing office but shall remain confidential for the duration of the bid period.
127. Details of prospective bidders must, wherever possible, include the full name of the person drawing documents, a contact person, a contact telephone and fax number and a postal and email address.

Site Inspections

128. In general, site inspections, where applicable will not be compulsory. In exceptional circumstances however, a site inspection may be made compulsory with the approval of the CFO or his/her delegates, provided that the minimum bid period is extended by at least 7 (seven) days (Refer to clauses 156 to 158 in this regard).
129. If site inspections are to be held, full details must be included in the bid notice, including whether or not the site inspection is compulsory.
130. Where site inspections are made compulsory, the date for the site inspection shall be at least 7 (seven) days after the bid has been advertised, and a certificate of attendance signed by the responsible agent must be submitted with the bid.
131. If at a site meeting, any additional information is provided or clarification of vague points are given, such additional information or clarification must be conveyed to all bidders in accordance with clauses 163 to 165 of this Policy.

Two-stage (Prequalification) Bidding Process

132. In a two-stage (prequalification) bidding process, bidders are first invited to prequalify in terms of predetermined criteria, without being required to submit detailed technical proposals (where applicable) or a financial offer.
133. In the second stage, all bidders that qualify in terms of the predetermined criteria will be shortlisted and invited to submit final technical proposals (where applicable) and/or a financial offer.
134. This process may be applied to bids for large complex projects of a specialist or long term nature or where there are legislative, design, technological and/or safety reasons to restrict bidding to firms who have proven their capability and qualification to meet

the specific requirements of the bid, including projects where it may be undesirable to prepare complete detailed technical specifications or long term projects with a duration exceeding three years.

- 135.** The notice inviting bidders to pre-qualify must comply with the provisions of public invitation for competitive bids (clauses 118 to 124 refer).
- 136.** Once bidders have pre-qualified for a particular project, they shall be given not less than 7 (seven) days to submit a final technical proposal (where applicable) and/or a financial offer.

Two Envelope System

- 137.** A two-envelope system differs from a two-stage (prequalification) bidding process in that a technical proposal and the financial offer are submitted in separate envelopes at the same place and time. The financial offers will only be opened once the technical proposals have been evaluated (clauses 184 to 189 refer).

138. Validity Periods

In terms of the SCM Regulation, sub regulation 22 (1) b

The closure date for the submission of bids/quotations, which may not be less than 30days in the case of transactions over R10 million (vat included, or which are of a long-term nature, or

139. 14 days in any other case, from the date on which the advertisement is placed in a newspaper, subject to the SCM Regulation (2)

140. The bid/quotation offer validity period provided for in the bid/quotation shall not exceed 90 days

141. Extension of validity period

- Extensions include goods and services as well as infrastructure
- Extensions must be done prior to the expiry date of the bid validity period
- When validity lapse, the contractual obligation that the bidder accepted on signing the relevant bid documentation falls away, therefore when a bid expires there is nothing to extend
- The expired bid cannot be evaluated further, and it must be cancelled and readvertised, when applicable
- Extensions must be granted based on good reasons and must be approved by the Accounting Officer.
- Can extend the minimum bids/quotations period by at least 7 days, not exceeding 60 calendar days.
- An extension of validity must be requested in writing from all bidders before expiry date.
- All bidders must be notified in writing and submit their intentions to abide by the terms and conditions and participate further in the bid. Only those bidders who agree to the extension will be evaluated.

- Once an extension is granted, proper planning must be done to ensure that the process of evaluation and awarding of bids is carried out before the expiry of the bid validity period.
- Should the validity period expire on a Sunday, Saturday or public holiday, the bid must remain valid and open for further acceptance until the closure on the following working day.

Contract Price Adjustment

144. For all contract periods equal to or exceeding one year, an appropriate contract price adjustment formula must be specified in the bid documents.
145. In general, if contract periods do not exceed one year, the bid shall be a fixed price bid and not subject to contract price adjustment.
146. However, if as a result of any extension of time granted, the duration of a fixed price contract exceeds one year, the contract will automatically be subject to contract price adjustment for that period by which the extended contract period exceeds such one year. An appropriate contract price adjustment formula must be specified in the bid documents.
147. Notwithstanding clause 144, if the bid validity period is extended, then contract price adjustment may be applied.

Contracts providing for Compensation Based on Turnover

148. 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.

Provisional Sums and Prime Cost Items

149. If monetary allowances in excess of R200 000 for provisional sums or prime cost items have been included in the bid documents, and where the work or items to which the sums relate are to be executed/supplied by sub-contractors/suppliers, then a competitive bidding process, as determined by the Manager: SCM from time to time, shall be followed in respect of these sums/items.
150. When monetary allowances of less than R200 000 have been included in the bid documents, and where the work or items to which the sums relate are to be executed/supplied by sub-contractors/suppliers, the contractor must be required to obtain a minimum of three written quotations for approval by the responsible agent.

Samples

151. Where samples are called for in the bid documents, samples (marked with the bid and item number as well as the bidder's name and address) shall be delivered separately (to the bid) to the addressee mentioned in the bid documents.
152. Bids may not be included in parcels containing samples.
153. If samples are not submitted as required in the bid documents or within any further time stipulated by the Chairperson of the Bid Evaluation Committee in writing, then the bid concerned may be declared non-responsive.
154. Samples shall be supplied by a bidder at his/her own expense and risk. The Municipality shall not be obliged to pay for such samples or compensate for the loss thereof, unless otherwise specified in the bid documents, and shall reserve the right not to return such samples and to dispose of them at its own discretion.
155. If a bid is accepted for the supply of goods according to a sample submitted by the bidder, that sample will become the contract sample. All goods/materials supplied shall comply in all respects to that contract sample.

Closing of Bids

156. Bids shall close on the date and at the time stipulated in the bid notice.
157. For bids for goods and services the bid closing date must be at least 14 (fourteen) days after publication of the notice.
158. For construction works the bid closing date must be at least 21 (twenty one) days after publication of the notice.

159 Notwithstanding the above, if the estimated contract value Exceeds R10 million (VAT included), or if the contract is of a long term nature with a duration period exceeding one year, then the bid closing date must be at least 30 (thirty) days after publication of the notice.

160. For banking services, the bid closing date must be at least 60 (sixty) days after publication of the notice.
161. For proposal calls using a two envelope system, the bid closing date must be at least 30 (thirty) days after publication of the notice.
162. The bid closing date may be extended by the CFO if circumstances justify this action; provided that the closing date may not be extended unless a notice is published in the press prior to the original bid closing date. This notice shall also be posted on the official notice boards designated by the MM, and a notice to all bidders to this effect shall be issued.
163. The MM may determine a closing date for the submission of bids which is less than any of the periods specified in clauses 156 to 160 above, but only if such shorter period can be justified on the grounds of urgency or emergency or any exceptional case where it is impractical or impossible to follow the official procurement process.

Communication with bidders before bid closing

164. The Bid Specification Committee Chairperson may, if necessary, communicate with bidders prior to bids closing.

165. Such communication shall be in the form of a notice issued to all bidders by the CFO or his/her delegates by either; e-mail, facsimile, or registered post as appropriate. A copy of the notice together with a transmission verification report/proof of posting shall be kept for record purposes. Notices should be issued at least one week prior to the bid closing date, where possible.

165. Notwithstanding a request for acknowledgement of receipt of any notice issued, the bidder will be deemed to have received such notice if the procedures in clause 164 have been complied with.

Submission of Bids

166. Each bid must be in writing using non-erasable ink and must be submitted on the official Form of Bid/Offer issued with the bid documents.

167. The bid must be submitted in a separate sealed envelope with the name and address of the bidder, the bid number and title, the bid box number (where applicable), and the closing date indicated on the envelope. The envelope may not contain documents relating to any bid other than that shown on the envelope. Only sealed bids will be accepted.

168. The onus shall be on the bidder to place the sealed envelope in the official, marked and locked bid box provided for this purpose, at the designated venue, not later than the closing date and time specified in the bid notice.

169. Postal bids will not be accepted for consideration.

170. No bids forwarded by telegram, facsimile or similar apparatus shall be considered. However, Photostat copies of bids or facsimiles which are submitted in the prescribed manner will be considered, provided the original Forms of Bid/Offer can be shown to have been posted or couriered prior to the close of bids.

171. Electronic bids will not be accepted.

172. The bidder shall choose a *domicilium citandi et executandi* in the Republic and unless notice of the change thereof has duly been given in writing, it shall be the address stated in the bid.

173. No person may amend or tamper with any bids or quotations after their submission.

Late Bids

174. A bid is late if it is not placed in the relevant bid box by the closing time for such bid.

175. A late bid shall not be admitted for consideration and where feasible shall be returned unopened to the bidder with the reason for the return thereof endorsed on the envelope.

Opening of Bids

177. At the specified closing time on the closing date the applicable bid box shall be closed.
178. The bid box shall be opened in public as soon as practical after the closing time.
179. Immediately after the opening of the bid box, all bids shall be opened in public and checked for compliance.
180. The official opening the bids shall in all cases read out the name of the bidder and, if practical, the amount of the bid.
181. As soon as a bid or technical proposal has been opened:
- 181.1 the bid/proposal shall be stamped with the official stamps, and endorsed with the opening official's signature;
 - 181.2 the name of the bidder, and where possible, the bid sum shall be recorded in a bid opening record kept for that purpose; and
 - 181.3 the responsible official who opened the bid shall forthwith place his/her signature on the bid opening record.
182. Bids found to be inadvertently placed in the incorrect bid box will be redirected provided that the applicable bids either closed on the same day at the same time, or are still open (in which case the Municipality disclaims any responsibility for seeing that the bids are in fact lodged in the correct bid box). A record of all bids placed in an incorrect box shall be kept.
183. Bids received in sealed envelopes in the bid box without a bid number or title on the envelope will be opened at the bid opening and the bid number and title ascertained. If the bid was in the correct bid box it will be read out. If the bid is found to be in the incorrect bid box, it will be redirected provided that the applicable bids either closed on the same day at the same time, or are still open. If the bid closes at a later date, the bid will be placed in a sealed envelope with the bid number and title endorsed on the outside, prior to being lodged in the applicable box. The Municipality however disclaims any responsibility for seeing that the bid is in fact lodged in the correct box.

Opening of Bids where a Two Envelope System (consisting of a technical proposal and a financial proposal) is followed

184. If a two envelope system is followed, only the technical proposal will be opened at the bid opening.
185. The unopened envelope containing the financial proposal shall be stamped and endorsed with the opening official's signature, and be retained by him/her for safekeeping.

186. When required the financial offers/bids corresponding to responsive technical proposals, shall be opened by the opening official in accordance with clauses 180 and 181.
187. All bidders who submitted responsive technical proposals must be invited to attend the opening of the financial offers/bids.
188. Envelopes containing financial offers/bids corresponding to non-responsive technical proposals shall be returned unopened along with the notification of the decision of the Bid Adjudication Committee in this regard (clause 228 refers).
189. After being recorded in the bid opening record, the bids/technical proposals shall be handed over to the official responsible within the SCM for the supervision of the processing thereof and that official shall acknowledge receipt thereof by signing the bid opening record, no bids will leave the SCM Unit, they must be stored in a secure place.

Invalid Bids

190. Bids shall be invalid, and shall be endorsed and recorded as such in the bid opening record by the responsible official appointed by the Manager : SCM to open the bid, in the following instances:
 - 190.1 If the bid is not sealed;
 - 190.2 the bid, including the bid price/tendered amount, where applicable is not submitted on the official Form of Bid/Offer;
 - 190.3 if the bid is not completed in non-erasable ink;
 - 190.4 if the Form of Bid/Offer has not been signed;
 - 190.5 if the Form of Bid/Offer is signed, but the name of the bidder is not stated, or is indecipherable; or
 - 190.6 if in a two envelope system, the bidder fails to submit both a technical proposal and a separate sealed financial offer/bid.
191. When bids are declared invalid at the bid opening, the bid sum of such bids shall not be read out. However, the name of the bidder and the reason for the bid having been declared invalid shall be announced.

Bid Sum

192. A bid will not necessarily be invalidated if the amount in words and the amount in figures do not correspond, in which case the amount in words shall be read out at the bid opening.
193. All rates, with the exception of rates only bids, and proprietary information are confidential and shall not be disclosed.

Bid Evaluation

General

- 194.** The Municipality shall not be obliged to accept any bid.
- 195** For goods and services bids, the Municipality shall have the right to accept the whole bid or part of a bid or any item or part of an item or accept more than one bid.
- 196** Functionality must be included as a criterion in the evaluation of a tender that is specialised or technical in nature, in order to ensure the quality of the goods/ or services procured. The evaluation criteria for measuring functionality, and the weighting attached to each criterion must be listed in the Request for Tender document.
- 197** A minimum threshold of points for functionality must be identified and disclosed in the Request for Tender document. Bids that do not meet this threshold must automatically be disqualified from further evaluation.
- 198** Thereafter, only qualifying bids must be evaluated in terms of the 90/ 10 or 80 /20 preference point system, where 90/ 80 points are allocated for price only and 10/ 20 points are allocated for HDI ownership and achieving prescribed RDP goals, in accordance with the Preference Points Claim Form. The bidder submitting the lowest quote in terms of amount will score 90/ 80 points for price.

Bid Evaluation Committee

- 196.** An ad-hoc Bid Evaluation Committee shall be constituted for each project or procurement activity to evaluate bids received.
- 197.** The Bid Evaluation Committee shall be comprised of at least three Municipality officials, an appointed Chairperson (who may be the same person as the Chairperson of the Bid Specification Committee), a responsible official and at least one SCM Practitioner of the Municipality.
- 198.** Where appropriate, a representative of Internal Audit and/or Legal Services may form part of this committee, which may also include other internal specialists/experts as necessary. External specialists/experts may advise the Bid Evaluation Committee, as required.
- 199.** The MM or his delegated authority shall take into account section 117 of the MFMA, when appointing members of the Bid Evaluation Committees.
- 200.** Bid Evaluation Committee meetings must be conducted in accordance with the applicable Rules of Order Regulating the Conduct of Meetings.
- 201.** The Responsible Agent shall carry out a preliminary evaluation of all valid bids received and shall submit a draft bid evaluation report to the Bid Evaluation Committee for consideration.
- 202.** Evaluation of bids must done during the evaluation committee meetings, no evaluation of bids that will be performed outside the BEC meeting;

- 203.** Any evaluation of a bid shall consider the bids received and shall note for inclusion in the evaluation report, if the bidders:
- 202.1 does not comply with the provisions for combating abuse of this Policy;
 - 202.2 whose bid does not comply with the general conditions applicable to bids and quotations of this Policy;
 - 202.3 whose bid is not in compliance with the specification;
 - 202.4 whose bid does meet the minimum score for functionality,
 - 202.5 whose bid is not in compliance with the terms and conditions of the bid documentation;
 - 202.6 whose bid does not comply with any minimum goals stipulated in terms of the preferential procurement section of this Policy;
 - 202.7 who, in the case of construction works acquisitions, does not comply with the requirements of the Construction Industry Development Board Act regarding registration of contractors;
 - 202.8 who has failed to submit an original and valid tax clearance certificate from the South African Revenue Services (SARS) certifying that the taxes of the bidder are in order or that suitable arrangements have been made with SARS, and
 - 202.9 who fails to comply with any applicable Bargaining Council agreements.
- 203.** Bids shall be evaluated according to the following as applicable:
- 203.1 bid price (corrected if applicable and brought to a comparative level where necessary),
 - 203.2 the unit rates and prices,
 - 203.3 the bidder's ability to execute the contract,
 - 203.4 any qualifications to the bid,
 - 203.5 the bid ranking obtained in respect of preferential procurement as required by this Policy,
 - 203.6 the financial standing of the bidder, including its ability to furnish the required institutional guarantee, where applicable,
 - 203.7 any other criteria specified in the bid documents.
- 204.** No bidder may be recommended for an award unless the bidder has demonstrated that it has the resources and skills required to fulfil its obligations in terms of the bid document.

205. The Bid Evaluation Committee shall check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not in arrears.
206. Additional information or clarification of bids may be called for if required but only in writing.
207. Alternative bids may be considered, provided that a bid free of qualifications and strictly in accordance with the bid documents is also submitted. The Municipality shall not be bound to consider alternative bids.
208. If a bidder requests in writing, after the closing of bids, that his/her bid be withdrawn, then such a request may be considered and reported in the bid evaluation report for decision by the Bid Adjudication Committee.
209. The bidder obtaining the highest number of points should be recommended for acceptance unless there are reasonable and justifiable grounds to recommend another bidder.
210. If, after bids have been brought to a comparative level, two or more score equal total adjudication points, the recommended bidder shall be the one scoring the highest preference points.
211. If two or more bids are equal in all respects, the Bid Evaluation Committee shall draw lots to decide on the recommendation for award, or may, in the case of goods and services, recommend splitting the award proportionately, where applicable.
212. All disclosures of a conflict of interest shall be considered by the Bid Evaluation Committee and shall be reported to the Bid Adjudication Committee.

18 PREFERENTIAL PROCUREMENT

Preference Point System

- 213 As a public entity, the SDM must determine and stipulate the appropriate preference point system in line with Preferential Procurement Regulations 2022 to be used in the evaluation and adjudication of tenders. The objective of the preference point system is to ensure consistent application and alignment of the SDM preferential procurement system to the prescripts and regulations contained in the Preferential Regulations 2022
- 214 The SDM must indicate in each invitation to submit a tender, whether that tender will be evaluated on 80/20 or 90/10 specific goals
- 215 Some tenders will include Functionality, Functionality means the measurement, according to pre-determined norms of a service or commodity designed to be practical and useful, working or operating, taking into account quality, reliability, viability and durability of a service or commodity.
- 216 The evaluation criteria for measuring functionality must be objective.
- 217 The following must be clearly specified in the invitation to submit a tender, or in the RFT document :
- Evaluation criteria for measuring functionality;
 - Weight attached to each criterion;

- Applicable values; and
- Minimum qualifying score for functionality.

218 The evaluation of bids must be conducted in two stages. Firstly, the assessment of functionality must be done in terms of the evaluation criteria and the minimum threshold. A bid must be disqualified if it fails to meet the minimum threshold for functionality, as specified in the RFT document.

219 Thereafter, only qualifying bids are evaluated in terms of the 80/ 20 or 90/ 10 preference points system, where 80 or 90 points are allocated for price only, and 20 or 10 points are allocated based on specific goals. The bidder submitting the lowest quote in terms of amount, will score the full 80 or 90 points for price, depending on the preference point system applicable

220 No tender must be regarded as an acceptable tender if it fails to achieve the minimum qualifying score for functionality, as indicated in the RFT document.

221 The 80/ 20 preference points system will be used for the acquisition of services, works or goods up to and including a value of R50 000 000.00

222 The 90/ 10 preference points system shall be used for the acquisition of services, works or goods above R50 000 000.00 in value.

223 The contract must be awarded to the bidder who scores the highest points on price and HDI

224 Bidders are required to submit copies of their company registration certificates for verification of their HDI specific goals

225 Bidders should not be disqualified for failing to achieve the HDI specific goals
Points awarded for HDI Status (Historically Disadvantaged Individuals) Blacks, Coloureds and Indians.

Identification of specific goals for Tenders and Quotations

HDI points will be allocated as per below specific goals

HDI SPECIFIC GOALS	HDI SPECIFIC GOALS FOR (90/ 10-point system)	HDI SPECIFIC GOALS FOR (80/ 20-point system)
HDI SPECIFIC GOALS	10	20
1 Not having voting rights prior 1994.(Blacks, Coloureds and Indians)	6	12
2 Woman – ownership of more than 50%	1	2

Disability ownership of more than 50%(Physically impaired)	1	2
HDI youth	1	2
Locality within SDM jurisdiction	1	2
TOTAL	10	20
Non-compliant Bidder	0	0

226 Procurement will be based on quality and cost.

227 Quality or professional competence will be a requirement, and cost will be determined on a competitive basis.

228 The illustration below is in terms of the 90/ 10 and 80/ 20 point scoring system:

Price

229 THE 80/ 20 OR 90/ 10 PREFERENCE POINT SYSTEMS

A maximum of 80 or 90 points is allocated for price on the following basis:
80/ 20 or 90/ 10

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

□□

$$\square \quad P_{min} \quad \square \quad \square \quad P_{min} \quad \square$$

Where

- P_s = Points scored for comparative price of bid under consideration**
- P_t = Comparative price of bid under consideration**
- P_{min} = Comparative price of lowest acceptable bid**

230. Bids will be Evaluated on price , specific goals and functionality where is applicable.

Duration of Contracts

231. Except in exceptional cases, the duration of contracts should not exceed a maximum of (3) three years. However, should there be compelling reasons to conclude contracts over the stipulated three year term, motivation should be given for such requests in line with MFMA.

Recommendation to Bid Adjudication Committee

232. The Bid Evaluation Committee shall, having considered the Responsible Agent's draft report, submit a report, including recommendations regarding the award of the bid or any other related matter, to the Bid Adjudication Committee for award.

Bid Adjudication

Bid Adjudication Committee

233. The Bid Adjudication Committee shall comprise at least four senior managers, and shall include:
- 214.1 the CFO or a Manager designated by the CFO;
 - 214.2 at least one senior SCM practitioner of the Municipality; and
 - 214.3 a technical expert in the relevant field who is an official of the Municipality, if the Municipality has such an expert.
234. The MM shall appoint the members and chairperson of the Bid Adjudication Committee. If the chairperson is absent from a meeting, the members of the committee who are present shall elect one of the committee members to preside at the meeting.
235. Neither a member of a Bid Specification Committee, Bid Evaluation Committee, nor an advisor or person assisting such committees, may be a member of a Bid Adjudication Committee.

Adjudication and Award

236. The Bid Adjudication Committee shall consider the report and recommendations of the Bid Evaluation Committee and make a final award or make another recommendation to the Accounting officer on how to proceed with the relevant procurement.
237. The Bid Adjudication Committee may make an award to a preferred bidder, subject to the MM negotiating with the preferred bidder in terms of clause 231 of this Policy.
238. The Accounting officer may at any stage of the bidding process, refer any recommendation made by the Bid Evaluation or Bid Adjudication Committee back to that committee for reconsideration of the recommendation.

Approval of Bid not recommended

239. If a Bid Adjudication Committee decides to award a bid other than the one recommended by the Bid Evaluation Committee, the Bid Adjudication Committee must, prior to awarding the bid:
- a. check in respect of the preferred bidder whether that bidder's municipal rates and taxes and municipal service charges are not in arrears;

- b. check in respect of the preferred bidder that it has the resources and skills required to fulfil its obligations in terms of the bid document.
- c. notify the Accounting Officer.

240. The Accounting Officer may:

- 241.1 after due consideration of the reasons for the deviation ratify or reject the decision of the Bid Adjudication Committee referred to in clause 220 above.
- 241.2 If the decision of the Bid Adjudication Committee is rejected, the Accounting Officer can refer the matter back to the adjudication committee for reconsideration.

241. If a bid other than the one recommended in the normal course of implementing this Policy is approved, then the Accounting Officer must, in writing and within ten working days, notify the Auditor-General, the Provincial Treasury and the National Treasury of the reasons for deviating from such recommendation.

242. The requirement of clause 220.3 does not apply if a different bid was approved in order to rectify an irregularity.

Reconsideration of Recommendations

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

Right of Appeal

244. In terms of Section 62 of the Systems Act, a person whose rights are affected by a decision taken by the Municipality, in terms of a delegated authority, in the implementation of its SCM system, may appeal against that decision by giving written notice of the appeal and reasons to the Accounting Officer within 21 days of the date of receipt of the notification of the decision.

245. Tender documents must state that any appeal in terms of clause 225 must be submitted to the Accounting Officer at the address stated, and must contain the following:

- a. reasons and/or grounds for the appeal;
- b. the way in which the appellants rights have been affected; and
- c. the remedy sought by the appellant.

246. No tender shall be formally accepted until either the expiry of the 21 day appeal period, or confirmation in writing before the expiry of the 21 day appeal period that none of the affected parties intend to appeal, or confirmation of the satisfactory resolution of any appeals.

Notification of Decision

247. If the Bid Adjudication Committee or other delegated official has resolved that a bid be accepted, the successful and unsuccessful bidders shall be notified in writing of this decision.
248. The successful bidder shall, in addition, be advised of the 21 day appeal period, and be notified that no rights accrue to him/her until the tender is formally accepted in writing.
249. Every notification of decision shall be faxed or sent via electronic mail to the address chosen by the bidder, with a copy of proof of transmission kept for record purposes, or shall be delivered by hand, in which case acknowledgement of receipt must be signed and dated on a copy of such notification and kept for record purposes.

Negotiations with Preferred Bidders

250. The MM may negotiate the final terms of a contract with bidders identified through a competitive bidding process as preferred bidders provided that such negotiation:
 - a. does not allow any preferred bidder a second or unfair opportunity;
 - b. is not to the detriment of any other bidder; and
 - c. does not lead to a higher price than the bid as submitted.
251. Minutes of such negotiations must be kept for record purposes.

Cancellation of Bids

252. If it becomes necessary to cancel or re-advertise formal bids, then a report to this effect shall be submitted to the Bid Adjudication Committee for decision.
253. If bids have been cancelled, then all bidders must be notified in writing.
254. It is not necessary to notify original bidders when calling for new bids, which will be advertised in accordance with clause 119.
255. No bid may be re-advertised before the expiry of the validity period of the original bid, or any extended validity period.
256. Notwithstanding clause 236, where no valid bids are received or where all bidders have indicated in writing that they have no objection to the re-advertisement of the bid, then the bid may be re-advertised forthwith.
257. In the case of bids for construction related works, and where the Bid Adjudication Committee resolved that there were no responsive tenders received, then the bid may be re-advertised forthwith.

Increase in Contract Period or Contract Sum

258. Any increase in the contract period (in respect of term bids) or contract sum (in respect of once-off contracts) that may become necessary as a result of exceptional circumstances, or which are considered to be in the public's interest,

- may be approved by the Bid Adjudication Committee. Such approval must be obtained prior to the contract period expiring or contract sum being exceeded.
259. Where community participation has been a part of the contract, the community must be advised of the proposed increase and be invited to provide written comment.
260. Any unapproved increases in the contract sum or contract period that have become necessary as a result of exceptional circumstances, or which have been considered to be in the public's interest, must be explained in a report to the Bid Adjudication Committee requesting condonation and approval for such unapproved increase.

Term Bids

General

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

Evaluation and Adjudication of Term Bids

267. The process for considering term bids shall be in terms of the evaluation and adjudication procedures for conventional competitive bids.
268. Subsequent to award, where different selections of items are required in terms of the same term bid and it is not possible or practical to separate orders for different items from different suppliers, service providers or contractors (in the case of construction works, for example), then a selection process will have to be carried out in respect of each application by the Responsible Agent. Individual orders will then be placed (or contracts awarded) on the basis of the highest total evaluation points received, per application.
269. If the selected supplier, contractor or service provider, in terms of the selection process specified in the term bid documentation, is unable to provide the required goods, services or construction works at the required time and confirms as such

in writing then the bidder with the next highest evaluation points shall be selected. If after a contract is awarded, or an order is placed in terms of a term bid, the supplier, contractor or service provider fails to supply the goods or service required, then the remedies in terms of the contract shall apply.

Formal Written Price Quotations General

270. Where the Municipality intends to enter into any contract which is for the supply of any goods or services, or the execution of any construction work which involves or is likely to involve a transaction value over R10 000 and up to R200 000 (VAT inclusive), then a minimum of three written quotes shall be obtained from providers who are suitably qualified and experienced, having the necessary resources, and who are registered and verified on the CSD database. Ongoing competition amongst providers shall be promoted, including by inviting providers to submit quotations on a rotational basis. Quotations may be obtained from providers who are not listed on the National Treasury database, provided that such providers must meet the listing criteria referred to in this Policy.
271. If it is not possible to obtain at least three written quotations, the reasons must be recorded and approved by the CFO.
272. The names of the potential providers and their written quotations must be recorded.
273. The practice of breaking out (parcelling) projects in order to circumvent the competitive bid process is not permissible.

Quotation Documentation

276. All quotation documentation, where practicable, shall comply with the requirements of bid documentation contained in the acquisition management system for competitive bids.

Validity Periods

277. The provisions of clauses 138 to 141 of this Policy shall apply *mutatis mutandis* with regard to quotations.

Quotation Prices

278. In general, all quotations should be submitted on a fixed price basis (not subject to contract price adjustment). Only in exceptional circumstances may contract price adjustment be applied.
279. Notwithstanding clause 259 above, if the quotation validity period is extended, then contract price adjustment may be applied on a proven, fair and reasonable basis.

Submission of Documentation

280. Quotation documents issued by the Municipality shall clearly state the place where such documents must be submitted and the date and time by when they must be submitted.

281. No quotations submitted after any stipulated closing date and time shall be considered.

Opening of Quotations (where lodged in a quotation box)

282. The provisions of clauses 177 to 183 of this Policy shall apply with regard to quotations that are required to be lodged in a quotation box, with the exception of clause 182 where, with respect to quotations, the Municipality disclaims any responsibility for seeing that the quotations are lodged in the correct quotation box. Quotations found in the incorrect box shall be declared invalid and will not be considered.

Consideration and Acceptance of Quotations

283. All orders in respect of formal written price quotations shall be approved and released by the MM or his delegated authority.

Written Price Quotations General

284. Where the Municipality intends to procure any goods or services, which involves a transaction value of up to R10 000 (VAT inclusive), written price quotations shall be obtained from at least three different providers preferably from, but not limited to, providers whose names appear on the National Treasury database, provided that if quotations are obtained from providers who are not listed, such providers must meet the listing criteria referred to in this Policy. Ongoing competition amongst providers shall be promoted, including by inviting providers to submit quotations on a rotational basis.

285. If it is not possible to obtain at least three written quotations, the reasons must be recorded and approved by the CFO.

286. The names of the potential providers requested to provide quotations and their written quotations must be recorded.

287. The practice of breaking out (parcelling) purchases in order to circumvent the formal written price quotation process is not permissible.

288. All orders in respect of written price quotations shall be approved and released by the MM, or his delegated authority.

Petty Cash Purchases (If applicable) General

289. Where there is a need to purchase any goods or services using a petty cash system, which involves a transaction value up to R2 000 (VAT inclusive), the Municipality's Procedures and Guidelines for Petty Cash Purchases shall be adhered to.

290. The delegated official responsible for petty cash must compile monthly reconciliation report for the CFO, which must include the total amount of petty cash purchases for that month and receipts and appropriate documents for each purchase.
291. The practice of breaking out (parcelling) purchases in order to circumvent the formal written price quotation and written price quotation processes is not permissible.

Appointment of Consultants General

292. In the procurement of consulting services cognizance should be taken of any National Treasury guidelines in this respect or of Construction Industry Development Board Guidelines in respect of services relating to the built environment and construction works.

Procurement Process (over R200 000)

293. Where the estimated value of the fees exceeds R200 000 (VAT inclusive), or where the duration of the appointment will exceed one year, consulting services shall be procured through a competitive bidding process.

294. The practice of breaking out (parcelling) consultant appointments in order to circumvent the competitive bidding process is not permitted.

Procurement Process (up to R200 000)

295. Where the estimated value of the fees is less than or equal to R200 000 (VAT inclusive) and the duration of the appointment is less than one year, the selection of a consultant to provide the required service shall follow a written price quotation or a formal written price quotation procedure as described in this Policy.

296. Responsible agents must endeavour to ensure that there is rotation in respect of inviting suitably qualified consultants to quote.

297. A price/preference points system, as described in the preferential procurement section of this Policy, must be applied to such quotations.

298. Where it is in the interests of the Municipality to follow an advertised process, a formal competitive bidding process in accordance with the requirements of this policy may be followed.

Single-source Selection

299. National Treasury Guidelines provide for single-source selection in exceptional cases. The justification for single-source selection must be examined in the context of the overall interests of the Municipality and the project.

300. Single-source selection may be appropriate only if it presents a clear advantage over competition:

300.1 for services that represent a natural continuation of previous work carried out by the consultant, and continuity of downstream work is considered essential;

300.2 where rapid selection is essential;

300.3 for very small appointments;

- 300.4 When only one consultant is qualified, or has experience of exceptional worth for the project.
- 300.5 The reasons for single-source selection must be fully motivated in a report and approved by the Bid Adjudication Committee prior to conclusion of a contract, provided that if the award is for an amount of R200 000 (VAT inclusive) or less, such award shall be approved by the CFO or as per MFMA delegation.

Deviation from the Procurement Processes General

- 301 The Accounting Officer or the CFO depending on the threshold may dispense with the official procurement processes established by this Policy depending on the threshold, and procure any required goods or services through any convenient process, which may include direct negotiation, but only in respect of:
- i. any contract relating to an emergency (as described in clauses 285 and 286 below) where it would not be in the interests of the Municipality to invite bids,
 - ii. any goods or services which are available from a single provider only,
 - iii. the acquisition of animals for zoos, or
 - iv. the acquisition of special works of art or historical objects where specifications are difficult to compile;
 - v. any other exceptional circumstances where it is impractical or impossible to follow the official procurement process, including: accommodation, conference facilities, car hire, travel agencies, towing services, courier services and where organizers of the event are the sole providers of services.
 - vi. any purchase on behalf of the Municipality at a public auction sale;
 - vii. any contract in respect of which compliance therewith would not be in the public interest;
 - viii. ad-hoc repairs to plant and equipment where it is not possible to ascertain the nature or extent of the work required in order to call for bids; and
- 302 The Accounting Officer or CFO depending on the threshold or as per MFMA may condone a deviation from the procurement processes, provided that such deviation is limited to the circumstances referred to in clause 283.

Emergency Dispensation

303. The conditions warranting Emergency dispensation should include the existence of one or more of the following:
- a. the possibility of human injury or death;

- b. the prevalence of human suffering or deprivation of rights;
 - c. the possibility of damage to property, or suffering and death of livestock and animals;
 - d. the interruption of essential services, including transportation and communication facilities or support services critical to the effective functioning of the Municipality as a whole;
 - e. the possibility of serious damage occurring to the natural environment;
 - f. the possibility that failure to take necessary action may result in the Municipality not being able to render an essential community service; and
 - g. the possibility that the security of the state could be compromised.
304. The prevailing situation, or imminent danger, should be of such a scale and nature that it could not readily be alleviated by interim measures, in order to allow time for the formal procurement process. Emergency dispensation shall not be granted in respect of circumstances other than those contemplated above.
305. Where possible, in an emergency situation, three quotes in accordance with general acquisition management principles should be obtained and a report submitted to the MM for approval. However, where time is of the essence, the emergency shall be immediately addressed, and the process formalised in a report to the Accounting Officer as soon as possible thereafter.

Unsolicited Bids

306. The Municipality is not obliged to consider any unsolicited bids received outside of the normal bidding process.
307. The Municipality may only consider an unsolicited bid if the following have been complied with:
- a. the product or service offered in terms of the bid is a demonstrably or proven unique innovative concept;
 - b. the product or service offered will be exceptionally beneficial to, or have exceptional cost advantages for, the Municipality;
 - c. the person or entity that made the bid is the sole provider of the product or service; and
 - d. the reasons for not going through the normal bidding processes are found to be sound by the Accounting Officer. In this regard a report must be submitted to the Accounting Officer seeking approval to take the unsolicited bid process further.

308. If the Accounting Officer considers the unsolicited bid worthy of pursuing, the decision to consider such bid shall be made public in accordance with section 21A of the 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 for the Municipality were it to accept the unsolicited bid; and
 - c. an invitation to the public and other potential suppliers to submit their written comments within 30 (thirty) days of the notice being published.
309. Details of the unsolicited bid, together with any written comments received pursuant to clause 290.3 as well as any responses from the bidder, shall be submitted to the provincial and National Treasury for comment.
310. The unsolicited bid shall then be submitted to the Bid Adjudication Committee, together with any written comments submitted by the public and any written comments or recommendations of the provincial or National Treasury, for consideration.
311. The Bid Adjudication Committee may award the bid in respect of any amount.
312. Any meeting of the Bid Adjudication Committee to consider an unsolicited bid shall be open to the public.
313. If any recommendations of the Provincial or National Treasury are rejected or not followed, the Accounting Officer shall submit to the Auditor-General, the Provincial Treasury and the National Treasury the reasons for rejecting or not following those recommendations. Such submission shall be made within 7 (seven) days of the decision to award the unsolicited bid. No contract committing the Municipality to the bid may be entered into or signed within 30 (thirty) days of the submission.

Ratification of Minor Breaches of the Bid Processes

314. The Accounting Officer may ratify any minor breaches of the procurement processes, which are purely of a technical nature, by an official or committee acting in terms of delegated powers or duties.

Condonation of Expenditure

315. The MM may, upon recommendation of the Bid Adjudication Committee, condone any expenditure incurred in contravention of, or that is not in accordance with, a requirement of this Policy. This power may not be sub-delegated by the Accounting Officer. Such condonation shall not preclude the taking of disciplinary steps against the responsible official.

CODE OF ETHICAL STANDARDS

General

316. In addition to this Code of Ethical Standards, the codes of conduct for municipal councilors and employees shall apply in the application of this SCM Policy.
317. A code of ethical standards is hereby established for officials and all role players in the SCM system in order to promote:
- mutual trust and respect; and
 - an environment where business can be conducted with integrity and in a fair and reasonable manner.
318. An official or other role player involved in the implementation of the SCM policy:
- must treat all providers and potential providers equitably;
 - may not use his or her position for private gain or to improperly benefit another person;
 - 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;
 - notwithstanding clause 361.3, must declare to the MM 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;
 - must declare to the MM 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;
 - 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;
 - must be scrupulous in his or her use of property belonging to the Municipality;
 - must assist the MM in combating fraud, corruption, favoritism and unfair and irregular practices in the SCM system; and
 - must report to the MM any alleged irregular conduct in the SCM system which that person may become aware of, including:
 - any alleged fraud, corruption, favoritism or unfair conduct;
 - any alleged contravention of this policy; or
 - any alleged breach of this code of ethical standards.
319. Declarations in terms of clause 361.5 must be recorded in a register which the MM must keep for this purpose.
320. The Municipality has adopted the National Treasury's code of conduct for practitioners and other role players involved in supply chain management. This code of conduct is

binding on all officials and other role players involved in the implementation of the SCM policy.

321. A copy of the National Treasury code of conduct is available on the website www.treasury.gov.za/mfma located under "legislation".

322. A breach of the code of conduct adopted will be dealt with in accordance with schedule 2 of the Systems Act.

Inducements, Rewards, Gifts and Favours

323. No person who is a provider or prospective provider of goods or services, or a recipient or prospective recipient of goods disposed or to be disposed of may either directly or through a representative or intermediary promise, offer or grant:

- any inducement or reward to the Municipality for or in connection with the award of a contract; or
- any reward, gift, favour or hospitality to any official or any other role player involved in the implementation of the SCM policy.

324. The MM must promptly report any alleged contravention of clause 366 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.

325. Clause 366 does not apply to gifts less than R350 in value or gifts from a single source in any calendar year that does not exceed R350 in value.

Sponsorships

326. The MM must promptly disclose to the National Treasury and the relevant provincial treasury any sponsorship promised, offered or granted, whether directly or through a representative or intermediary, by any person who is:

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

Objections and Complaints

327. Persons aggrieved by decisions or actions taken in the implementation of this SCM system, may lodge within 14 days of the decision or action, a written objection or complaint against the decision or action.

Resolution of Disputes, Objections, Complaints and Queries

328. The MM shall appoint an independent and impartial person not directly involved in the supply chain to assist in the resolution of disputes between the Municipality and other persons regarding:

- any decisions or actions taken in the implementation of the SCM system; or
- any matter arising from a contract awarded in the course of the SCM system; or
- to deal with objections, complaints or queries regarding any such decisions or actions or any matters arising from such contract.

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

The person appointed must;

strive to resolve promptly all disputes, objections, complaints; or
queries received; and

submit monthly reports to the MM on all disputes, objections, complaints or queries received, attended to or resolved.

330. A dispute, objection, complaint or query may be referred to the relevant provincial treasury if;

- the dispute, objection, complaint or query is not resolved within 60 days; or
- no response is forthcoming within 60 days.

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

332. The provisions above must not be read as affecting a person's rights to approach a court at any time.

A. IMPLEMENTATION

This code of conduct must be signed by employees of the municipality and service providers who provide goods and services to the municipality.

The code should form part of the tender document/contract to be entered into between the municipality and the service provider.

B. CERTIFICATE OF ENDORSEMENT:

This Policy shall come into effect on the date of endorsement and shall cease only in the event where such changes/variations has been reduced to writing, approved by council and

been signed by the Speaker. Unless in the event where any changes in any applicable Act, Legislation has jurisdiction to supersede.

LOGISTICS MANAGEMENT SYSTEM

333.. System of Logistics Management

- (1) The Accounting Officer must establish an effective system of logistics management, which must include –
 - (a) the monitoring of spending patterns on types or classes of goods and services incorporating, where practical, the coding of items to ensure that each item has a unique number;
 - (b) the setting of inventory levels that includes 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 and services are received or rendered on time and is in accordance with the order, the general conditions of contract and specifications where applicable and that the price charged is as quoted in terms of a contract;
 - (e) appropriate standards of internal control and warehouse management to ensure that goods placed in stores are secure and only used for the purpose for which they were purchased;
 - (f) regular checking to ensure that all assets including official vehicles are properly managed, appropriately maintained and only used for official purposes; and
 - (g) monitoring and review of the supply vendor performance to ensure compliance with specifications and contract conditions for particular goods or services.

334. The Logistics management process

- (1) For stock or inventory items the following functions will amongst others be performed
 - i. coding of items;
 - ii. setting of inventory levels;
 - iii. placing of orders;
 - iv. receiving and distribution of material;
 - v. stores or warehouse management
 - vi. transport management; and
 - vii. vendor performance.

- (2) For fixed capital items (construction and road projects, immovable property) a similar process must be adopted, mutatis mutandis, viz. ensuring appropriate classification, recording additions to asset and property registers, valuation, main use, etc.
- (3) The financial system necessary to generate payments must be implemented in a manner which is consistent with the principles attached to the logistics management process.

335. Setting of inventory levels

- (1) Stock items shall be systematically replenished using the re-order point planning strategy in conjunction with minimum and maximum levels.

336. Stores and warehouse management

- (1) The stores and warehousing function shall operate under the jurisdiction of the Budget and Treasury Office (BTO).
- (2) The BTO must uphold the principles of effective administration, property stock holding and control, product standardization, quality of products and high standards of service levels.

337. Inventory valuation method

The cost of inventories at municipality is assigned using the FIFO cost formula.

Disposal Management

338. System of Disposal management

- (1) The Accounting Officer must establish an effective system of disposal management for the disposal or letting of assets, including unserviceable, redundant or obsolete assets, subject to sections 14 and 90 of the Act.
- (2) Assets must be disposed of by, inter alia -
 - (a) transferring the asset to another organ of state in terms of a provision of the 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.
- (3) The Accounting Officer must ensure that -
 - (a) immovable property is sold only at market related prices except when the public interest or the plight of the poor demands otherwise;
 - (b) movable assets may be sold either by way of written price quotations, a competitive bidding process, auction or at market related prices, whichever is the most advantageous;
 - (c) firearms are not sold or donated to any person or institution within or outside the Republic unless approved by the National Conventional Arms Control Committee;

- (d) Immovable property is let at market related rates except when the public interest or the plight of the poor demands otherwise;
- (e) all fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property are annually reviewed;
- (f) Where assets are traded in for other assets, the highest possible trade-in price must be negotiated; and
- (g) in the case of the free disposal of computer equipment, the provincial department of education is first approached to indicate within 30 days whether any of the local schools are interested in the equipment.

338. The Disposal Management Process

- (1) For purposes of the disposal management process, the Accounting Officer must ensure that the following steps are undertaken in respect of movable assets:
 - (a) Obsolescence planning must be effected, alternatively depreciation rates per item must be calculated;
 - (b) A data base of all redundant assets must be compiled and maintained;
 - (c) Assets identified for disposal must first be inspected for potential re-use;
 - (d) A strategy must be determined for the disposal of assets; and,
 - (e) The actual disposal of assets must be effected in compliance with this chapter.
- (2) Similar steps to those set out in terms of subsection (1) must be undertaken in respect of immovable assets.

Risk Management

339. System of risk management

- (1) The Accounting Officer must establish an effective system of risk management for the identification, consideration and avoidance of potential risks in the supply chain management system.
- (2) Managing risk must be part of the Municipality's philosophy, practices and business plans and should not be viewed or practiced as a separate activity in isolation from line managers.
- (3) Risk management shall be an integral part of effective supply chain management practice.
- (4) Risk management must include –
 - (a) the identification of risks on a case-by-case basis;
 - (b) the allocation of risks to the party best suited to manage such risks;
 - (c) acceptance of the cost of the risk where the cost of transferring the risk is greater than that of retaining it;
 - (d) the management of risks in a pro-active manner and the provision of adequate cover for residual risks; and
 - (e) the assignment of relative risks to the contracting parties through clear and unambiguous contract documentation.

340. The risk management process

- (1) The risk management process shall be applied to all stages of supply chain management, be it the conceptual stage, project definition, specification preparation, acquisition approval or implementation to completion.
- (2) Risk management is an integral part of good management of acquisition activities and cannot be effectively performed in isolation from other aspects of acquisition management.
- (3) Appropriate risk management conditions should therefore be incorporated in contracts.

341. Key principles

The key principles of managing risk in supply chain management include:

- (1) early and systematic identification of risk on a case-by-case basis, analysis and assessment of risk, including conflicts of interest and the development of plans for handling them;
- (2) allocation and acceptance of responsibility to the party best placed to manage such risk;
- (3) management of risk in a pro-active manner and the provision of adequate cover for residual risks;
- (4) assignment of relative risks to the contracting parties through clear and unambiguous contract documentation;
- (5) acceptance of the cost of the risk where the cost of transferring the risk is greater than that of retaining it; and
- (6) ensuring that the costs incurred in managing risks are commensurate with the importance of the purchase and the risks to the Municipality's operations.

342. Guidelines

The Municipality shall demonstrate that in its supply chain management:

- (1) there exists a systematic approach to identifying risks including potential conflicts of interest, analysing their possible likelihood, impacts and consequences and managing those risks as the project proceeds through the phases of pre-bid, post-bid and contract management;
- (2) the integrity and correctness of the process of risk identification analysis, assessment and treatment is such that the relevant municipal department can demonstrate the scope of the risk analysis is appropriate for the stated objectives;
- (3) all pertinent matters and assumptions have been tested adequately and that appropriate risk treatment techniques have been implemented;
- (4) the causes of risk are clearly identified;
- (5) the means of treating the identified risks are apparent;
- (6) the party who accepts the risks also accepts responsibility for management of those risks, except where informed, and objective decisions are taken to share risks;
- (7) alternatives have been evaluated; and
- (8) appropriate conditions are to be incorporated in contracts to avoid or minimize risk including warranties and penalties where appropriate.

343. Steps in risk management

There are six steps in the risk management process, namely:

- (1) establish a framework;
- (2) risk identification;
- (3) risk analysis;

- (4) risk assessment;
- (5) risk treatment; and
- (6) implementation, monitoring and review.

344. Penalties

- (1) The Municipality must, upon detecting that a preference in terms of the Preferential Procurement Policy Framework Act, 2000, its regulations and the MFMA, as defined, has been obtained on a fraudulent basis, or any specified goals are not attained in the performance of the contract, act against the person awarded the contract.
- (2) The Municipality may in addition to any other remedy it may have against the person contemplated in subsection (1):
 - (a) recover all costs, losses and damages it has incurred or suffered as a result of that person's conduct;
 - (b) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
 - (c) impose a financial penalty more severe than the theoretical financial preference associated with the claim which was made in the bid; and
 - (d) restrict the contractor, its shareholders and directors from obtaining business from any organ of state for a period not exceeding 10 years. **345.**

Insurance

- (1) The Accounting Officer must ensure that steps are taken to:
 - (a) insure the Municipality against procurement related risks;
 - (b) establish risk management programmes; and
 - (c) make advance provision for losses associated with such risks.
- (3) The Accounting Officer shall further ensure that insurance related excesses do not cause the failure of emerging small and micro enterprises.

346. Guarantees

- (1) The Municipality must adhere to the following general principles with regard to performance guarantees:
 - (a) the aforesaid performance guarantees must be commensurate with the contractual risk to which the Municipality will be exposed;
 - (b) in the case of large and complex contracts, performance guarantees must be requested in order to discourage the submission of irresponsible bids; and,
 - (c) the risk of failure must be distributed between the contracting parties and should be managed so that the Municipality's costs resulting from any such failure are recoverable.
- (2) With regard to contracts pertaining to engineering and construction works:
 - (a) adequate provision should be made by the Municipality to ensure that funds are available to rectify defects; and,
 - (b) performance guarantees may be waived in the case of low value and low risk contracts or where a third party bears the risk of failure.

347. Declaration

For purposes of establishing control measures to eliminate fraud and corruption:

- (a) a declaration schedule must form an integral part of all the Municipality's bid documents and must be completed and signed at the time of submitting the bid to the Municipality;
- (b) employees of any organ of state will be required to complete the schedule as a prerequisite to the bid.

348. Declaration of interest by officials, suppliers, service providers and consultants

- (1) In order to obtain the disclosure of any interests that an official, supplier, service provider or consultant may have with regard to a bid, the declaration of interest schedule must be completed prior to the award of a bid.
- (2) The declaration of interest must be completed by the following persons:
 - (a) all officials involved in the evaluation or approval of a bid;
 - (b) all suppliers, service providers or consultants who are involved in the preparation of bid documentation and bid reporting; and,
 - (c) any other person who played a role in the preparation, specification, evaluation and approval of a bid and who has an interest in the award thereof.

349. General risk management

- (1) For purposes of establishing general risk management measures, the Municipality must apply the following principles:
 - (a) business plans, where applicable, will be required for approval prior to the commencement of all projects;
 - (b) feasibility or design reports will be required by the SDM before bids for projects are called;
 - (c) bid documents will be specific and detailed;
 - (d) applicable project standards must be made available for public perusal;
 - (e) officials must ensure time, cost and quality control while projects are being implemented;
 - (f) where applicable, bidders must obtain public liability insurance to cover the SDM; and,
 - (g) variation orders will only be approved by the Accounting Officer or a duly delegated SDM official, subject to the provisions of Chapter 16 of this policy.

350. Surety

- (1) Sureties must be obtained in respect of construction projects, classified as follows:

AMOUNT	PERCENTAGE
R300 000	Nil
R300 001-R1 000 000	2.5%
R1 000 001-R3 000 000	5%
R3 000 001-R5 000 000	7.5%

R5 000 001- and above	10%
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- (2) In the event that a contractor is unable to raise the required surety, the Municipality may allow such surety to be deducted in full or part from monies that are to become due to the contractor, in which event this shall be affected by way of deductions from the first three [3] payment certificates issued in favour of the contractor.
- (3) The Municipality may waive the requirement for a surety on construction contracts that are estimated to be equal to or lower than R1 000 000.
- (4) With regard to the waiving of sureties:
 - (a) this may be permitted to assist emerging and HDI entrepreneurs in the small works sector of the construction industry;
 - (b) it may further be permitted where a surety, a performance guarantee or funds cannot be obtained with the assistance of the Eastern Cape Development Corporation (ECDC) or a similar institution, provided that a written indication thereof is submitted to the Municipality; and,
 - (c) the Municipality may bear the risks associated with such waiver in order to promote emerging and HDI entrepreneurs.
- (5) No contractor, supplier or service provider may be permitted to undertake more than two contracts simultaneously where sureties have been waived.
- (6) Sureties will be released from their obligations upon their application to the Municipality and provided that the Municipality is satisfied that the contract has been completed satisfactorily.

351. Retention

- (1) A percentage of the costs in respect of construction contracts must be set aside as retention funds.
- (2) No more than 10% of the value of the construction contract must be set aside for purposes of subsection (1).
- (3) With regard to the release of retention funds:
 - (a) half of the retention funds shall be released upon the issue of a completion certificate; and,
 - (b) the balance of the retention funds shall be released upon completion of the defects liability period.

352. Cessions

- (1) A cession agreement may be concluded by the Municipality, a contractor, supplier, service provider or financial institution and any other third party in order to assist emerging and HDI entrepreneurs.
- (2) The municipality will allow a financial institution to assist a contractor, supplier or service provider to implement projects on behalf of the employer.
- (3) When entering into a cession agreement for bridging finance, bridging finance will be restricted to a maximum of 80% of the total contract value.
- (4) The conclusion of a cession agreement shall be approved at the discretion of the accounting officer.
- (5) Types of sessions may include: bridging finance, material, plant hire.

353. Prohibition on awards to persons whose tax matters are not in order

- (1) The Accounting Officer must ensure that, irrespective of the procurement process followed, no award is given 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 such person's tax matters may for purposes of subsection (1) be presumed to be in order.

354. Prohibition on awards to persons in the service of the state

- (1) The Accounting Officer must ensure that irrespective of the procurement process followed, no award may be given to a person –
 - (a) who is in the service of the state;
 - (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.

355. Awards to close family members of persons in the service of the state

- (1) The notes to the annual financial statements must disclose particulars of any award of more than R2 000 to a person who is a spouse, child or parent of a person in the service of the state, or has been in the service of the state in the previous 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.

356. Compliance with ethical standards

- (1) In order to create an environment where business can be conducted with integrity and in a fair and reasonable manner, the SDM will strive to ensure that the Accounting Officer and all representatives of the Municipality involved in supply chain management activities shall act with integrity and in accordance with the highest ethical standards.
- (2) All municipal representatives shall adhere to the code of conduct for municipal staff contained in Schedule 2 of the Municipal Systems Act and the SDM's Code of Ethical Standards.

- (3) A Code of Ethical Standards is hereby established, in accordance with subsection (2), for officials and other role players in the supply chain management system in order to promote:
- (a) mutual trust and respect; and
 - (b) an environment where business can be conducted with integrity and in a fair and reasonable manner.
- (4) An official or other role player involved in the implementation of the supply chain management policy –
- (a) must treat all providers and potential providers equitably;
 - (b) may not use his or her position for private gain or to improperly benefit another person;
 - (c) may not accept any reward, gift, favour, hospitality or other benefit directly or indirectly, including to any close family member, partner or associate of that person;
 - (d) notwithstanding subsection (4)(c), must declare to the Accounting Officer details of any reward, gift, favour, hospitality or other benefit promised, offered or granted to that person or to any close family member, partner or associate of that person;
 - (e) must declare to the Accounting Officer details of any private or business interest which that person, or any close family member, partner or associate, may have in any proposed procurement or disposal process of, or in any award of a contract by, the Municipality;
 - (f) must immediately withdraw from participating in any manner whatsoever in a procurement or disposal process or in the award of a contract in which that person, or any close family member, partner or associate, has any private or business interest;
 - (g) must be scrupulous in his or her use of property belonging to the Municipality;
 - (h) must assist the Accounting Officer in combating fraud, corruption, favouritism and unfair and irregular practices in the supply chain management system; and
 - (i) must report to the Accounting Officer any alleged irregular conduct in the supply chain management system which that person may become aware of, including –
 - (i) any alleged fraud, corruption, favouritism or unfair conduct; (ii) any alleged contravention of subsection 103(1) of this policy; or
 - (i) any alleged breach of this Code of Ethical Standards.
- (5) The Municipality shall ensure that:
- (a) all declarations in terms of subsections (4)(d) and (e) must be recorded in a register which the Accounting Officer must keep for this purpose;
 - (b) all declarations by the Accounting Officer must be made to the executive mayor of the Municipality who must ensure that such declarations are recorded in the register; and
 - (c) appropriate action is taken against any official or other role player who commits a breach of the code of ethical standards.

- (6) 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 Act.

357. Inducements, rewards, gifts and favours to the Municipality, officials and other role players

- (1) No person who is a provider or prospective provider of goods or services to the Municipality, or a recipient or prospective recipient of goods disposed or to be disposed of by the Municipality, may either directly or through a representative or intermediary promise, offer or grant:
 - (a) any inducement or reward to the Municipality for or in connection with the award of a contract; or
 - (b) any reward, gift, favour or hospitality to:
 - (i) any official; or
 - (ii) any other role player involved in the implementation of the supply chain management policy.
- (2) The Accounting Officer must promptly report any alleged contravention of subsection (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) Subsection (1) does not apply to gifts less than R350 in value.

358. Sponsorships, events and catering

- (1) The Accounting Officer must promptly disclose to the National Treasury and the provincial treasury any sponsorship promised, offered or granted, whether directly or through a representative or intermediary, by any person who is:
 - (a) a provider or prospective provider of goods or services to the Municipality; or
 - (b) a recipient or prospective recipient of goods disposed or to be disposed of by the Municipality.
- (2) No catering expenses will be incurred for meetings which are only attended by persons in the employ of the municipality, unless the prior written approval of the Accounting Officer is obtained.
- (3) Catering expenses may be incurred for the hosting of meetings, conferences, workshops, courses, forums, recruitment interviews, and proceedings of council that exceed five hours.
- (4) No expenditure on alcoholic beverages may be incurred unless the expenses can be recovered from the sale of such beverages.
- (5) Social events, team building exercises, year-end functions, sporting events and budget vote dinners may not be financed from the municipality's budgets or by any suppliers or sponsors.

342. No expenditure on corporate branded items like clothing or goods for personal use of officials, other than uniforms, office supplies and tools of trade unless costs related thereto are recovered from affected officials or is an integral part of the business model.
- (7) Expenditure may be incurred not exceed the limits for petty cash usage to host farewell functions in recognition of officials who retire after serving the municipality for ten or more years or retire on grounds of ill health.
343. Objections and complaints
- (1) Persons aggrieved by decisions or actions taken in the implementation of this supply chain management system, may lodge within 14 days of the decision or action, a written objection or complaint against the decision or action.
344. 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 designated by the accounting officer, is responsible for assisting the appointed person to perform his or her functions effectively.
- (3) The person appointed must:
- (a) strive to resolve promptly all 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 provincial treasury if:
- (a) the dispute, objection, complaint or query is not resolved within 60 days; or (b) no response is forthcoming within 60 days.
- (5) If the provincial treasury does not or cannot resolve the matter, the dispute, objection, complaint or query may be referred to the National Treasury for resolution.
- (6) This section must not be read as affecting a person's rights to approach a court at any time.
345. Contracts providing for compensation based on turnover
- (1) If a service provider acts on behalf of a Municipality to provide any service or act as a collector of fees, service charges or taxes and the compensation payable to the service provider is fixed as an agreed percentage of turnover for the service or the amount collected, the contract between the service provider and the Municipality must stipulate:
- (a) a cap on the compensation payable to the service provider; and (b) that such compensation must be performance based.

Supply Chain Performance

346. The performance management process

- (1) The Accounting Officer must establish an effective internal monitoring system in order to determine, on the basis of a retrospective analysis, whether the authorised supply chain management processes were followed and whether the objectives of this Policy were achieved.
- (2) Performance management shall accordingly be characterized by a monitoring process and retrospective analysis to determine whether:
 - (a) proper processes have been followed;
 - (b) value for money has been attained;
 - (c) desired objectives have been achieved;
 - (d) there is an opportunity to improve the processes;
 - (e) suppliers have been assessed and what that assessment is;
 - (f) there has been a deviation from procedures and, if so, what the reasons for that deviation are.

347. System of supply chain performance

- (1) For purposes of internal monitoring, at least the following may be considered:
 - (a) achievement of objectives;
 - (b) compliance with norms and standards;
 - (c) savings generated;
 - (d) stores efficiency;
 - (e) cost variance per item;
 - (f) possible breaches of contract;
 - (g) cost of the procurement process itself;
 - (h) whether supply chain objectives are consistent with national government's policies;
 - (i) increasingly alignment of material construction standards with international best practice;
 - (j) observance of principles of co-operative governance; and (k) reduction of regional economic disparities are promoted.

348. Performance evaluation of the services provided by a contractor / service provider / supplier contracted by the Municipality

- (1) Performance targets are identified as part of the initial planning for a contract, and set out in the business case and request for bid documentation. Targets are generally associated with cost, timeliness and the quality of products and services to be purchased as the outputs of the contract.
- (2) The project manager together with the contract management officials are expected to monitor and evaluate the contractor's performance. This is essential in determining whether the requirements are being met and to avoid any future conflicts over unsatisfactory performance.
- (3) Contractors should be required to report to the project manager on progress in accordance with the agreed timeframes and review schedules. The project manager must inform the contractor in writing where there is evidence that the contractor's performance is inadequate or behind schedule. If there is continuing concern that obligations are not being met, advice should be sought immediately from the Bid Adjudication Committee.

- (4) Disputes must be resolved promptly and not be allowed to escalate into costly legal battles.
- (5) A copy of all performance reports and reports on contract outcomes should be forwarded to the SCM Unit. The SCM Unit must ensure that these reports are available for reference purposes to staff inquiring about a contractor's performance.

349. Unsatisfactory performance

- (1) Unsatisfactory performance occurs when performance is not in accordance with the contract. Subject at all times to the terms and conditions of such contract, the contractor must be warned in writing (with a registered letter) that action will be taken against him/her unless he/she complies with the contract and delivers satisfactorily within a specified reasonable period. If the contractor still does not perform satisfactorily despite the warning, a recommendation may be made to the Bid Adjudication Committee to cancel the contract.
- (2) If during the guarantee period, a supplier does not comply with the requirements due to faulty material or otherwise, the contractor must be requested to repair or replace the faulty material at his or her cost without delay, and that it must be guaranteed for the same period as the original supplies.
- (3) Continuously communicate unsatisfactory performance to contractors in writing compelling the contractor to perform according to the contract and thus to rectify or to restrain from unacceptable actions.
- (4) If the performance is not rectified, the Project Manager must inform the SCM Unit of this fact.
- (5) Before action is taken in terms of the general conditions of contract or any other special contract condition applicable, the Municipality must warn the contractor by registered mail that action will be taken in accordance with the contract conditions unless the contractor complies with the contract conditions and delivers satisfactory supplies or services within a specified reasonable time. If the contractor still does not perform satisfactorily despite a final warning, the SCM Unit may make a recommendation to the Accounting Officer or the delegate for the appropriate penalties to be introduced or make a recommendation to the Accounting Officer for the cancellation of the contract concerned.
- (6) When correspondence is addressed to the contractor, reference must be made to the contract number, the item number and the number and date of any relevant invoice, statement or letter received from the contractor. Otherwise the number and date of the order, a short description of the supply or service and details of the destination if applicable, must be supplied.
- (7) When the Municipality has to satisfy its need through another provider (for the contractor's expense), the loss to SDM must always be restricted to the minimum since it is difficult to justify the recovery of unreasonable additional costs from the contractor.
- (8) Record must be kept by the SCM Unit of details of all cases of non-performance by contractors. If rejected supplies are in the possession of the SDM, the contractor must be requested to collect the supplies at his/her own expense, failing which the goods will be sent back and the cost will be for the contractor's account.

Contract Management process

350. The contract management process

The Accounting Officer must develop and implement mechanisms to effectively manage important aspects relating to contracts awarded through the supply chain management system of Council. A Municipality cannot operate at all without entering into contracts on a regular basis and the obligations and rights created by the conclusion of these contracts should be

managed in order to protect the interests of both the Municipality and the other contracting party.

351. The concept of contract management

Contract management consists of the process that enables the Municipality, as a party to a contract, to protect its own interests and to ensure that it complies with its duties, as agreed upon in the contract. Non-performance or inadequate performance of these will compromise the municipality's legal position and will have a detrimental impact on the effectiveness of the Municipality, with related financial losses.

The process to manage contracts properly involves the following distinct aspects: the administration process, and the delivery or performance process.

352. The administration process

This process encompasses the totality of the administrative management of contracts, which includes the following:

(1) The co-ordination of all activities relating to contracts

(a) Centralised control point

This is normally performed by the Corporate Services Department, which takes full responsibility as main contact point between the parties to the contract, on the one hand, and as contact point between the functionaries of the Municipality, on the other. All the following matters will thus be handled at the central point, namely:

- (i) enquiries;
- (ii) liaison; and (iii) correspondence.

(b) Centralised registering point

All contracts concluded must be recorded in a register. The contract register should preferably contain the following information:

- (i) name of party;
- (ii) type of contract (lease, loan, encroachment, etc.);
- (iii) date concluded (this refers to the date on which the contract comes into operation and not the date of signing of the contract);
- (iv) date of expiry; and
- (v) action date (this indicates the ideal date on which action must be taken in order to either renew the existing contract or to implement appropriate action prior to termination of the contract).

The contract register must be kept electronically and in alphabetical order. All new contracts that have been entered into must immediately be recorded in the register. Contracts that have expired or no longer exist for whatever reason must be removed from the register and be recorded on a register or list for cancelled or terminated agreements.

(c) Reproduction and distribution of contracts

Once a contract is signed copies must be made and:

- (i) be placed in the relevant file;
- (ii) be furnished to relevant departments under cover of a memorandum. If, for example, the contract places a duty on the Budget and Treasury

- Office and the Engineering Services Department, copies must be furnished to those departments;
- (iii) the original document must be dealt with as indicated in subsection (1)(d) below; and
 - (iv) an original contract must be furnished to the other party.
- (d) Safekeeping of contracts
- (i) The original contract must always be archived centrally.
 - (ii) It must be placed in a special file separate from other documents, which must be stored in a locked cabinet that is situated in a strong room.
 - (iii) Only one official must exercise control over original contracts.
 - (iv) Original contracts should preferably not be made available to persons other than the parties to the contract. If a third party is authorized to have sight of the contract, such third party must sign for receipt of the contract.
- (e) Contract formalisation
- (i) On the award of a bid or quote the Acquisition Section shall forward the original submission together with details of the award to the Contract Administration Section.
 - (ii) The Contract Administration will review the contract data and record the award.
 - (iii) On notification of the award of contract the Contract Administration Section and Legal Services will invite the authorised representative of the successful vendor, whose signature appears on the Resolution of Board of Directors, to attend a meeting where the following shall take place:
 - (aa) review of contract data;
 - (bb) submission of a surety, if any, in the amount stated in the Form of Guarantee;
 - (cc) submission by the vendor of contractual insurances, if any, for the various aspects and in the amounts stated in the bid or quotation document;
 - (dd) submission by the vendor of any other document and/or information stated in the bid or quotation document as a prerequisite for commencement of the contract; and
 - (ee) signature by the authorised representative of the successful vendor and a witness of all contractual documents.
 - (iv) After the meeting, the Contract Administration Section will forward the documentation to the Legal Services Unit. Upon receipt of the documentation Legal Services shall take the following steps:
 - (aa) in the case of infrastructure related contracts; ensure that the "acceptance" portion of the Form of Offer and Acceptance is

signed on behalf of the "Employer" by the official with the delegated authority; or

- (bb) in the case of all other categories of acquisition, ensure that the Part 2 of the Contract Form : Purchase of Goods/Works or Contract Form : Rendering of Service is signed on behalf of the "Employer" by the official with the delegated authority.
- (v) Contracts relating to information technology shall be prepared in accordance with the State Information Technology Act, 1998 (Act No. 88 of 1998), and any regulations made in terms of that Act.
- (vi) Under no circumstances will the Users/Project Managers communicate the award to the successful vendor or issue instructions to the successful vendor to commence with the contract unless the requirements of the above have been met.
- (vii) The Project Manager together with the Contract Administration Section shall monitor performance of the contract to ensure that socioeconomic objectives undertaken by the vendor at the bidding or quotation stage are adhered to.
- (viii) The contract should be written in English or in any other language chosen by the parties, and proper contract documents should be used.
- (ix) Contracts should be signed, after mutual consensus, by all parties to the contract.
- (x) All agreements regarding the supply of goods and services to the Municipality must:
 - (aa) be concluded in writing;
 - (bb) stipulate the terms and conditions of the contract or agreement, which must include provisions providing for:
 - (aaa) the termination of the contract or agreement in the case of non- or under-performance;
 - (bbb) dispute resolution mechanisms to settle disputes between the parties;
 - (ccc) 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 (ddd) any other matters that may be prescribed.
- (xi) The Accounting Officer must take all reasonable steps to ensure:
 - (aa) that a contract or agreement procured through the supply chain management policy is properly enforced;
 - (bb) monitor on a monthly basis the performance of the contractor under the contract or agreement;
 - (cc) establish capacity in the administration of the municipality- (aaa) to assist the Accounting Officer in carrying out the duties set out in

- (bbb) to oversee the day-to-day management of the contract or agreement; and
- (ccc) regularly report to the council of the municipality on the management of the contract or agreement and the performance of the contractor/service provider/supplier.
- (dd) A contract or agreement procured through the supply chain management policy may be amended by the parties, but only after:
 - (aaa) the reasons for the proposed amendment have been tabled at the council of the municipality or, in the case of a municipal entity, in the council of its parent municipality; and
 - (bbb) the local community-
 - (1) has been given reasonable notice of the intention to amend the contract or
 - (2) has been invited to submit representations to the municipality.
- (xii) Copies of the original contract must be made and must be kept in a secure place, as indicated in subsection (d)(iv) above.

(f) Approval of contracts

All contracts to be concluded by the Municipality must be approved by the Accounting Officer or the delegated official. All contracts must indicate the name of the responsible person delegated by the Accounting Officer to sign on his or her behalf. The full name and signature of the Accounting Officer or responsible person in question must be added in the space provided. No official can sign on behalf of someone else unless properly authorized to do so.

(g) Signing of contracts

The signing of a contract takes place as soon as possible after the approval thereof. The following must be prudently adhered to when a contract is signed:

- (i) the representative of the Municipality must have the required authority to sign the contract;
- (ii) if the other party is a company, a close corporation, partnership or other form of legal entity, then a written resolution must be produced and attached to the contract, authorizing the signatory to sign on behalf of the other party;
- (iii) that the committee resolution, in terms whereof the contract was approved, is recorded in the contract;
- (iv) that the contract is signed with a pen using indelible ink;
- (v) that the contract is signed in the presence of two witnesses; and
- (vi) that a sufficient number of copies of the original contract are made for the parties involved.

(h) Expiry or termination of contracts

The following action is required when a contract is terminated:

- (i) The Municipality must ensure that it notifies the other contracting party, in writing, of the imminent expiry of the contract.
- (ii) The notification referred to above must contain the information required in terms of the contract.
- (iii) When an option to renew has been granted to the other contracting party, such party must be notified of such option in writing, and well in advance of the date on which he, she or it is required to exercise the option.
- (iv) The termination of a contract prior to its expiry date can take place in any of the following ways:
 - (aa) in accordance with a termination clause;
 - (bb) as a consequence of the breach of contract by either party;
 - (cc) death of a party;
 - (dd) destruction of the object of the contract;
 - (ee) where the parties become one party, e.g. when two or more municipalities amalgamate;
 - (ff) by operation of law; and
 - (gg) where the cause of the relationship in terms of the contract ceases to exist, for whatever reason.
- (i) Termination of a contract must be done strictly in accordance with the terms and conditions set out in the termination clause.
- (ii) Termination of a contract, for whatever reason, must be dealt with judiciously and in consultation with the SDM's legal advisor.
- (iii) As indicated in subsection (1)(b) above, all terminated contracts must be clearly indicated as such in a separate register.

(i) Delivery or performance process

This process commences as soon as a contract is concluded. The parties are entitled to exercise their respective rights and are obliged to fulfil the duties stipulated in the contract. The nature of management required will ultimately depend upon the type of each individual contract. In some cases, contracts can be managed adequately with little involvement, whilst in other cases proper management without a competent project team is impossible. A good example of the latter is capital projects or service delivery agreements of considerable extent.

The nature of a contract will also indicate which department of the Municipality will be required to accept responsibility for the successful implementation of the project. Circumstances will dictate the responsibility of the various departments involved and what level of management will be required.

353. Managing contracts

- (1) The Municipality must ensure that contracts are administered in terms of the specifications and conditions contained in the contract, as well as any applicable legal provisions of a general nature.
- (2) The contract must be implemented according to proposed strategy, with reference to the budget, strategic and procurement plan.

- (3) The contract register for the Municipality should be checked on a regular basis to ensure that it is up to date and accurate.
- (4) The outcomes of a contract must be monitored with reference to any documented expectations to ensure that the benefits realized by the Municipality are in line with such expectations.
- (5) The lifespan of the project must be monitored in line with the available budget approved.
- (6) Delivery must be assessed on the basis of the signed contract.
- (7) Orders are to be monitored continuously to ensure proper supply and delivery in accordance with the terms and conditions of the contract.
- (8) The Municipality must ensure that all parties to the contract observe acceptable ethical standards.
- (9) Necessary approval from the Accounting Officer and the bid adjudication committee, for non-contractual price adjustments, must be obtained, provided that such adjustments are lawful and not in contravention of the principles contained in this policy.
- (10) Contractual price adjustments may be considered, provided that these are in line with the terms and conditions of the contract and the supplier provides documentary proof or an audited certificate of price adjustments claimed to warrant such an adjustment.
- (11) Subject to the terms and conditions of the contract, the supplier or successful bidder must, within 30 days of the formation of the contract, provide security in the amount specified. Similarly, the supplier or successful bidder must provide a warranty for the goods and services to be provided.
- (12) If it was a condition of the bid invitation that the bidder or contractor must allow the Municipality to carry out inspections, tests and analysis, then the bidder must be open, at all reasonable hours, for such inspection, tests or analysis by the Municipality. The inspection, testing and analysis of any contract for supplies is recommended and may be rejected for non-compliance.
- (13) The Municipality must ensure that payment to a service provider is made in accordance with contract terms and conditions, and only after proper delivery of the goods or services and upon receipt of an invoice.
- (14) Goods and services should be provided by a service provider in accordance with the time schedule and quality specifications stipulated in the contract. A delay should be explained by the service provider in writing and may result in the imposition of penalties by the institution. The implementation of penalties for non-delivery must be adhered to.
- (15) Once a contract has been concluded, a close out report must be compiled.
- (16) The Municipality must ensure that the service provider does not assign or subcontract a portion or the whole contract to another party without the approval of the Municipality.
- (17) **End User departments should be notified in writing six(6) months before the contract expires.**
- (18) **Contract extensions should be done through Supply Chain Unit**
- (19) Subject to the terms and conditions of the contract, the Municipal Manager and Bid Adjudication Committee may terminate the contract for non-performance.
- (20) Any breach of contract must be clearly documented and reported to SCM and the Municipal Manager.

354. Application