

**MANGAUNG**  
**METROPOLITAN MUNICIPALITY**



**7<sup>th</sup> SUPPLY CHAIN MANAGEMENT POLICY**

**05 JUNE 2014**

## INDEX

|  | <b>Page</b> |
|--|-------------|
| <b>CHAPTER 1: DEFINITIONS</b>  |             |
| 1. Definitions   | 4           |
| <b>CHAPTER 2: INTRODUCTION, OBJECTIVES AND RESPONSIBILITIES</b>                          |             |
| 2. Introduction  | 10          |
| 3. Objectives and applicability of the SCM Policy  | 10          |
| 4. Responsibilities  | 12          |
| 5. Oversight role of Council   | 14          |
| 6. Supply Chain Management Sub-Department  | 16          |
| 7. Delegations   | 16          |
| 8. Advisors  | 17          |
| 9. Framework for supply chain management systems   | 17          |
| <b>CHAPTER 3: SUPPLY CHAIN MANAGEMENT SYSTEM</b>   |             |
| Part 1: Demand Management  |             |
| 10. System of demand management  | 18          |
| Part 2: Acquisition Management   |             |
| 11. System of acquisition management   | 19          |
| 12. Register of accredited prospective service providers                                 | 21          |
| 13. Range of procurement processes   | 25          |
| 14. Petty cash purchases   | 25          |
| 15. Quotations   | 26          |
| 16. Competitive bids   | 30          |
| 16.1 General   | 30          |
| 16.2 Process for procuring goods and services through a competitive process              | 30          |
| 16.3 Deviation from and ratification of minor breaches of procurement processes          | 42          |
| 16.4 Procurement of banking services   | 44          |
| 16.5 Procurement of IT related goods or services   | 44          |
| 16.6 Procurement of goods and services under contracts secured by another organ of state | 45          |
| 16.7 Procurement, sale and exchange of zoological goods and services                     | 46          |
| 16.8 Repairs, Maintenance and Product Service  | 47          |
| 16.9 Procurement of goods necessitating special safety arrangements                      | 47          |
| 16.10 Appointment of consultants   | 47          |
| 16.11 Unsolicited bids   | 48          |
| 16.12 Guidelines when functionality is included as a criterion in the evaluation of bids | 49          |
| 17. Committee System for competitive bids  | 50          |
| 17.1 General   | 50          |
| 17.2 Meetings of bid committees and decision-making                                      | 50          |

|      |   |    |
|------|---|----|
| 17.3 | Procedures of bid committees                                  | 51 |
| 17.4 | Preparation of bid specifications and other bid documentation | 51 |
| 17.5 | MMM Bid specifications committee                              | 53 |
| 17.6 | MMM Bid evaluation committee                                  | 54 |
| 17.7 | MMM Bid adjudication committee                                | 54 |

#### Part 3: Logistics Management

|     |                            |    |
|-----|----------------------------|----|
| 18. | Logistic management system | 55 |
|-----|----------------------------|----|

#### Part 4: Disposal Management

|      |  |    |
|------|--|----|
| 19.  | Disposal management system   | 56 |
| 19.1 | Introduction   | 56 |
| 19.2 | Role of the Municipal Manager in the disposal of assets                  | 57 |
| 19.3 | Disposal of immovable capital assets, including land of the Municipality | 58 |
| 19.4 | Disposal of movable assets of the Municipality                           | 58 |

#### Part 5: Risk Management

|     |                        |    |
|-----|------------------------|----|
| 20. | Risk management system | 59 |
|-----|------------------------|----|

#### Part 6: Performance Management

|     |                               |    |
|-----|-------------------------------|----|
| 21. | Performance management system | 60 |
|-----|-------------------------------|----|

#### Part 7: Process and Contract Management

|     |                                 |    |
|-----|---------------------------------|----|
| 22. | Process and Contract Management | 61 |
|-----|---------------------------------|----|

#### Part 8: Preferences Management

|     |                             |    |
|-----|-----------------------------|----|
| 23. | Preferences for procurement | 63 |
|-----|-----------------------------|----|

### **CHAPTER 4: MISCELLANEOUS MATTERS**

|     |   |    |
|-----|---|----|
| 24. | Prohibition on awards to persons whose tax matters are not in order   | 69 |
| 25. | Prohibition on awards to persons in the service of the state          | 69 |
| 26. | Awards to close family members of persons in the service of the state | 70 |
| 27. | Ethical standards   | 70 |
| 28. | Objections and complaints   | 70 |
| 29. | Resolution of disputes, objections, complaints and queries            | 71 |
| 30. | Contracts providing for compensation based on turnover                | 72 |
| 31. | Avoiding abuse of supply chain management system                      | 72 |
| 32. | National industrial Participation program                             | 73 |
| 33. | Reporting of supply chain management information                      | 73 |
| 34. | Compliance with Construction Industry Development Board Act           | 74 |
| 35. | SCM Procedure Manual, Practice Notes and National Treasury Guidelines | 74 |
| 36. | Authority   | 74 |
| 37. | Implementation and Repeal   | 74 |

## ANNEXURES

|             |   |    |
|-------------|---|----|
| ANNEXURE A: | Code of conduct for supply chain management officials and Other Role players involved in the implementation of SCM policy | 75 |
| ANNEXURE B: | Delegations of Supply Chain Management Powers and Duties  | 78 |

### **DOCUMENT AND VERSION CONTROL**

Version: Seventh Supply chain management policy.

Council approval date: 05 June 2014

Summary: This document describes the Policy on Supply Chain Management that will be applicable to the Mangaung Metropolitan Municipality, with effect from 01 July 2014.

**Note must be taken that this policy shall be reviewed on annual basis.**

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## CHAPTER 1: DEFINITIONS

### 1. DEFINITIONS

- 1.1 In this SCM Policy, unless the context otherwise indicates, a word or expression to which a meaning has been assigned in the Local Government: Municipal Finance Management Act, 2003 (Act No 56 of 2003), has the meaning so assigned, and:
- (a) “**basic municipal service**” means a municipal service that is necessary to ensure an acceptable and reasonable quality of life and which, if not provided, would endanger public health or safety or the environment;
  - (b) “**bid**” means a written offer submitted in a prescribed or stipulated form, in response to an invitation by the Municipality for a procurement or disposal, as part of the competitive bidding process of the Municipality;
  - (c) “**capital asset**” means the non consumable movable and immovable property, including land of the Municipality;
  - (d) “**CFO**” means the person who is appointed by the Council as the Chief Financial Officer for the Municipality and his delegates.
  - (e) “**channel(s)**” means the line of communication commencing with the General Manager for supply chain management to the chief financial officer to the Municipal Manager and to council;
  - (f) “**Close family members**” means a person’s spouse, children, parents or brothers and sisters.
  - (f) “**Code of Conduct**” means the code of conduct attached to this policy as Annexure A;
  - (g) “**comparative price**” means the price after the factors of a non-firm price and all unconditional discounts that can be utilised have been taken into consideration;
  - (h) “**consortium or joint venture**” means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract;
  - (i) “**consultant**” means a professional service provider which is a partnership, sole trader or legal entity which provides on a fiduciary basis, labour and knowledge-based expertise which is applied with reasonable skill, care and diligence, and adheres to statutory labour practices;
  - (j) “**corrected bid sum**” means the bid sum, corrected in terms of the bid documentation, where applicable;

- (k) “**contract**” means the written agreement that results from the acceptance of a bid or quotation by the Municipality;
- (l) “**contractor**” means any natural or legal person whose bid or quotation has been accepted by the Municipality for the execution of work for the Municipality;
- (m) “**Council**” means the Municipal Council of the Mangaung Metropolitan Municipality, its legal successors in title and its delegates;
- (n) “**delegating authority**”, means the Council, Municipal Manager, councillor or other employee to whom original powers were assigned in terms of legislation, and in relation to a sub-delegation of a power, means that delegated body;
- (o) “**delegation**” means the issuing of a written authorisation by a delegating authority to a delegated body to act in his stead, and in relation to a duty, includes an instruction or request to perform or to assist in performing the duty, and ‘**delegate**’ and ‘**sub-delegate**’ has a corresponding meaning;
- (p) “**delegated body**” in relation to the delegation of a power means the person to whom a power has been delegated by the delegating authority in writing;
- (q) “**disability**” means a permanent impairment of a physical, intellectual, or sensory function, which results in restricted, or lack of ability to perform an activity in the manner or in the range considered normal for a human being;
- (r) “**disposal**” means a process of preparing, negotiating and concluding a written contract which involve the alienation of a capital asset, including a capital asset no longer needed by the Municipality or rights in respect thereof, by means of a sale or a donation, and “**dispose**” has a similar meaning;  
(Substituted by Council on 18 May 2006 under item 74A4)
- (s) “**Employee**” means any person other than an independent contractor who:
- (i) works for another person or for the State and who receives, or is entitled to receive any remuneration; and
  - (ii) in any manner assist in carrying on or conducting the business of an employer
- (t) “**Emergency**” means an unforeseeable and sudden event, with material harmful or potential harmful consequences for the municipality that requires immediate action;
- (u) “**Employer**” means the Mangaung Metropolitan Municipality, a municipality established in terms of the provisions of section 12 of the Local Government: Municipal Structures Act, 1998 (Act No 117 of 1998)
- (v) “**engineering and construction works**” means the provision of a combination of Goods and Services, arranged for the development and provision of an asset, including building and engineering infrastructure, or for the refurbishment of an existing asset;

- (w) **“equity ownership”** means the percentage of an enterprise or business owned by individuals or, in respect of a private company, the percentage of a company’s shares that are owned by individuals, who are actively involved in the management of the enterprise or business and exercise control over the enterprise or business, commensurate with their degree of ownership at the closing date of the bid;
- (x) **“final award”** in relation to bids or quotations submitted for a contract, means the final decision on which bid or quote is accepted;
- (y) **“formal quotation”** means a quotation received after and as a result of advertisement for at least 7 (seven) working days together if any other methods of invitation;
- (z) **“firm price”** is the price that is only subject to adjustments in accordance with the actual increase or decrease resulting from the change, imposition, or abolition of customs or excise duty and any other duty, levy, or tax, which, in terms of a law or regulation, is binding on the contractor and demonstrably has an influence on the price of any supplies, or the rendering costs of any service, for the execution of the contract;
- (aa) **“functionality”** means the suitability of a proposal, design or product for the use for which it is intended;
- (bb) **“goods”** means those raw materials or commodities which are available for general sale;
- (cc) **“Head of Department”** means a Head of Department directly accountable to the Municipal Manager, appointed in terms of section 57 of the Systems Act, including the Chief Financial Officer;
- (dd) **“in the service of the state”** means to be :
- (i) a member of :
    - any municipal council
    - any provincial legislature; or
    - the National Assembly or the National Council of Provinces;
  - (ii) a member of the board of directors of any municipal entity;
  - (iii) an employee of any municipality or municipal entity;
  - (iv) any employee of any national or provincial department, national or provincial public entity or constitutional within the meaning of the Public Finance Management act, 1999 (Act No.1 of 1999);
  - (v) a member of the accounting authority of any national or provincial public entity; or
  - (vi) an employee of Parliament or a Provincial Legislature.
- (ee) **“local business” or “local firm”** means service providers with active offices in the Municipality, which shall be interpreted on the basis of whether the offices are utilized for the goods or services to be procured, and whether the majority shareholders are local or Free State people;
- (ff) **“long term contract”** means a contract with a duration period exceeding one year;

- (gg) **“main contractor”** means the legal entity with whom the Municipality will contract (as opposed to sub-contractors, suppliers, manufacturers or service providers who contract with the main contractor);
- (hh) **“management”** refers to the membership of any board or similar governing body which is charged with the day-to-day management control of the enterprise / business. This entails the power to determine policies and direction of economic activities and resources;
- (ii) **“MFMA”** means the Local Government: Municipal Finance Management Act, 2003 (Act No 56 of 2003);
- (jj) **“Municipality”**, means the Mangaung Metropolitan Municipality, and when referred to as –
- (i) an entity, means a municipality as described in section 2 of the Systems Act; and
  - a. a geographic area, means the municipal area determined in terms of the Local Government : Municipal Demarcation Act, 1998 (Act No 27 of 1998);
- (kk) **“Municipal Manager”** means the person who is appointed by the Council as the head of the administration and as accounting officer for the Municipality in accordance with section 82 of the Structures Act and his delegates;
- (ll) **“organ of state”** means –
- (i) any department of state or administration in the national, provincial or local sphere of government; or
  - (ii) any other functionary or institution-
    - exercising a power or performing a function in terms of the Constitution or a provincial constitution; or
    - exercising a public power or performing a public function in terms of any legislation,
- but does not include a court or a judicial officer;
- (mm) **“other applicable legislation”** means any other legislation applicable to municipal supply chain management, including –
- (i) Municipal Finance Management Act no. 56 of 2003 and its regulations.
  - (ii) The Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000) and its regulations.
  - (iii) The Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003).
  - (iv) The Construction Industry Development Board Act, 2000 (Act No.38 of 2000) and Regulations.
  - (v) the Promotion of administrative Justice Act, (Act No. 3 of 2000);
  - (vi) the Promotion of access to information Act, (Act No 2 of 2000);
  - (vii) the Protected Disclosures Act, (Act No 26 of 2000);
  - (viii) the Competition Act, (Act No 89 Of 1998);
  - (ix) Constitution of Republic of South Africa Act no. 108 of 1996 .



- (x) Prevention and Combating of Corruption Activities Act 12 of 2004.
- (xi) National Small Enterprise Act 102 of 1996.
- (xii) State Information Technology Agency (SITA) Act 88 of 1998
- (xiii) Practice / Instruction notes issued by National and provincial treasuries.
- (xiv) all other applicable By- laws, Policies, Ordinances or legislation impacting on Supply Chain Management;

(nn) **“person”** includes reference to juristic person;

(oo) **“Practice Notes”** means all Supply Chain Management Notes issued from time to time by the General Manager Supply Chain Management in accordance with paragraph 35 of this Policy;

(pp) **“Preferential Procurement Legislation”** means the Preferential Procurement Policy Framework Act, 2000 (Act No 5 of 2000) and its associated Preferential Procurement Regulations, and the Broad-Based Black Economic Empowerment Act, 2003 (Act No 53 of 2003);

(qq) **“procurement”** means a process of preparing, negotiating and concluding a contract, whether in writing or verbally, which involve the acquiring of goods, services and engineering and constructions works or any combination thereof, or the acquiring of capital assets or any rights in respect of the above, by means of a purchase, lease or donation;

and **“procuring”** has a similar meaning;

(rr) **“PSP”** means Professional Service Provider;

(ss) **“quotation”** means a written offer which is not submitted in the form of a bid document prescribed by the Municipality, but is never-the-less subject to a specification, conditions of purchase and any schedules and annexures such as drawings or plans, as applicable;

(tt) **“rand value”** means the total estimated value of a contract in rand denomination which is calculated at the time of quotation and bid invitations and includes all applicable taxes and excise duties;

(uu) **“Register”** means the register of accredited prospective service providers established and maintained by the GM: Supply Chain Management in accordance with paragraph 12, to be used for the procurement requirements of the Municipality;

(vv) **“responsive bid”** means a bid which conforms to all the terms, conditions and specifications contained in the bid documentation without material deviation or qualification;

(ww) **“SCM Policy”** means this Supply Chain Management Policy contained in this document;

(xx) **“SCM Sub-Department”** means the Supply Chain Management Sub-Department which is under the management and control of the Chief Financial Officer, and that is responsible for the implementation and management of the SCM Policy;

- (yy) “**services**” means the provision of labour and work carried out by hand, or with the assistance of plant and equipment, including the input, as necessary, of knowledge based expertise;
- (zz) “**service provider**” means a current or potential supplier, manufacturer, contractor, vendor, agent or consultant;
- (aaa) “**SMME’s**” means small, medium and micro enterprises in the supply chain management system of the Municipality;
- (bbb) “**Structures Act**” means the Local Government: Municipal Structures Act, 1998 (Act No 117 of 1998);
- (ccc) “**sub-contracting**” means the primary contractor’s assigning or leasing or making out work to, or employing another person to support such primary contractor in the execution of part of a project in terms of the contract;
- (ddd) “**Systems Act**” means the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000);
- (eee) “**trust**” means the arrangement through which the property of one person is made over or bequeathed to a trustee to administer such property for the benefit of another person;
- (fff) “**trustee**” means any person, including the founder of a trust, to whom property is bequeathed in order for such property to be administered for the benefit of another person;
- (ggg) “**written quotation**” means a quotation received after and as a result of requests by the municipality of such quotation from suppliers listed on the supplier database of the municipality.

1.2 In this document unless the context otherwise indicates, words and expressions denoting the singular shall include the plural and vice versa, words and expressions denoting the male sex shall include the female sex and vice versa and reference to a natural person shall include a legal person and vice versa.

**CHAPTER 2: INTRODUCTION, OBJECTIVES AND RESPONSIBILITIES**

**2. INTRODUCTION**

2.1 Effective and efficient service delivery implementation requires the integration and co-existence of various systems and processes. One of these processes which require successful implementation in order to be effective is the supply chain management process as prescribed in section 110 of the **MFMA**;

- 2.2 Section 111 of the MFMA requires that each municipality and municipal entity must have and implement a supply chain management policy.
- 2.3 The primary task of the Municipality's supply chain management system shall always be to find reliable, cost effective service providers for the Municipality. B-BBEE companies will not be treated any differently from the norm with regard to quality, expected service delivery and technical performance. On the other hand, it is required that all personnel associated with the Municipality's supply chain management system must be made aware of this initiative and are expected to commit themselves to its implementation through good faith, efforts and appropriate purchasing procedures.
- 2.4 Section 217 of the Constitution of the Republic of South Africa requires an organ of state to contract for goods or services in accordance with a system which is fair, equitable, transparent, competitive and cost effective. This SCM Policy of the Municipality has been drawn up to give effect to this principles and the Preferential Procurement Legislation, and furthermore to comply with the provisions of the MFMA and regulations promulgated in terms thereof.
- 2.5 This policy is effective as from 1 July 2014.

### **3. OBJECTIVES AND APPLICABILITY OF THE SCM POLICY**

#### **3.1 Primary Objectives**

- 3.1.1 The primary objectives of the SCM Policy are to:
- 3.1.1.1 give effect to the provisions of the Constitution of the Republic of South Africa;
  - 3.1.1.2 give effect to the provisions of the MFMA;
  - 3.1.1.3 transform procurement and provisioning practices in the Municipality into an integrated supply chain management function;
  - 3.1.1.4 introduce a systematic approach for the appointment of consultants;  
create a common understanding and interpretation of the Municipality's preferential procurement policy objectives;
  - 3.1.1.5 make a significant improvement to supply chain management in the broader public sector;
  - 3.1.1.6 promote consistency in respect of the SCM Policy and other related policy initiatives in the Municipality;
  - 3.1.1.7 align with global trends and transformation and ensure that the Municipality adheres to international best practices.

#### **3.2 Secondary objectives**

- 3.2.1 The secondary objectives of the SCM Policy are to:

- 3.2.1.1 to ensure that all procurements and disposals, as well as the appointment of PSP's, is done in the most effective, efficient and consistent manner;
- 3.2.1.2 to ensure that all procurements and disposals, as well as the appointment of PSP's, is done in accordance with the prescribed processes;
- 3.2.1.3 to ensure that expenditure on goods and services is incurred in terms of an approved budget in terms of section 15 of the MFMA;
- 3.2.1.4 to ensure that any treasury guidelines on procurement management are properly taken into account;
- 3.2.1.5 to demonstrate the Municipality's commitment towards the achievement of national government's broad based black economic empowerment goals;
- 3.2.1.6 to facilitate the engagement of the Preferential Procurement Regulations in the supply chain management system;
- 3.2.1.7 to promote equity, fairness and increased participation of local business in the Municipality's supply chain management system;
- 3.2.1.8 to outline the processes in the Municipality for dealing with quotations and competitive bidding and the awarding of contracts;
- 3.2.1.9 to enhance competitiveness;
- 3.2.1.10 to facilitate creation of employment and business opportunities for the community with particular reference to the Preferential Procurement Regulations;
- 3.2.1.11 to increase the Small Business Sector's access to procurement business opportunities created by the Municipality;
- 3.2.1.12 to promote joint venture partnerships;

### **3.3 Applicability of the Policy**

- 3.3.1 This Policy shall apply to the entire Municipality and must be strictly adhered to when:
  - 3.3.1.1 Procuring goods or services;
  - 3.3.1.2 Disposing of goods no longer needed; and
  - 3.3.1.3 Selecting service providers other than in circumstances where Chapter 8 of the Systems Act applies.
- 3.3.2 Sub-paragraph 3.3.1 above does not apply when procuring goods and services under contracts secured by other organs of state under the circumstances contemplated in paragraph 16.6.
- 3.3.3 This policy is applicable to the procurement of goods or services for the zoo.

### **3.4 Review and Amendment of the Policy**

- 3.4.1 The Municipal Manager must submit all subsequent amendments of this Policy to the Council for approval. Such amendments must be in line with the Regulations as compiled by National Treasury, and any National Treasury Guidelines.
- 3.4.2 The Municipal Manager, through the Chief Financial Officer, must at least annually, or more frequently if required, review the implementation of this Policy to determine to what extent, if any, this Policy needs to be amended in order to remain relevant to changed circumstances.
- 3.4.3 When amending this Policy, the need for uniformity in supply chain practices, procedures and forms between organs of state in all spheres, particularly to promote accessibility of supply chain management systems for small business, must be taken into account.
- 3.4.4 The Municipal Manager shall in terms of section 62(1)(f)(iv) and section 115 of the MFMA, take all reasonable steps to ensure that the Municipality implements this Policy.
- 3.4.5

## **4. RESPONSIBILITIES**

### **4.1 Role of the Municipal Manager**

Ensures strict adherence to the guidelines provided in the SCM Policy.

- 4.1.1 Implementation of the SCM Policy.
- 4.1.2 Annual review of targets and the SCM Policy.
- 4.1.3 Appoints the members of the bid committees.

### **4.2 Role of the Head of Departments**

4.2.1 Each Head of Department shall be responsible and accountable for:

- 4.2.1.1 exercising the powers, performing the functions and discharging the duties conferred or assigned to him in terms of this SCM Policy;
- 4.2.1.2 implementing the SCM Policy and any procedural and other prescripts issued in terms of the policy within his area of responsibility;
- 4.2.1.3 ensuring compliance with the SCM Policy and any procedural and other prescripts issued in terms of the policy within his area of responsibility;
- 4.2.1.4 developing, or causing to be developed, draft specifications for the procurements by his Department exceeding an amount of R2 000 (VAT inclusive);
- 4.2.1.5 asset utilisation management in his area of responsibility;
- 4.2.1.6 properly planning for and, as far as possible, accurately estimating the costs of the provision of services, works or goods for which offers are to be solicited;

4.2.1.7 assist with the appropriate selection of functionality point system to be utilised in the evaluation of offers;

4.2.1.8 achieving any objectives and targets set with regard to procurements and disposals;

### **4.3 Role of the Chief Financial Officer (CFO)**

4.3.1 Reports to the Municipal Manager, who is the custodian of the SCM Policy on progress regarding its implementation.

4.3.2 Conducts procurement audits of the entire supply chain management system to identify successes and failures for incorporation into a “lessons learnt” database.

4.3.3 Overall management of the quotation and competitive bidding process from solicitation to processing of invoice payment.

4.3.4 Promotes corporate approach by encouraging standardization of items purchased within the Municipality to realize economies of scale.

4.3.5 Provides supplier interface on supplier performance issues.

4.3.6 Ensures that procurements and disposals are effected through practices that demonstrate compliance to all relevant legislation.

4.3.7 Responsible for managing procurements and disposals to ensure that the supply chain management system of the Municipality is adhered to.

4.3.8 Ensures that the procurements and disposal process followed adheres to preference targets without compromising price, quality, service delivery and developmental objectives.

4.3.9 Responsible for ensuring that all employees involved in the supply chain management process receive the necessary training to support implementation of the SCM Policy.

4.3.10 Responsible for establishing the amount to be paid by prospective service providers as a non-refundable deposit for enquiry documents issued by the Municipality.

4.3.11 Submit regular reports to the Municipal Manager regarding progress and any matters of importance relating to the SCM Policy.

## **5. OVERSIGHT ROLE OF COUNCIL**

5.1 The Council has an oversight role as far as the supply chain management system is concerned, to ensure that the Municipal Manager executes the SCM Policy within the ambit of the applicable legislation.

5.2 The Municipal Manager must, within ten (10) days of the end of each quarter, submit a report to the Executive Mayor on the implementation of the SCM policy. including reports containing particulars of each final award made by the Adjudication Committee:

- (a) the amount of the award;
- (b) the name of the person to whom the award was made;
- (c) the BEE status of the person so appointed;

### **5.3 Reporting by the Municipal Manager to the Council**

5.3.1 The Municipal Manager must submit the following reports to the Council:

5.3.1.2 Annual consolidated reports on the implementation of this Policy within 30 days of the end of each financial year, or as soon as it is practically possible;

5.3.1.3 Report all deviations to the next Council meeting, and ratifications in the implementation of this Policy and any remedial action taken or envisaged, where applicable;

5.3.1.4 Reports on awards of unsolicited bids, as soon as it is practically possible after the award of such bids;

5.3.1.5 Annual reports on all awards above R2 000 to close family members of persons in the service of the State or that has been in the service of the State in the previous 12 months, or as soon as it is practically possible after such awards;

5.3.1.6 Report on any abuses found and the remedial actions taken;

5.3.1.7 Annual reports on all financial declarations made and gifts received by:

- a) SCM officials.
- b) Bid Committee Members.
- c) Other role players involved in the implementation of the SCM policy.

### **5.5 Reporting by the Head of Departments to the CFO**

5.5.1 Head of Departments must submit monthly petty cash procurement reports to the CFO.

### **5.6 Reporting by the Municipality to National Treasury or Provincial Treasury**

5.6.1 The Municipal Manager shall quarterly submit the following reports to National Treasury and/or Provincial Treasury:

5.6.1.1 Reports on all purchases paid for in foreign currency;

5.6.1.2 Reports on contracts and/or transaction to the value of R100 million and more;

5.6.1.3 Reports on the supplier or the director thereof, that has abused the Supply Chain Management system and has been found guilty of improper conduct; i.e. any service provider that has been found guilty of inducing or bribing employees for the award of business;

5.6.1.4 Reports on awards of unsolicited bids;

- 5.6.1.5 Report on 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;
  - (b) a recipient or prospective recipient of goods disposed or to be disposed;
- 5.6.1.6 Reports on all awards of more than R2 000 to close family members of persons in the service of the state or that has been in the service of the state in the previous 12 months;
- 5.6.1.7 Reports on contracts awarded of which the duration extends beyond three years; and
- 5.6.1.8 Reports on any deviation from the Regulations.
- 5.6.1.9 Report on a monthly basis on the awarding of quotations in the amount of R100 000 or any amount above R100 000.

## **5.7 Reporting by the Municipality to Department of Trade and Industry-**

The Municipal Manager shall submit to the Department of Trade and Industry a report on all transactions/contracts to the value of R100 million and more with a foreign content of USD 10 million.

## **6. SUPPLY CHAIN MANAGEMENT SUB-DEPARTMENT**

- 6.1 The Municipal Manager shall establish a Supply Chain Management Sub-Department (SCM Sub-Department) in the Finance Department.
- 6.2 The SCM Sub-Department shall be subject to the management control of, and accountable to, the CFO;
- 6.3 The SCM Sub-Department shall consist of :
- 6.3.1 a demand and acquisition division;
  - 6.3.2 a performance and compliance management division which will assist the Municipal Manager to comply with the MFMA compliance requirements.
  - 6.3.3 a logistics and warehouse division;
- 6.4 The General Manager Supply Chain Management shall be responsible and accountable for the day-to-day management of the SCM Sub-Department.
- 6.5 Approves the inclusion of a service provider in the Municipality supply chain management system after rehabilitation of the service provider according to statutory requirements.
- 6.6 Responsible for the verification of the applications of service providers for possible inclusion in the Register.



- 6.7 The SCM Sub-Department shall consist of such personnel as the Municipal Manager may appoint, after consultation with the CFO.
- 6.8 The CFO must ensure that employees implementing, applying and managing the SCM Policy are trained in accordance with the prescribed requirements.
- 6.9 All documents pertaining to the procurement of goods or services by means of written price quotations of a transaction value above R2 000 and up to R200 000 (VAT included), as well as all documents pertaining to procurements by means of competitive bidding of a transaction value over R200 000 (VAT included), will be issued, received and submitted for finalization by the SCM Sub-Department.
- 6.10 All documents pertaining to the disposal of movable and immovable capital assets will be issued, received and submitted for finalized by the SCM Sub-Department.

## **7. DELEGATIONS**

- 7.1 Supply chain management delegations of powers contained in this policy shall inform delegation of powers policy pertaining to supply chain management of the municipality and shall supersede any supply chain management delegations policy.
- 7.2 The municipal supply chain management delegations as contained in the policy as adopted by the Council from time to time will apply to all procurement and disposal in line with the approved supply chain management policy of the Municipality.
- 7.3 In the event that the Municipal Manager decide to award a bid to a bidder other than the one recommended by the adjudication committee, the Municipal Manager must within 7 (seven) working days, notify the Auditor-General, the relevant provincial treasury and the national treasury in writing of the reasons for deviating from such recommendations.
- 7.4 Supply chain management powers may not be delegated to a person who is not an employee of the Municipality, or to a committee which is not exclusively composed of employees of the Municipality.
- 7.5 Final awards in a competitive bidding process may only be made through the committee system for competitive bids provided for in chapter 3. The delegated authority may in respect of a quotation process only be permitted, to make a final award in a competitive bidding process for bids with the value up to R200 000, any bid above R200 000 will be through the committee system as provided for in paragraph 17.
- 7.6 Approval limits and the threshold values for the procurement of goods and services as contained in the Delegation of Powers Policy of the Municipality are attached as Annexure B.

## **8. ADVISORS**

- 8.1 The Municipal Manager may procure the services of advisors to assist in the execution of the supply chain management function. These advisors must be obtained through a competitive bidding process. No advisor may however form part of the decision-making process regarding the awarding of bids, as this will counter the principle of vesting accountability with the Municipal Manager. The Municipal Manager may not delegate decision-making authority to a person other than an employee of the municipality.

## **9. FRAMEWORK FOR SUPPLY CHAIN MANAGEMENT SYSTEMS**

- 9.1 The SCM Policy provides the following systems, which are provided for in Chapter 3 :
- 9.1.1 Demand management and Acquisition Management.
- 9.1.2 Logistics, Warehouse and disposal Management.
- 9.1.3 Performance, Compliance and risk Management.

## **CHAPTER 3: SUPPLY CHAIN MANAGEMENT SYSTEM**

### **Part 1: Demand Management**

## **10. SYSTEM OF DEMAND MANAGEMENT**

- 10.1 Duties of Head of Departments**
- 10.1.1 Each Head of Department shall during the preparation of his / her Department's estimates for the budget year :
- 10.1.1.1 determine which functions it must perform;
- 10.1.1.2 Determine the products and services it must provide in the performance of those functions;
- 10.1.1.3 conduct a condition assessment of the assets managed by his/her Department;
- 10.1.1.4 On the basis of its analysis in terms of the above, determine its financial needs during the budget year for :

- (a) Maintaining existing assets, goods, works and services at an acceptable level calculated to ensure the continued productivity of the asset in question and minor repairs;
- (b) repairing existing assets;
- (c) refurbishing or renovating existing assets;
- (d) extensive repairing of existing assets;
- (e) replacing existing assets; and
- (f) acquiring new assets.

## **10.2 Establishment of demand / procurement plans.**

10.2.1 The CFO shall, after consultation with Head of Departments, compile a demand / procurement plan for capital and operational projects in respect of each financial year, such plans must be submitted to the head of supply chain management on or before the 30<sup>st</sup> of June each year for the approval of the accounting office on or before the 31<sup>st</sup> July each year.

10.2.2 During consultations between the CFO and Head of Departments, all reasonable efforts shall be made to determine :

10.2.2.1 the desired date and time at which a specific contract must be awarded;

10.2.2.2 the desired date and time when specific goods must be delivered, services rendered or work executed;

10.2.2.3 the place where any goods to be supplied shall be delivered;

10.2.2.4 the quantity and quality of any goods to be supplied; and

10.2.2.5 Any other relevant matter.

10.2.2.6 Based on the schedule of procurement submitted by the HOD's, Supply Chain Management Sub-Directorate shall perform the following :

- (a) Need analysis
- (b) Market analysis
- (c) Commodity analysis
- (d) Price analysis
- (e) Industrial analysis
- (f) Past expenditure trend and procurement method.
- (g) Determine optimum method to satisfy the need.

## Part 2: Acquisition Management

### 11. SYSTEM OF ACQUISITION MANAGEMENT

- 11.1 The Municipality shall, subject to sub-paragraph 11.5 below, only proceed with the procurement of goods and services for which there is an approved budget. The onus will be on the relevant Head of Department to ensure that funds are available. All procurement of goods and services will be measured against approved procurement plans. For any unplanned needs, permission shall be sought from the Accounting officer.
- 11.2 The Municipality's acquisition management will ensure:
- 11.2.1 that goods and services are procured by the Municipality in accordance with authorised processes only;
- 11.2.2 that expenditure on goods and services is incurred in terms of an approved budget;
- 11.2.3 that the threshold values for the different procurement mechanisms as contained in Annexure B, are complied with;
- 11.2.3.1 that bid documentation including compiled bid specification where applicable, evaluation and adjudication criteria, and general conditions of a contract, are in accordance with any applicable legislation; and
- 11.2.3.2 That any National Treasury guidelines on procurement management are properly taken into account.
- 11.3 The Municipality shall adhere to the principles of fair, equitable and transparent procurement systems whenever sourcing goods and services from the market.
- 11.4 When procuring goods and services on behalf of the Municipality, the following appropriate procurement mechanisms shall apply, namely:

| PROCUREMENT MECHANISM  | TOTAL TRANSACTION VALUE             |
|--|-------------------------------------|
| Petty Cash Purchases   | R0, 01 to R 2000 (VAT inclusive)    |
| Written Quotations obtained from the PSP register                          | R2 001 to R30 000 (VAT inclusive).  |
| Formal Written Quotations through a seven-day advertisement process        | R30 001 to R200 000 (VAT inclusive) |
| Competitive Process  | Above R200 000 (VAT inclusive)      |
| Negotiations, Sole Supplier and Unsolicited Bids by the Accounting Officer | Any Value                           |

**11.5 General pre-conditions applicable to the consideration of written and formal written quotations, as well as bids.**

11.5.1 The Municipality may not consider a written quotation or bid from a prospective service provider who is in the service of the state.

11.5.2 Service providers who submitted a quotation or bid must provide the Municipality with:

11.5.2.1 Personal information of the service provider relating to:

- (a) the service provider's full names;
- (b) an identity number in the case of a sole proprietor, or in the case of a legal entity, a company/close corporation or other registration number;
- (c) a tax reference number, if applicable.
- (d) a copy of Form VAT 103 as proof of a VAT registration number (if applicable);

11.5.2.2 An original and valid tax clearance certificate from the SARS to the effect that his or her tax matters are in order;

11.5.2.3 A municipal rates clearance certificate issued by the municipality, certifying that the service provider has undisputed commitments for municipal rates and services towards the Municipality, or submission of an appropriate agreement entered into between the Municipality and the relevant service provider for the repayment of all undisputed commitments for municipal rates and services, in respect of which no payment is overdue for more than 90 days (if applicable) or

11.5.2.4 Appropriate and valid lease agreement entered between the service provider and the landlord, such must be accompanied by the statement of lease account not older than 90 days. If applicable.

11.5.2.5 Sign the prescribed declaration form under oath,

- (a) stating whether he is in the service of the state, or has been in the service of the state in the previous twelve months;
- (b) stating in the event that the provider is not a natural person, whether any of its directors, principal shareholders or stakeholders are in the service of the state, or has been in the service of the state in the previous twelve months;
- (c) stating whether a spouse, child or parent of the service provider or of a director, manager, shareholder or stakeholder referred to in (b) above is in the service of the state, or has been in the service of the state in the previous twelve months;
- (d) stating that the service provider is not an advisor or consultant contracted by the Municipality, to advise on the process of procurement under consideration subject to the provisions of paragraph 8;
- (e) Declaring any conflict of interest the provider may have in the transaction for which the quotation or bid is submitted;

- 11.5.2.6 Proof that his name does not appear on a database maintained by the National Treasury and Mangaung metropolitan municipality as a person prohibited from doing business with the public sector.

## **12. REGISTER OF ACCREDITED PROSPECTIVE SERVICE PROVIDERS**

### **12.1 Register of accredited prospective service providers**

The CFO shall establish and maintain a Register of Accredited Prospective Service Providers database to be used for the procurement requirements of the Municipality through written quotations for procurements with the rand values of up to R30 000 (VAT included).

An up to date version of the Register forms shall at all times be available on the intranet / internet of the Municipality . The Register must provide for at least the following fields: commodity, type of services rendered by the service provider, qualification or grading of service provider (if applicable). The Register also includes consultants.

### **12.2 Procedure for establishing and maintaining the register**

- 12.2.1 The CFO shall within 60 (sixty) days before the financial year end through newspapers commonly circulating in the Municipality, on the website of the Municipality and any other approved manner invite prospective service providers of goods or services to apply for evaluation and listing as accredited prospective service providers. Such notice shall also specify the listing criteria for accredited prospective service providers.

The CFO shall thereafter annually by public notice invite prospective service providers to apply for evaluation and inclusion in the Register..

- 12.2.2 The CFO shall make appropriate arrangements to ensure as far as is reasonably possible that :

12.2.2.1 the Register is updated at least quarterly;

12.2.2.2 that no prospective supplier or any of its directors whose name appears on a database maintained by the National Treasury and Mangaung Metropolitan Municipality as a person prohibited from doing business with the public sector, is included in the register. In addition, prior to the award of any contract in excess of R10 000, accounting officers are required to verify the status of the recommended bidders by checking the database of Restricted Suppliers maintained by National Treasury in order to ensure that no recommended bidder or any of their directors/ owners trustees are listed as companies or persons prohibited from doing business with the public sector.;

12.2.2.3 that the register is reviewed and updated as often as possible, but not later than 90 (ninety) days from the previous review or amendment;

12.2.2.4 applicants register as service providers in their fields of expertise and that general traders be discouraged from registering on most fields of service or goods required;

12.2.3 The CFO shall before he / she publishes an invitation in terms of paragraph 12.2.1 cause to be compiled a prospective service provider information questionnaire requiring certain information from prospective service providers. The CFO may then transmit or give the questionnaire to all applicants who respond to the invitation, all existing contractors of the Municipality and all known suppliers for completion.

The following information, as contained in the questionnaire, is required:

12.2.3.1 Details of the form of the enterprise, e.g. sole proprietor, close corporation, private or public company, trust or any other legal form. Satisfactory proof of the enterprise's legal form must be submitted with its application;

12.2.3.2 details regarding the prospective service provider's:

(a) full names;

(b) identity number in the case of a sole proprietor, or in the case of a legal entity, a company/close corporation or other registration number;

(c) Tax reference number, if applicable.

12.2.3.3 a copy of Form VAT 103 as proof of a VAT registration number (if applicable);

12.2.3.4 Registration details regarding income tax, value-added tax, unemployment insurance, and skills development levy, if applicable.

12.2.3.5 a valid original Tax Clearance Certificate from the SARS to the effect that his tax matters are in order, if applicable.

12.2.3.6 a municipal rates clearance certificate issued by the municipality, certifying that the service provider has no disputed commitments for municipal rates and services towards the Municipality in respect of which payment is overdue for more than 90 (thirty) days, or the submission of an appropriate agreement entered into between the Municipality and the relevant service provider for the repayment of all undisputed commitments for municipal rates and services, in respect of which no payment is overdue for more than 90 (thirty) days;

12.2.3.7 a prescribed declaration form under oath:

(a) stating whether he is in the service of the state, or has been in the service of the state in the previous twelve months;

(b) stating in the event that the provider is not a natural person, whether any of its directors, 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;

(c) stating whether a spouse, child or parent of the service provider or of a director, manager, shareholder or stakeholder referred to above is in the service of the state, or has been in the service of the state in the previous twelve months;

12.2.3.8 proof that his name does not appear on a database maintained by the national treasury as a person prohibited from doing business with the public sector;

- 12.2.3.9 postal and physical address that will be used as *domicilium citandi et executandi* for the purpose of submitting offers;
- 12.2.3.10 citizenship of owners, e.g. South African or other: Provided that a juristic person is deemed to be a corporate South African citizen if the majority of its shares or interests are owned by South African citizens;
- 12.2.3.11 B-BEEE status level, if applicable.
- 12.2.3.12 size of enterprise, e.g. micro, small, medium or large;
- 12.2.3.13 categories of goods or services supplied or work performed;
- 12.2.3.14 whether the enterprise is a new (i.e. having been established in the past year) or an existing enterprise; and
- 12.2.3.15 outstanding litigation matters against the Municipality and any current judgment against him;
- 12.2.3.16 The listing requirements will only be used as evaluation criteria for listing purpose but not for procurement purpose. Listing criteria requirements will be applicable during the annual review of the list of accredited service providers.

### **12.3 Evaluation of applications**

- 12.3.1 In order to ascertain the suitability of applicants for registration in the Register, the General Manager: supply chain management may, after consultation with the Head of Departments of the Municipality's other Departments:
  - 12.3.1.1 evaluate an applicant's capacity and ability to supply goods and services and to complete work, in order to ensure that all contracts or orders awarded are within the capabilities of the enterprise; and
  - 12.3.1.2 Evaluate the amount of assistance that may be required by each applicant.
- 12.3.2 Evaluation criteria for accredited prospective service providers, may be based on the following:
  - 12.3.2.1 Previous experience;
  - 12.3.2.2 Qualifications of owner(s), directors, members, trustees and staff;
  - 12.3.2.3 Value of contracts completed in the past year;
  - 12.3.2.4 Value and duration of current contracts;
  - 12.3.2.5 Persons that may be contacted for references;
  - 12.3.2.6 Contracts completed on time and within budget; and
  - 12.3.2.7 Contracts awarded as a main contractor or as sub-contractor.

### **12.4 Registration in the accredited list of service providers**



- 12.4.1 An applicant is suitable for registration on the appropriate list in the Register if he/ she, in the opinion of the General Manager: Supply Chain Management.
- 12.4.1.1 has provided all the information required in terms of paragraph 12.2.3; and
- 12.4.1.2 meet the criteria for accredited prospective service providers as contained in paragraph 12.3.2; and
- 12.4.1.3 has the capacity in terms of the availability of personnel, financial resources and administrative infrastructure to execute contracts to a specified value and;
- 12.4.1.4 has relevant experience of a particular nature related to a specific kind or type of contract and;
- 12.4.1.5 has previously successfully executed a contract of a similar nature for the Municipality, will be an added advantage and ;
- 12.4.1.6 Complies with the Municipality's policy regarding the economic advancement of emerging enterprises and;
- 12.4.1.7 is a small, medium or micro-enterprise.
- 12.4.2 The names of prospective service providers that comply with the above requirements and are considered to be suitable for the specific purpose to undertake contracts, shall be included in the appropriate list within the Register. The General Manager: supply chain management shall, after he has registered a prospective service provider in the Register, supply that service provider with a reference number.
- 12.4.3 Each new application for inclusion in the Register will be considered by the GM: Supply Chain management or his delegate.

**12.5 Removing entries from the list of accredited service providers**

- 12.5.1 The Chief Financial officer shall authorize the removal from the Register:
- 12.5.1.1 the name and other particulars of any service provider at her/his request;
- 12.5.1.2 if the Chief financial officer considers him to be no longer suitable to undertake the contracts concerned: Provided that the Chief Financial Officer shall in writing inform the service provider concerned of its intention to remove him from the Register stating the reasons in respects of which he allegedly is no longer deemed to be suitable to undertake the contracts concerned and granting the service provider concerned an opportunity to reply in writing to such notification before the Chief Financial Officer makes such a decision;
- 12.5.1.3 any person contemplated in paragraph 12.2.2.2 as soon as it becomes known that his name is included in the said database; and
- 12.5.1.4 the name and other particulars of a service provider who has been declared insolvent or is liquidated;

## **12.6 Utilisation of list of accredited service providers**

- 12.6.1 Quotations must be obtained from at least three service providers preferably from, but not limited to, providers whose names appear on the Register:
- 12.6.2 Should quotations be obtained from service providers who are not included in the Register, such service providers must meet the listing criteria mentioned in 12.3.2 above.

## **13. RANGE OF PROCUREMENT PROCESSES**

- 13.1 The procurement of goods and services shall be by way of :
- 13.1.1 petty cash purchases, up to a transaction value of R2 000 (VAT included);
- 13.1.2 written price quotations for procurement of a transaction value over R2 000 up to R30 000 (VAT included);
- 13.1.3 formal written quotations for procurement of a transaction value over R30 000 up to R200 000 (VAT included);
- 13.1.4 a competitive bidding process for :
- 13.1.4.1 all procurements above a transaction value of R200 000 (VAT included); and
- 13.1.4.2 the procurement of long term contracts;
- 13.2 The Municipal Manager may lower, but not increase, the different threshold values specified in 13.1 above, or direct that :
- 13.2.1 formal written quotations be obtained for any specific procurement of a transaction value above than R30 000 (VAT included);
- 13.2.2 a competitive bidding process may be followed for any specific procurement of a transaction value lower than R200 000 (VAT included);

## **14. PETTY CASH PURCHASES**

- 14.1 Procuring of goods and services to a maximum of R2 000 (VAT included) may be made by means of petty cash purchases in cases where it is not possible or economically viable to procure goods and services through written quotation or competitive bidding processes, on condition that:
- 14.1.1 The value of petty cash purchases per sub-Department shall be limited up to the value of R 20 000.00 per month.
- 14.1.2 In the event that petty cash procurement is envisaged to exceed the monthly threshold, the Head of Department must obtain prior approval from the Chief Financial Officer.

14.1.3 a monthly reconciliation report shall be submitted by each HOD to the CFO indicating and including:

14.1.3.1 the total number and amount of petty cash purchases for that month;

14.1.3.2 receipts and appropriate documents for each purchase;

## 15. QUOTATIONS

### 15.1 **Written quotations obtained from the Prospective Service provider register by SCM Sub-Directorate –R2001.00 to R30 000**

15.1.1 To ensure that transparent and equitable objectives are adhered to at all times when procuring different goods and services above R2 000 to a maximum of R30 000, written quotations must be obtained by the SCM Sub-Department from at least 3 (three) different service providers, preferably from, but not limited to service providers whose names appear on the Register: Provided that if quotations are obtained from service providers who are not included in the Register, the SCM Sub-Department must ensure that such service providers meet the listing criteria mentioned in paragraph 12.3.2 above.

15.1.2 In the event that it is not feasible to obtain at least 3 (three) quotations, the reasons must be recorded and reported quarterly to the CFO or an employee designated by him.

15.1.3 After evaluation of the supply chain management criteria contained in the quotations received, the Manager responsible for Acquisition management shall submit a report in this regard on the approved format to the General Manager: Supply chain management for final approval.

15.1.4 Supply Chain management sub – directorate may at any given time request user departments to assist with the technical evaluation of the quotation and the results of such evaluation shall be submitted to GM: Supply chain management for consideration.

15.1.5 General manager: Supply chain management may consider / reject the evaluation in line the legislative framework and make final decision.

15.1.6 The General Manager: supply Chain management shall record the names of the prospective service providers requested to provide quotations, and their quoted prices.

15.1.7 Prior to the award of any contract in excess of R10 000, accounting officers are required to verify the status of the recommended bidders by checking the database of Restricted Suppliers maintained by National Treasury / Mangaung Metropolitan Municipality in order to ensure that no recommended bidder or any of their directors/ owners trustees are listed as companies or persons prohibited from doing business with the public sector.

15.1.8 Quotation Validity period shall remain for the period of 30 Days.

**15.2 Formal written quotations obtained by the SCM Sub-Department – R30 001 to R200 000**

- 15.2.1 All procurement documentation for the procurement of goods and services above R30 000 up to R200 000 (VAT included), must be submitted to the SCM Sub-Department who will advertise the quotations in question on the Municipality's notice boards and website for a period of at least 7 (seven) calendar days.
- 15.2.2 After evaluation of the supply chain criteria contained in the quotations received, the Manager responsible for Acquisition management shall submit a report in this regard on the approved format to the General Manager: Supply chain management for final approval.
- 15.2.3 Supply Chain management sub – directorate may at any given time request user departments to assist with the technical evaluation of the quotation and the results of such evaluation shall be submitted to General Manager: Supply chain management for consideration.
- 15.2.4 General Manager: Supply chain management may consider / reject the recommendation in line with the legislative framework and make final decision.
- 15.2.5 In the event that responses are not obtained from the advertisements due to non-responsive or non-responsible quotations, the reasons must be recorded and approved by the General Manager: supply chain management. The General Manager: Supply Chain Management may follow the route to re-advertise the formal quotation or direct negotiations and such appointment shall be approved by the Accounting officer.
- 15.2.6 The SCM Sub-Directorate shall record the names of the prospective service providers awarded quotation, their quoted prices into the quotation register.
- 15.2.7 Prior to the award of any contract in excess of R10 000, accounting officers are required to verify the status of the recommended bidders by checking the database of Restricted Suppliers maintained by National Treasury / the Municipality in order to ensure that no recommended bidder or any of their directors/ owners trustees are listed as companies or persons prohibited from doing business with the public sector.
- 15.2.8 Formal quotation validity period shall be for the period of 60 days.

**15.3 Process for procuring goods or services through formal written quotations**

- 15.3.2 When using the Register of accredited prospective providers, the SCM Sub-Department must promote ongoing competition amongst service providers, including by inviting service providers to submit quotations on a rotation basis.
- 15.3.3 The SCM Sub-Department must take all reasonable steps to ensure that the procurement of goods and services through written and formal written quotations is not abused.
- 15.3.4 The CFO and Municipal Manager must on a monthly basis be notified in writing of all written quotations, accepted by an employee acting in terms of his or her delegated powers.

- 15.3.5 In the event that quotations have been invited via the notice boards and website of the Municipality, no additional quotations need to be obtained should the number of responses be less than 3 (three).
- 15.3.6 All formal written quotations solicited above the R30 000 (VAT included) threshold, must be processed in accordance with the Preferential Procurement Policy Framework Act 5 of 2000 and offers received must be evaluated on a comparative basis, taking into account unconditional discounts and the applicable 80/20 preference points.
- 15.3.7 A discount which has been offered conditionally must, despite not being taken into account for evaluation purposes, be implemented when payment is effected.
- 15.3.8 In the event that different prices are quoted for different periods of a contract, the price for each period must be regarded as a firm price if it conforms to the definition of a “firm price”.
- 15.3.9 In the event that two or more prospective providers have scored equal total points, the successful quotation must be the one scoring the highest number of B-BEEE status level points for specified goals. Should two or more quotations be equal in all respects, the award shall be decided by the drawing of lots.
- 15.3.10 in the event of the appointment of professional service providers whose fees are determined by their respective institutions, societies or associations, such as attorneys, consulting engineers, town-planners and land surveyors, it shall not be necessary to obtain 3 (three) quotations, on condition that as far as possible these professional service providers shall be appointed on a rotational basis.
- 15.3.11 splitting of requirements with the sole intention of circumventing of any of the prescribed procurement mechanisms, shall not be allowed.
- 15.4 Specifications, evaluation criteria and procedures**
- 15.4.1 Quotation documents shall clearly indicate terms and conditions of contract, the specification criteria for evaluation and procedures to be followed where applicable.
- 15.4.2 The specifications and evaluation criteria shall not be aimed at hampering competition, but rather to ensure a fair, equitable, transparent, competitive and cost-effective process as well as the protection or advancement of persons, or categories of persons.
- 15.4.3 The specifications shall not mention trade names or particular processes of manufacture unless these are the only acceptable products, however, where the use of trade names, trade marks or origin is the only known way of accurately describing the products required, the words “or other equal and approved ”shall be included in the specifications mentioned in the quotation document.
- 15.4.4 Where the specifications are based on standard documents available to bidders, a reference to those documents is sufficient.
- 15.4.5 The Municipality may, if necessary, communicate with prospective service providers prior to the submission of quotations in order to supply additional information or to clarify vague points in the quotation documents.
- 15.5 Quotation Prices**

All quotations prices shall be deemed to be fixed (not subject to contract price adjustment) unless otherwise stated in the quotation documents.

## **15.6 Issuing and submission of documentation**

15.6.1 Quotation documents shall clearly state the place where such documents must be submitted and a date by when they must be returned.

15.6.2 All prices submitted shall remain confidential until all invited quotations have been received.

## **15.7 Acceptance of Quotations**

Quotations shall be accepted by means of a letter of acceptance or the issue of an official order.

## **15.8 Invalid and non-responsive quotations**

### **15.8.1 Invalid quotations**

15.8.1.1 Quotations shall be considered invalid and shall be endorsed and recorded as such by the responsible employee who opened the quotations in the following instances:

(a) where the quotation is not submitted on the official quotation form;

(b) where the quotation is not completed in non-erasable ink;

(c) Where the relevant documentation is not attached.

(d) When quotations are declared invalid at the quotation opening, the name of the quoter and the reason for the quotation having been declared invalid shall be recorded.

### **15.8.2 Non-responsive and non-responsible quotations**

15.8.2.1 Quotations that are non-responsive (i.e. technically unacceptable) and non-responsible (i.e. price very high or very low) will be disqualified.

#### **(a) Non-responsive quotations**

Quotations that do not respond to any of the technical requirements of the scope of work or do not meet any of the technical specifications outlined in the enquiry document without clarification and acceptance by the person that issued the enquiry documents will be disqualified.

#### **(b) Non-responsible quotations**

These refer to quotations with a price that is very high or very low and is therefore not considered a fair and acceptable market price. A fair and acceptable market price is defined on the basis of the following factors:

- (i) is the quotation price substantially below or higher than the market related prices.
- (ii) in repeat purchases, how does the quotation price compare with recent contracts awarded for similar items or work, taking into account quantified, conditions, terms, and other important specifications;
- (iii) are there price indices available to determine the changes in labour and material costs;
- (iv) market research information to establish fair market price goods and serviced procured regularly.

### **15.8.3 Exemption from obtaining three (3) Quotations.**

The following procurement of goods, services or works shall be exempted from obtaining three (3) quotations, irrespective of the monetary value and the inclusion of service providers on supply chain management accredited list of service providers. For all this exemptions the accounting officer authorizes the supply chain management for the sourcing of one quotation.

1. **Newspaper Advertisements.**
2. **Stamp and postage.**
3. **Courier services.**
4. **Groceries.**
5. **Annual subscriptions and membership.**
6. **Annual registrations.**
7. **Registration and licensing.**
8. **General repairs and maintenance of agent products.**
9. **Venues and accommodation bookings.**
10. **Transportation.**
11. **Medical products and services.**
12. **Repairs for certificate of roadworthy.**
13. **Scheduled fleet maintenance/service.**
14. **Dinning and restaurants.**
15. **Emergency breakdowns.**
16. **Agricultural products**
17. **Stripe and quote**
18. **Legislative books / documents**
19. **Traffic books / documents**

## **16. COMPETITIVE BIDS**

### **16.1 General**

16.1.1 Goods or services above a transaction value of R200 000 (VAT included) must be procured through a competitive bidding process, save for the exceptional cases allowable by Treasury which includes services as contemplated in section 110(2) of the Act.

16.1.2 No requirement for goods or services above an estimated transaction value of R200 000 (VAT included) may deliberately be split into parts or items of lesser value merely for the sake of procuring the goods or services otherwise than through competitive bidding.

### **16.2 Process for procuring goods or services through a competitive bidding process**

#### **16.2.1 General**

16.2.1.1 The SCM Sub-Department shall, by notice published in the press in newspapers circulating in the Municipality, and on the Municipality's website invite bids for procurements which involves or is likely to involve an estimated amount exceeding R200 000 (VAT included) or any such greater amount as may be determined by the Municipality from time to time.

16.2.1.2 A case is regarded as the consolidated requirement of related items (items of a common commodity group, for example the grouping together of all stationery items), that exist at a given point in time. It should cover the total quantities and estimated value (VAT included) of all items concerned for the complete service or supply. Items appearing on the schedule of requirements for the complete service or supply, should not be split in order to reduce the value such that it becomes less than the threshold value for the invitation of competitive bids.

16.2.1.3 For large complex plants or projects of special nature, when it may be undesirable to compare complete detailed technical specifications in advance, the SCM Sub-Department may make use of a two stage bidding process. Under the first stage un-priced technical proposals on the basis of conceptual design or performance specifications are invited, subject to technical as well as commercial clarifications and adjustments. The second stage should be the consideration of financial proposal for those who meet the technical evaluation criteria.

16.2.1.4 The Municipal Manager must ensure that the applicable regulations dealing with public-private partnerships have been adhered to before entering into any public-private partnership or part thereof.

16.2.1.5 The Municipal Manager may, on behalf of the Municipality, participate in any contract arranged by means of a competitive bidding process by any other organ of state, subject to the written approval of such organ of state as well as the written approval of the relevant contractor.

#### **16.2.2 Specifications, Evaluation Criteria and Procedures**

16.2.2.1 Bid documentation must be compiled in accordance with the general conditions of contract and supply chain management guidelines of the national treasury, and the



prescripts of the Construction Industry Development Board, in the case of a bid relating to the construction industry.

- 16.2.2.2 Bid documents shall clearly indicate the terms and conditions of contract, specification criteria for evaluation and procedures to be followed where applicable, including the criteria prescribed in terms of the Preferential Procurement Policy Framework Act 5 OF 2000.
- 16.2.2.3 The bid documentation must compel all bidders to declare any conflict of interest bidders may have in a specific bid, and must prescribe that bidders must furnish their tax reference registration numbers and identification numbers, where applicable.
- 16.2.2.4 The bid documentation must prescribe that disputes be settled by means of mutual consultation, mediation (with or without legal presentation), or arbitration or when unsuccessful, in a South African court of law.
- 16.2.2.5 The specifications 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.
- 16.2.2.6 The specifications shall not mention trade names or particular processes of manufacture unless these are the only acceptable products. However, where the use of trade names, trade marks or origin is the only known way of accurately describing the products required, the words "or other equal and approved "shall be included in the specifications mentioned in the bid document.
- 16.2.2.7 Where the specifications are based on standard documents available to bidders, a reference to those documents is sufficient.
- 16.2.2.8 The CFO in consultation with the Head of Department concerned may, if necessary, communicate with bidders and prospective bidders prior to bid closing in order to supply additional information or to clarify vague points in the bid documents. Such communication shall be in the form of a prescribed notice and shall, where possible, be issued at least one week prior to the bid closing date.
- 16.2.2.9 The bid documentation must, if the value of the transaction is expected to exceed R10 million (VAT included), require bidders to furnish :
- (a) If required by law an audited financial statements for the past 3 (three) years or since the establishment if established during the past 3 (three) years;
  - (b) a certificate signed by the bidder certifying that the bidder has undisputed commitments for municipal services towards a municipality or other service provider in respect of which payment is overdue for more than 30 (thirty) days;
  - (c) particulars of any contracts awarded to the bidder by an organ of state during the past 5 (five) years, including particulars of any material non-compliance or dispute concerning the execution of such contract;
  - (d) a statement indicating whether any portion of the goods or services are expected to be sourced from outside the Republic of South Africa, and if so, what portion and whether any portion of payment from the Municipality is expected to be transferred out of the Republic of South Africa;

### **16.2.3 Invitation for competitive bids**

16.2.3.1 The notice in the press shall specify:

- (a) the nature of the proposed contract;
- (b) such particulars of the contract as the Municipality may deem fit;
- (c) that all bids for such contract shall be submitted in a sealed envelope which on the outside clearly states that such envelope contains a bid and the contract for which such bid is being submitted;
- (d) a day not less than 30 (thirty) days in the case of transactions over R10 million (VAT included), or which are of a long terms nature for more than three years, or not less than 14 (fourteen) days in any other case, being the closure date for submission of bids on which such bids must be received;
- (e) the place where such bids must be submitted and when such bids will be opened;
- (f) a statement that bids may only be submitted on the bid documentation provided by the Municipality;

16.2.3.2 The Accounting officer shall determine a closing date for the submission of bids which is less than the 30 (thirty) or 14 (fourteen) days as required, 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.

16.2.3.3 The notice shall as soon as possible after the publication in the press be posted on all notice boards at designated Municipal offices.

16.2.3.4 All correspondence in regard to bid documents shall be addressed to the Municipal Manager.

16.2.3.5 Bid documentation shall be available for collection by prospective bidders during normal office hours, until the closing date of bids.

16.2.3.6 Compulsory or non-compulsory site inspections and tender briefing sessions may be required.

16.2.3.7 Any notice issued prior to the closing of bids, shall be issued in accordance with the prescribed procedures. Posting of the original notice is however not required where the notice has been faxed or emailed to those concerned.

16.2.3.8 Unless otherwise indicated in the bid documents, the Municipality shall not be liable for any expenses incurred in the preparation and submission of a bid.

16.2.3.9 Duty to plan for invitation of tenders

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

- (a) properly plan for, and, as far as possible, accurately estimate the costs of, the provision of services or goods for which an invitation for tenders is to be made;
- (b) determine the appropriate preference point system to be utilized in the evaluation of the tenders;
- (c) Determine the deliverables or performance indicators in terms of which a person awarded a contract will be assessed as contained in the Preferential Procurement Legislation.

**16.2.4 Two – stage bidding process**

16.2.4.1 A two-stage bidding process is allowed for:

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

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

16.2.4.3 The second stage should be the consideration of financial proposal for those who meet the technical evaluation criteria.

**16.2.5 Issuing of bid documentation**

16.2.5.1 Bid documents and any subsequent notices shall only be issued by the SCM Sub-Department.

16.2.5.2 A non-refundable bid charge, as required in the bid notice, may be raised by the Municipality for bid documents.

16.2.5.2 Details of all prospective bidders who have been issued with bid documents shall be recorded by the SCM Sub-Department. Such details shall include:

- (a) the legal and full name of the person/company/closed corporation/firm drawing documents;
- (b) a contact person;
- (c) a contact telephone number;
- (d) a contact fax number;
- (e) a postal address;
- (f) a physical address

(g) an e-mail address; (if applicable)

16.2.5.4 Details recorded as required above shall remain confidential for the duration of the bid period.

#### **16.2.6 Validity periods**

16.2.6.1 The period for which bids are to remain valid and binding shall be indicated in the bid documents. The period is calculated from the closing time and bids shall remain in force and binding until the end of the final day of the period.

16.2.6.2 This period of validity may be extended by mutual consent in writing between the Municipality and the bidder, provided that the original validity period has not expired, and that all bidders shall have an opportunity to extend such period.

16.2.6.3 In the event that the municipality failed to extend bid validity period before its expiry date, such extension may be requested and granted by the Municipal manager by mutual consent in writing between the Municipality and the bidder,

16.2.6.4 If, in exceptional circumstances, it becomes necessary to extend the bid period, a notice shall be published in the press at least one week prior to the original bid closing date. This notice shall also be posted on the notice boards at designated Municipal offices, and a notice to all bidders of bids received at that stage to this effect shall be issued.

16.2.6.5 In the event that validity period is not indicated in the bid document or advert validity period shall remain 120 days.

#### **16.2.7 Bid Prices and Price Adjustments**

16.2.7.1 When a bid is invited, provision must be made for the possibility of price adjustments.

16.2.7.2 The price adjustment formulas as set out in the bidding documents shall apply for all contract periods exceeding one (1) year in duration.

16.2.7.3 In general, where contract periods do not exceed 1 (one) year in duration, the bid shall be a fixed price bid (not subject to contract price adjustment). However, if as a result of any extension of time granted, the duration of a fixed price contract exceeds 1 (one) year, the contract will automatically be subject to contract price adjustment acceptable to both parties for that period by which the extended contract period exceeds such one year. The contract price adjustment formula as set out in die bidding documents shall apply.

16.2.7.4 When bids are evaluated, it must be scrutinized thoroughly in cases where non-firm prices are quoted. If prices are subject to variation in the rate of exchange, the bidder must indicate the rate of exchange on which the bid price is based, as well as the amount to be remitted overseas.

16.2.7.5 Price adjustments will not be considered on firm price contracts. However, if the increased price was as a result of unforeseen circumstances beyond the control of the contractor and which could lead to his/her downfall, such application may be considered.

16.2.7.6 When prices are subject to adjustment as a result of escalation in the price of escalation in the prices of labour and material, the bidder must indicate the various

elements/factors of the bid price that will escalate (e.g. labour, transport, fuel, protective clothing, etc.) the base date and the relevant index and index numbers which were used in calculating the bid price.

16.2.7.7 When prices are based on a supplier's price list, a copy of the original price list on which the bid prices were based, must be enclosed with the bid document.

16.2.7.8 All applications for price adjustments must be thoroughly checked in order to ensure that it is in accordance with the terms and conditions of the contract, that all required documentary evidence is submitted and that the calculations are correct.

***Price adjustment of non-firm prices subject to escalation***

16.2.7.9 To ensure fair price adjustment, the bidder must give a breakdown of the price offered as well as the Consumer Price Index (CPI) indicators for each of the price factors that make up the price offered. Where it is not possible to obtain the index figures linked to a specific factor, the average CPI index for that month must be used.

16.2.7.10 Price adjustments will only be allowed based on 85% of the original bid price that were offered. The remainder of the original bid price (15%) is seen as fixed costs and will therefore not be subject to price adjustments (MBD 3.2)

***Price adjustment of non-firm prices subject to exchange variations***

16.2.7.11 Exchange rate adjustments must either be done;

- (a) where a specific item is procured from overseas; or
- (b) when a contract is signed over a specific period and it is agreed that exchange rate adjustments will be done throughout the contract period at specific dates.

6.2.7.12 In the case where specific item/goods are procured from overseas, and the price is linked with an exchange rate, it will be essential for the supplier to furnish the following particulars as part of their financial proposal in the MBD 3.2 form:

- (a) the financial institution they are banking with;
- (b) the portion of the price that is subject to the rate of exchange;
- (c) the amounts that will be remitted abroad; and
- (d) the exchange rate valid when the bid price offered was calculated.

6.2.7.13 The bidder must give proof of payment that were made to the overseas supplier and what the exchange rate were when the payment was made and will form the basis of future adjustments.

***Price adjustment not subject to an escalation formula***

16.2.7.14 In cases where a contract is signed over a specific period and it is agreed that price adjustments will be done annually on the anniversary of the contract, the average Consumer Price Index (CPI) for the preceding 12 (twelve) months shall apply.

16.2.7.15 The following conditions shall apply for all price adjustment:

- (a) shall only be allowed at the periods and times as stipulated in the bidding documents and/or contract documents;
- (b) shall not exceed the formulas as stipulated above;
- (c) May not be implemented prior to the approval of the Municipal Manager.
- (d) The Department concerned must have the available funds.

16.2.7.16 In the event that the increase is more than stipulated in the provisions given above, then the matter should be referred back to the Bid Adjudication Committee (BAC) through BEC for consideration.

**16.2.8 Variation Orders**

16.2.8.1 Variation orders shall be approved by the delegated authority who signed the contract.

16.2.8.2 Variation orders must be properly controlled to avoid extending projects beyond the original intent.

16.2.8.3 Variation orders should be restricted to the absolute minimum through proper planning when inviting bids or quotations.

16.2.8.4 For construction related goods, services and or infrastructure projects may be expanded or varied by not more than 20% of the original value of the contract

16.2.8.5 For all other goods and services may be expanded or varied by not more than 15% of the original value of the contract

**16.2.9 Increase in Scope of Work**

16.2.9.1 The Municipality has the right to increase the original scope of work by extending or modifying such scope of work after the conclusion of a contract without re-tendering, if:

(a) Due to unforeseen circumstances, additional work becomes necessary in order to complete the project based on the original objective set out in the original bid document. The revised amount shall not exceed 15% of the original contract amount;

(b) Bid / contract scope of work shall only be recommended by the Bid evaluation committee for approval by the Bid Adjudication committee provided that such bid / contract was initially considered by these committees.

(b) the work is spread over a period that is more than 1 (one) financial year. After the initial bidding during the first year, the renewal of the contract for subsequent years will ensure that the Municipality expedites the implementation of projects without repeating the tendering process for a repetition of similar work forming part of a basic project for which an initial contract was awarded using the bidding process. The Municipality shall indicate in the initial bid document that further contracts may be awarded through negotiation with a service provider appointed for the initial contract.

**16.2.10 Samples**

16.2.10.1 When 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 to the addressee mentioned in the bid documents by no later than the closing time of the bid. Bids shall not be included in parcels containing samples.

16.2.10.2 If samples are not submitted as requested, the bid concerned may be declared non responsive.

16.2.10.3 Samples shall be supplied by a bidder at his 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.

16.2.10.4 Where a bid is accepted for the supply of goods according to a sample submitted by the bidder, such sample shall become the contract sample. All goods/materials supplied shall comply in all respects to the contract sample.

16.2.10.5 In the event that the service provider is unable to provide the goods/materials as per the contract sample, then the services provider must provide reasons and evidence to substantiate the difference, and the contract price shall be re-negotiated: The continued procurement shall be at the sole discretion of the Municipality.

#### 16.2.11 **Closing of bids**

16.2.11.1 Bids shall close on the date and at the time stipulated in the bid notice.

16.2.11.2 The bid closing date may be extended if circumstances justify this action. The closing date may only be extended if there is sufficient time to publish a prescribed amending. Such extension can only be granted by the accounting officer.

#### 16.2.12 **Submission of bids**

16.2.12.1 Bids shall be submitted before the closing time, at the address and in accordance with the directives in the bid documents.

16.2.12.2 Each bid shall be in writing using non-erasable ink and shall be submitted on the official Form of Bid issued with the bid documents. The bid shall 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 shall not contain documents relating to any bid other than that shown on the envelope.

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

16.2.12.4 Postal bids will be accepted for consideration only if they are received in sufficient time to be lodged in the appropriate bid box by the closing time for such bids, it being understood that the Municipality disclaims any responsibility for seeing that such bids are in fact lodged in the bid box. Proof of posting of a bid will not be accepted as proof of delivery to the appropriate place for the receipt of bids.

16.2.12.5 No bids forwarded by telegram, facsimile, e-mail or similar process shall be considered.

16.2.12.6 Bids shall not be included in packages containing samples and such bids may be rejected as being invalid.

#### 16.2.13 **Late Bids**

16.2.13.1 Bids are late if they are received after closing time.

16.2.13.2 A late bid shall not be admitted for consideration and where feasible shall be returned unopened to the bidder.

**16.2.14 Envelopes**

16.2.14.1 Any bid received without being in an envelope, shall be sealed in an envelope, and the bid number and title, the bid box number (where applicable) and closing date shall be written on the envelope, if ascertainable.

16.2.14.2 Bids received in envelopes (sealed or un-sealed) without a bid number or title on the envelope, shall be opened, where possible in the presence of a witness, the bid number and title ascertained, the envelope sealed and the bid number and title, the bid box number (where applicable) and closing date written on the envelope. Any such envelopes shall be lodged in the applicable bid box, it being understood that the Municipality disclaims any responsibility for seeing that such bids are in fact lodged in the correct bid box.

**16.2.15 Opening of Bids**

16.2.15.1 At the specified closing time on the closing date, at least two representatives of the SCM Sub-Department, a representative from Internal Audit Sub Department and a representative from the Anti Fraud Sub Department will be present and responsible for the process of receiving and recording the bids. The applicable bid box shall be closed by them.

16.2.15.2 Once closed, the bid box may only be opened thereafter by a representative from the SCM Sub- Department in the presence of designated representatives from Internal Audit and Anti Fraud Sub-Departments in open public after the closing time, and the contents thereof shall be checked for compliance.

16.2.15.3 Immediately after the opening of the bid box by the representatives of the SCM-, Internal Audit- and Anti Fraud Sub Departments, all bids shall be opened in public, and they shall in each case read out the name of the bidder and where possible, the amount of the bid.

16.2.15.4 As soon as a bid has been opened, the bid document shall be stamped with the official stamps, and where necessary, endorsed with the opening employee's signatures. The name of the bidder shall be recorded in a bid opening register kept for that purpose, which register will be available for public inspection.

16.2.15.5 After the representatives of the SCM-, Internal Audit- and Anti Fraud Sub Departments have completed the bid opening register in respect of all bids received, the bids shall remain with the SCM.

**16.2.16 Invalid Bids and Non-responsive bids**

**16.2.16.1 Invalid Bids**

(a) Bids shall be considered invalid and shall be endorsed and recorded as such (in the bid opening register) by the responsible employee who opened the bid, in the following instances:



- (i) where the bid is not submitted on the official bid form;
  - (ii) where the bid is not completed in non-erasable ink;
  - (iii) where the bid form has not been signed;
  - (iv) where the bid form is signed, but the name of the bidder is not stated, or is
  - (v) impossible to read;
  - (vi) Where an original and valid tax clearance certificate is not submitted with the bid document on the closing date of the bid.
  - (vii) Where a copy of company registration certificate is not submitted with the bid on the closing date of the bid. (except for sole traders and partnerships)
  - (viii) Where there is no proof that municipal rates and taxes are not in arrears for period of more than 90 days is not submitted on the closing date of the bid or
  - (ix) Where there is no proof that the bidder is leasing / sub - leasing a property and the lease / sub – lease agreement is not submitted with the bid document on the closing date of the bid. .
- (b) 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.

#### **16.2.16.2 Non-responsive bids**

Bids that are non-responsive (i.e. technically unacceptable) and non-responsible (i.e. price very high or very low) will be disqualified.

##### **(a) Non-responsive tenders**

Bids that do not respond to any of the technical requirements of the scope of work or do not meet any of the technical specifications outlined in the enquiry document without clarification and acceptance by the person that issued the enquiry documents, will be disqualified.

##### **(b) Non-responsible tenders**

These refer to tenders with a price that is very high or very low and is therefore not considered a fair and acceptable market price or quantified and estimated cost by the individual professional / body. A fair and acceptable market price or cost estimates are defined on the basis of the following factors:

- (i) Is the bid price substantially below or higher than that of other bidders?
- (ii) In repeat purchases, how does the bid price compare with recent contracts awarded for similar items or work, taking into account quantified, conditions, terms, and other important specifications?

- (iii) Are there price indices available to determine the changes in labour and material costs
- (iv) Market research information to establish fair market price goods and serviced procured regularly
- (v) The above is particularly important for the calculation of preference point system and the implementation of the price matching strategy.

**16.2.17 Bid Sum**

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.

**16.2.18 Confidentiality of Rates and Proprietary Information**

All rates and proprietary information are confidential and shall not be disclosed.

**16.2.19 Consideration and Acceptance of Bids**

All quoted tariffs shall be considered.

**16.2.20 Negotiations**

16.2.20.1 The Municipal Manager may use the negotiation mechanism only in the following instances:

- (a) to negotiate the final terms of contracts with bidders identified as preferred bidders through a competitive bidding process, provided that such a process:
  - (i) does not allow the bidder concerned a second or unfair opportunity;
  - (ii) is not to the detriment of any other bidder; and
  - (iii) does not lead to a higher price than the bid as submitted.
- (b) when procuring goods and services from a single or sole supplier;
- (c) when annual price increases in respect of existing contracts are requested;
- (d) when terms and conditions in respect of existing contracts require amendment;

Minutes of such negotiations shall be kept for record purposes.

16.2.20.2 The Municipality shall not be obliged to accept the lowest or any bid. 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, in the event of a number of items being tendered for.

16.2.20.3 Bidding documents must provide for the rejection of all bids if and when deemed necessary. This is justified when there is lack of effective competition or bids are not substantially responsive, provided that lack of competition should not be determined solely on the basis of the number of bidders. If all bids were rejected, the Municipality

must review the causes justifying the rejection and consider making revisions to the specific conditions of contract, design and specifications, scope of the contract, or a combination of these, before inviting new bids.

- 16.2.20.4 If rejection is due to lack of competition, wider advertising should be considered. If the rejection was due to most or all of the bids being non responsive, new bids may be invited from the initially pre-qualified bidders, or with the agreement of the Municipal Manager, from only those that submitted bids in the first instance. All bids should not be rejected solely for the purpose of obtaining lower prices. If the lowest evaluated responsive bid exceeds the Municipality's pre-bid cost estimates by a substantial margin, the Municipality must investigate the causes for the excessive cost and consider requesting new bids as described above.
- 16.2.20.5 Alternatively to paragraph 16.2.1.5, the Municipality may negotiate with the identified preferred bidder(s) to try to obtain a satisfactory contract through a reduction in the scope and/or a reallocation of risk and responsibility that can be reflected in a reduction of the contract price, provided that a substantial reduction in the scope or modification to the contract documents may require re-bidding. The Municipal Manager's prior approval must be obtained before rejecting all bids, soliciting new bids, or entering into negotiations with the identified preferred bidder. This approval should be recorded for auditing purposes.
- 16.2.20.6 The Municipality may, before bids are considered for acceptance examine and take into account the following, although not limited thereto:
- (a) the financial standing of a bidder, including his ability to furnish the required institutional guarantee, where applicable;
  - (b) the bidder's good standing with the Municipality from past experience;
  - (c) the bidder's ability to fulfill his obligations in terms of the bid documents.
- 16.2.20.7 The remaining acceptable bids shall be adjudicated according to the following as applicable:
- (a) bid price (corrected if applicable and brought to a comparative level where necessary);
  - (b) the unit rates and prices;
  - (c) any qualifications to the bid;
  - (d) the bid ranking obtained in respect of preferences set out in Chapter 4;
  - (e) any other criteria specified in the bid documents.
- 16.2.20.8 Additional information or clarification of bids may be called for if required, by the Bid Evaluation Committee in writing.
- 16.2.20.9 The Municipality reserves the right to consider alternative bids, provided that a bid free of qualifications and strictly in accordance with the bid documents is also submitted. Alternative bids shall be submitted on separate complete sets of bid documents and

shall be clearly marked "Alternative Bid" to distinguish it from the unqualified bid referred to above. The Municipality shall not be bound to consider alternative bids. If, after bids have been brought to a comparative level and are equal in all respects, the Delegated Authority shall in the presence of a witness, draw lots to decide the award.

- 16.2.20.10 If, after bids have been brought to a comparative level, two or more score equal total adjudication points, the successful bid should be the one scoring the highest number of preference points. Should two or more bids be equal in all respects, the Delegated Authority shall in the presence of a witness draw lots to decide the awards, or split 50 percent each where applicable.

#### **16.2.21 Request for withdrawal of a Bid**

Where a bidder requests in writing, after the closing of bids prior to the evaluation and adjudication process, that this bid be withdrawn, then such a request may be granted by the Municipal Manager if it is in the best interests of the Municipality.

#### **16.2.22 Acceptance of a Bid**

- 16.2.22.1 Once bids have been adjudicated upon in accordance with the bid committee system, the minutes of the Bid Adjudication Committee shall be submitted to the chairperson of the bid adjudication committee for approval.

- 16.2.22.2 Where a bid has been recommended for acceptance and is approved by the chief financial officer or municipal Manager depending on the delegations of powers, the successful bidder shall be notified thereof in writing as provided in Part 7 of Chapter 3.

- 16.2.22.3 In the event of it becoming necessary to cancel or re-advertise a bid, then a report to this effect shall be submitted to the Bid evaluation committee or Municipal Manager for consideration.

- 16.2.22.4 No contract may be awarded to a service provider who has failed to submit an original tax clearance certificate from the South African Revenue Service (SARS) certifying that the taxes of that service provider are in order or that suitable arrangements have been made with SARS.

- 16.2.22.5 No contract may be awarded to a service provider who has failed to submit a proof that municipal rates and taxes from the applicable Municipality certifying that the rates taxes of that service provider are not in arrears for more than order 90 days.

- 16.2.22.6 No contract may be awarded to a service provider who has failed to submit a proof of company registration except for sole traders and partnerships.

#### **16.2.23 Annual Bids**

- 16.2.23.1 It is permissible to invite formal bids for the supply of goods and services or engineering and construction works that is of an ad-hoc or repetitive nature, for a predetermined period not exceeding 3 (three) years. It is permissible to use the annual bids for procuring the services of consultants, but the practice of using annual bids to circumvent the formal bid process in respect of traditional project work is however not permissible

- 16.2.23.2 All such bids shall comply with the prescribed provisions in the SCM Policy in all respects.
- 16.2.23.3 Approval of a bid will not necessarily guarantee the service provider any business with the Municipality.
- 16.2.23.4 Annual bids shall be considered in terms of the prescribed adjudication procedures for bids.
- 16.2.23.5 Where different selections of items are required from the same bid and it is not possible or practical to split the orders, then the adjudication process will have to be carried out in respect of each application. Individual orders will then be placed (or contracts awarded) on the basis of the highest total adjudication points received per application.
- 16.2.23.6 Where the selected service provider in terms of the adjudication process followed, is unable to provide the required goods, services or construction works at the required time and confirms as much in writing, then the bidder with the next highest adjudication points may be selected.

### **16.3 Deviation from and ratification of minor breaches of procurement processes**

16.3.1 The Municipal Manager may:

- (a) Dispense with the official procurement processes established by the SCM Policy and procure required goods or services through any convenient process, which may include direct negotiations, but only :
- (i) in an emergency;
  - (ii) if such goods or services are produced or available from a single provider only;
  - (iii) for the acquisition of special works of art or historical objects where specifications are difficult to compile;
  - (iv) Acquisition, sale and exchange of zoological goods and services as contemplated in sub-paragraph 16.6; or
  - (v) in any other exceptional case where it is impractical or impossible to follow the official procurement processes.
- (b) Ratify any minor breaches of the procurement processes by an employee or committee acting in terms of delegated powers or duties which are purely of a technical nature.

16.3.2 A Head of Department seeking the approval of the Municipal Manager in terms of sub-paragraph 16.3 for the deviation or ratification shall submit a written report to the Chief Financial Officer for recommendations prior to the approval of the Municipal Manager detailing the reasons why the Municipal Manager should authorize a departure from the prescribed requirements. A report in terms of this sub-paragraph shall contain such information as the Municipal Manager may specify.

- 16.3.3 The Head of the Department shall comply with the documentation requirements that will accompany the deviation report to the Chief financial officer for recommendation to the Municipal Manager for consideration, as such will be issued by the chief financial officer on time to time.
- 16.3.4 The Municipal Manager must record the reasons for any deviations in terms of subparagraphs 16.3.1(a) and (b) above and report the quarterly findings to the next meeting of the Council and include it as a note to the annual financial statements.
- 16.3.5 Subparagraph 16.2.21.2 does not apply to the procurement of goods and services from an organ of state.
- 16.3.6 Nobody may, in order to avoid compliance with any prescript in this paragraph 16.2.21, split the procurement of any goods, services or the execution of work into lesser items or parts or enter into more than one contract. 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.
- 16.3.7 The decision of the Municipal Manager in terms of paragraph 16.3.1 shall be final.

#### **16.4 Procurement of Banking Services**

- 16.4.1 A contract for the provision of banking services to the Municipality:
- 16.4.1.1 must be procured through a competitive bidding process;
- 16.4.1.2 must be consistent with section 7 of the MFMA;
- 16.4.1.3 may not be for a period of more than five years at a time;
- 16.4.2 The process for procuring a contract for banking services must commence at least nine months before the end of an existing contract.
- 16.4.3 The closure date for the submission of bids may not be less than 60 (sixty) days from the date on which the applicable advertisement is placed in a newspaper. Bids must be restricted to banks registered in terms of the Banks Act, 1990 (Act No 94 of 1990).

#### **16.5 Procurement of IT related goods or services**

- 16.5.1 The Municipal Manager may request the State Information Technology Agency (SITA) to assist the Municipality with the procurement of IT related goods or services through a competitive bidding process.
- 16.5.2 The parties must enter into a written agreement to regulate the services by and the payments to be made to SITA.
- 16.5.3 The Municipal Manager must notify SITA together with a motivation of the IT needs of the Municipality if :
- 16.5.3.1 the transaction value of IT related goods or services required by the Municipality in any financial year will exceed R50 million (VAT included);
- 16.5.3.2 the transaction value of a contract to be procured by the Municipality whether for one or more years exceeds R50 million (VAT included);

- 16.5.4 If SITA comments on the submission and the Municipality disagrees with such comments, the comments and the reason for rejecting or not following such comments must be submitted to the Council, the national treasury, the Free State Provincial treasury and the Auditor General.
- 16.5.5 In compliance with MFMA Circular No 57, the municipality shall implement the following process before inviting tenders for the replacement of any core Financial Management System / ERP System:
- 16.5.5.1 National and Provincial Treasuries should immediately be informed of any intention to replace the accounting or billing system currently operating at the municipality;
- 16.5.5.2 The submission should include a comprehensive motivation with specific reasons for why it is deemed necessary to replace the existing financial system;
- 16.5.5.3 A copy of the service level agreement with minutes of the meetings between the municipality and the current service provider (financial system vendor) during the previous twelve months must be made available;
- 16.5.5.4 The organisational structure, specifically for the IT department/function, clearly indicating management capacity and responsibility for operating the financial system, must be submitted;
- 16.5.5.5 An assessment should be done to determine which modules of the existing financial system are being utilised by the municipality and reasons must be provided for modules not in operation.
- 16.5.5.6 In cases where an existing system is not an ERP system the municipality must provide details of any other systems utilised by the municipality;
- 16.5.5.7 The date on which the existing financial system was implemented, the procurement and implementation costs and the current operational costs thereof must be disclosed;
- 16.5.5.8 A technical assessment must be undertaken on the server and network requirements of the new financial system and a copy of such report should be submitted; and
- 16.5.5.9 Copies of all IT strategies, policies and procedural documents including the IT disaster recovery plan must be made available.
- 16.6 Procurement of goods and services under contracts secured by other organs of state**
- 16.6.1 The Municipal Manager may procure goods or services for the municipality under a contract secured by another organ of state, but only if :
- 16.6.1.1 the contract has been secured by that organ of state by means of a competitive bidding process applicable to that organ of state;
- 16.6.1.2 the Municipality has no reason to believe that such contract was not legally procured;
- 16.6.1.3 there are demonstrable discounts or benefits to the Municipality;

16.6.1.4 that other organ of state and the service provider have consented to such procurement in writing;

16.6.2 Paragraphs 16.5.1.3 and 16.5.1.4 do not apply if the Municipality procures goods or services through a contract secured by a municipal entity of which it is the parent municipality.

## **16.7 Procurement, sale and exchange of zoological goods and services**

### **16.7.1 Procurement of Animal feed**

Animal feed may be procured through:

16.7.1.1 normal tender process by entering into an annual bid with a successful supplier for a period not exceeding 3 (three) years; or

16.7.1.2 direct negotiations with a supplier, provided that the animal feed offered is at a much reduced rate and provided that the amount does not exceed R20 000 per transaction, irrespective of whether the supplier is registered on the Municipality's database.

### **16.7.2 Procurement for Veterinary Services**

Veterinary services may be procured through:

16.7.2.1 normal tender process by entering into an annual bid with a successful Veterinarian Service Provider for a period not exceeding 3 (three) years; **or**

16.7.2.2 direct negotiations for the procurement of animal medication from the nearest veterinarian with available stock in the event of medical emergency for an ill or injured animal provided that the amount shall not exceed R20 000 per transaction, irrespective of whether the Veterinarian Service Provider is registered on the Municipality's database; **or**

16.7.2.3 direct negotiations for the procurement of veterinarian services from the nearest available veterinarian with expertise in the event of medical emergency for an ill or injured animal, provided that such amount does not exceed R20 000 per transaction, irrespective of whether the Veterinarian Service Provider is registered on the Municipality's database.

### **16.7.3 Sale, Acquisition and Exchange of Zoological Animals**

16.7.3.1 The sale, acquisition or exchange of zoo animals exceeding the value of R100 000 per animal must be approved by the Municipal Manager subject to legislative compliance.

16.7.3.2 The sale, acquisition or exchange of zoo animals below the value of R100 000 per animal may be approved by the head of department responsible for: Parks and Cemeteries subject to legislative compliance.

16.7.3.3 The sale, acquisition or exchange of zoo animals not exceeding the value R1 000 per animal may be approved by the General Manager responsible for: parks and cemeteries subject to legislative compliance.



- 16.7.3.4 For the process of sale of surplus game, a list of such game must be compiled by the General Manager: Parks and Cemeteries and circulated to Pan African Association of Zoos and Aquaria (PAAZAB) as well as other prospective purchasers. Game must be sold by means of direct negotiations with the highest bidder subject to legislative compliance.
- 16.7.3.5 For the process of acquisition of wanted game, a list must be compiled by the General Manager: Parks and Cemeteries and circulated to Pan African Association of Zoos and Aquaria (PAAZAB) as well as other prospective sellers. Game must be purchased by means of direct negotiations with the lowest bidder subject to legislative compliance.
- 16.7.3.6 For the process of exchange of game for genetic breeding purposes or exhibition purposes, a list must be compiled by the General Manager: Parks and Cemeteries and circulated to Pan African Association of Zoos and Aquaria (PAAZAB) as well as other prospective breeders. Game must be exchanged by means of direct negotiations with the most suitable breeder subject to legislative compliance.
- 16.7.3.7 Any animal with a value of less than R200 can be purchased or sold by the General Manager responsible for: Zoo through direct negotiations.

#### **16.8 Repairs, Maintenance & Product Service**

Direct negotiations shall be engaged by the relevant Departments on repairs, maintenance & product services of specialized nature and be approved by the relevant Head of Departments, irrespective of the inclusion of the service provider / contractor on the list of accredited service providers. The Head of Departments shall assess the nature of the repair, maintenance and services and authorize the payment thereof. Examples may include repairs and maintenance of lifts; gates and other product items which carries the warranties and such negotiations shall be limited to the R30 000.00 per transaction.

#### **16.9 Procurement of goods necessitating special safety arrangements**

- 16.9.1 The acquisition and storage of goods in bulk (other than water), which necessitate special safety arrangements, including gasses and fuel, should be avoided where ever possible.
- 16.9.2 Where the storage of goods in bulk is justified, such justification must be based on sound reasons, including the total cost of ownership, cost advantages and environmental impact and must be approved by the Municipal Manager.

#### **16.10 Appointment of consultants**

- 16.10.1 The Municipal Manager may procure the services of consultants provided that any treasury guidelines in respect of such consulting services are taken into account when such procurements are made.
- 16.10.2 For the procurement of the services of consultants up to R200 000 (VAT included) :
- 16.10.2.1 the quotation process as provided in paragraph 6 above must be complied with; or
- 16.10.3 The services of consultants must be procured through competitive bidding if:

- 16.10.3.1 the value of the contract exceeds R200 000 (VAT included); or
- 16.10.3.2 the duration period of the contract exceeds 1 (one) year.
- 16.10.4 In addition to any requirements prescribed by the SCM Policy for competitive bids, bidders must furnish particulars of:
  - 16.10.4.1 all consultancy services provided to an organ of state in the last 5 (five) years; and
  - 16.10.4.2 any similar consultancy services provided to an organ of state in the last 5 (five) years.
- 16.10.5 The Municipal Manager must ensure that copyright in any document produced, and the patent rights or ownership in any plant, machinery, thing, system or process designed or devised, by a consultant in the course of the consultancy service is vested in the Municipality.

**16.11 Unsolicited Bids**

- 16.11.1 The Municipality is in terms of the provisions of section 113 of the MFMA not obliged to consider an unsolicited bid received outside the normal competitive bidding process.
- 16.11.2 The Municipality may however consider an unsolicited bid, but then only:
  - 16.11.2.1 if the product or service offered in terms of the bid, is a unique innovative concept that will be exceptionally beneficial to, or have exceptional cost advantages for the Municipality; or
  - 16.11.2.2 the person who made the bid is the sole provider of the product or service; and
  - 16.11.2.3 the need for the product or service by the Municipality has been established during its strategic planning and budgeting processes; and
  - 16.11.2.4 the reasons for not going through the normal bidding processes are found to be sound by the Municipal Manager;
- 16.11.3 If the municipality decides to consider an unsolicited bid that complies with 16.11.2 above, the municipality must make its decision public in accordance with the provisions of section 21A of the Systems Act, together with :
  - 16.11.3.1 its reasons as to why the bid should not be open to other competitors;
  - 16.11.3.2 an explanation of the potential benefits for the municipality or entity were it to accept the unsolicited bid; and
  - 16.11.3.3 an invitation to the public or other potential suppliers to submit their comments within 30 (thirty) days of the notice.
- 16.11.4 Once the municipality has received written comments pursuant to 16.11.3.3 above, it must submit such comments, including any responses from the unsolicited bidder, to the National Treasury and the relevant provincial treasury for comment.
- 16.11.5 The adjudication committee must consider the unsolicited bid and make a recommendation to the Municipal Manager.

- 16.11.6 A meeting of the adjudication committee to consider an unsolicited bid must be open to the public.
- 16.11.7 When considering the matter, the adjudication committee must take into account :
- 16.9.6.1 any comments submitted by the public; and
- 16.9.6.2 any written comments and recommendations of the National Treasury or the Free State Provincial Treasury.
- 16.11.8 If any recommendations of the National Treasury or Free State Provincial Treasury are rejected or not followed, the Municipal Manager must submit to the Auditor General, the Free State Provincial Treasury and the National Treasury the reasons for rejecting or not following those recommendations.
- 16.11.9 Such submission must be made within 7 (seven) days after the decision on the award of the unsolicited bid is taken, but no contract committing the municipality or municipal entity to the bid may be entered into or signed within 30 (thirty) days of the submission.
- 16.12 Guidelines when functionality is included as a criterion in the evaluation of bids**
- 16.12.1 “Functionality” means the measurement according to predetermined 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.
- 16.12.2 The need to invite and evaluate bids on the basis of functionality depends on the nature of the required commodity or service. When functionality is utilised as an evaluation criterion, paragraphs 16.12.3 and 16.12.4 below must be adhered to.
- 16.12.3 When inviting bids an institution must indicate: -  
(a) whether the bids will be evaluated on functionality;  
(b) the evaluation criteria for measuring functionality;  
(c) the weight of each criterion; and  
(d) the applicable values as well as the minimum threshold for functionality
- 16.12.4 The evaluation of the bids must be conducted in the following 2 (two) stages:
- 16.12.4.1 Firstly, the assessment of functionality must be done in terms of the evaluation criteria and the minimum threshold referred to in paragraph 16.12.3 above. A bid must be disqualified if it fails to meet the minimum threshold for functionality as per the bid invitation.
- 16.12.4.2 Thereafter, only the qualifying bids are evaluated in terms of the 80/20 or 90/10 preference points systems, where the 80 or 90 points must be used for price only and the 20 or 10 points are used for B-BBEE status level.
- 16.13 Procurement of goods, services and works from cooperatives**
- 16.13.1 In line with broader local economic empowerment and development initiatives by all spheres of government, the Mangaung Metropolitan Municipality through its supply

chain management policy shall give effect to the above mentioned initiatives and revise its supply chain management policy on time to time.

- 16.13.2 The municipality will align its procurement and sourcing strategy with the intention to support cooperatives initiatives.
- 16.13.3 The municipality will source / procure goods, services and works from cooperatives identified by the municipality as part of the sourcing strategy.
- 16.13.4 Sourcing of goods, services and works from cooperatives will be exempted from the normal supply chain management processes and procedures as contained in this policy.

## **17. COMMITTEE SYSTEM FOR COMPETITIVE BIDS**

### **17.1 General**

- 17.1.1.1 The Municipality's committee systems for competitive bids shall consist of the following, namely: one bid specification-, two bid evaluation- and three bid adjudication committee for the Municipality;
- 17.1.2 The members of each committee are appointed by the Municipal Manager, taking into account the provisions of section 117 of the MFMA.
- 17.1.3 The Municipal Manager may appoint a neutral or independent observer for ensuring fairness and promoting transparency, if he deems it necessary.
- 17.1.4 The Municipal Manager may apply the bid committee system to written price quotations if he deems it appropriate.
- 17.1.5 The following persons shall not be eligible to become members of a bid committee –
- 17.1.5.1 a councillor of any municipality; and
- 17.1.5.2 a member of the Municipality's audit committee or performance audit committee.
- 17.1.6 No councillor of any municipality may attend a meeting of a bid committee in any capacity, nor may a councillor make a presentation or representations to or conduct an interview with a bid committee in any capacity.
- 17.1.7 A bid committee established in terms of this chapter shall perform its functions, exercise its powers and discharge its duties independently and without fear, favour or prejudice.
- 17.1.8 A bid committee established in terms of this chapter shall be accountable to the Municipal Manager.

### **17.2 Meetings of bid committees and decision-making**

- 17.2.1 The date, time and venue for the meetings of each bid committee shall be included in a programme schedule for the year concerned, to be compiled by Committee Services and submitted to the Bid Committees for approval.
- 17.2.2 A majority of the members of bid committees must be present before the committee concerned may consider any matter and the quorum must be (50+1).
- 17.2.3 Decisions of a bid committee shall be taken by a majority of the members present at a meeting voting in favour of, or against, a question.

17.2.4 The Municipal Manager shall make appropriate arrangements to ensure that secretarial and such other administrative support services as may be required are provided to bid committees.

17.2.5 Minutes shall be kept of each meeting of a bid committee. Such minutes shall :

17.2.5.1 be considered and adopted, with or without amendments, as a true and accurate reflection of the proceedings at, and resolutions taken during a bid committee meeting, by the relevant committee at its first meeting next ensuing;

17.2.5.2 be signed by the person presiding at the meeting when they are approved; and

17.2.5.3 Shall prima facie be evidence of the proceedings at a meeting of the relevant committee until the contrary is proven.

17.2.5.4 After approval be submitted to the SCM Sub-Department, together with the relevant documents concerned.

### **17.3 Procedures of bid committees**

17.3.1 A bid committee shall determine its own procedures: Provided that:

17.3.1.1 meetings of the bid specification and bid evaluation committee shall be closed; and

17.3.1.2 The bid adjudication committee may close any of its meetings or part of a meeting having regard to the nature of the business to be conducted and the preference for open and transparent meetings.

### **17.4 Preparation of bid specifications and other bid documentation**

17.4.1 The employee responsible for procurements in a Department, shall prepare, or cause to be prepared, written draft specifications and related documentation in respect of any offer to be invited by his Department for the procurement of a contract the estimated value of which is likely to exceed R200 000 inclusive of VAT.

17.4.2.1 With due regard for the powers delegated to him, the responsible employee may acquire the services of an external service provider, which may include the State Information Technology Agency, to assist him to write a draft specification and other documentation: Provided that :

17.4.2.2 the relevant service provider is registered in the Register; and

17.4.2.3 a service provider that has been appointed in terms of this paragraph may not :

(a) quote or bid for the relevant contract; or

(b) in any other manner acquire an interest in, or benefit from, the relevant contract without the express prior approval of the Municipal Manager having been obtained.

17.4.3 A specification shall specify:

- 17.4.3.1 the details of the preference point system which shall be used when evaluating a particular offer if the value of the contract exceeds R200 000 (VAT included) or such lower amount as the Municipal Manager may determine in any specific case or category of cases;
- 17.4.3.2 any specific goal for which a point may be awarded in terms of the preference point system must be clearly specified in the specification if the value of the contract, inclusive of value-added tax, exceeds R200 000 (VAT included) or such lower amount as the Municipal Manager may determine in any specific case or category of cases;
- 17.4.3.3 in the case of offers for the provision of goods to the Municipality, at least :
- (a) the technical specifications of the goods to be acquired;
  - (b) the quantity of the goods to be supplied;
  - (c) the preference point system to be used in selecting suppliers; and
  - (d) any other relevant matter;
- 17.4.3.4 in the case of offers for the provision of services to the Municipality, at least :
- (a) the scope of work of the service to be rendered, stipulating the desired outputs;
  - (b) the preference point system to be utilised to select suppliers; and
  - (c) any other relevant matter;
- 17.4.3.5 in the case of offers for the execution of work on behalf of the Municipality, at least :
- (a) the date on which delivery of the work is expected;
  - (b) the preference point system to be used to select suppliers;
  - (c) any conditions of the Construction Industry Development Board approved by the National Treasury, if applicable; and
  - (d) any other relevant matter;
- 17.4.3.6 in the case of offers for the disposal of assets of the Municipality, at least :
- (a) if it is a land asset, the permitted use or uses for which the land may be utilised;
  - (b) the preference point system to be used to select purchasers; and
  - (c) any other relevant matter.
- 17.4.4 A draft specification as mentioned above shall be:
- 17.4.4.1 submitted for consideration to the bid specification committee; and
- 17.4.4.2 written in an unbiased manner to allow all potential bidders to make a proper offer.

## **17.5 Bid Specification Committee**

- 17.5.1 The preparation and compiling of bid specification will be undertaken by the Department requiring the procurement or disposal, in consultation with the SCM Sub-Department, and must be submitted to the bid specifications committee for consideration and approval prior to further submission by the bid specifications committee to the Municipal Manager for final approval before advertising. A standard checklist is to be prepared by the SCM Sub-Department to define the process.
- 17.5.2 The bid specification committee must finalize and approve the specifications for each procurement of goods or services by the municipality.
- 17.5.3 Specifications:
- 17.5.3.1 Must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services;
- 17.5.3.2 Must take account of any accepted standards such as those issued by Standards South Africa, the International Standards Organization, or an authority accredited or recognized by the South African National Accreditation System with which the equipment or material or workmanship should comply;
- 17.5.3.3 Where possible, be described in terms of performance required rather than in terms of descriptive characteristics for design;
- 17.5.3.4 May not create trade barriers in contract requirements in the forms of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labeling of conformity certification;
- 17.5.3.5 May not make reference to any particular trade mark, name, patent, design, type, specific origin or producer unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the words "equivalent";
- 17.5.3.6 Must indicate each specific goal for which points may be awarded in terms of the points system set out in the supply chain management policy of the municipality or municipal entity;
- 17.5.4 No person, advisor or corporate entity involved with the bid specification committee, or director of such a corporate entity, may bid for any resulting contracts.
- 17.5.5 The bid specification committee must be established for the Municipality and the Chairperson of the Committee should at least be at the level of a manager.
- 17.5.6 The persons who compiled the specifications in terms of 17.5.1 must present their report to the bid specification committee.
- 17.5.7 The chairperson of the bid specification committee can invite Legal, Financial, Technical and External expertise if necessary in an advisory capacity.
- 17.5.8 A copy of the minutes of the meetings of the bid specification committee must after approval, be submitted to the SCM Sub-Department, together with the bid documentation, for the calling of tenders or quotations where applicable.



## **17.6 Bid Evaluation Committee**

17.6.1 The bid evaluation committee is responsible for the evaluation of bids received, which shall include the verification of:

17.6.1.1 the capability / ability of the bidder to execute the contract;

17.6.1.2 tax clearance certificate issued by the South African Revenue Services;

17.6.1.3 payment of municipal fees, levies and other charges as prescribed by the Municipality;

17.6.1.4 National industrial participation programme requirements (for contracts in excess of R10 million)

17.6.2 The bid evaluation committee will evaluate all bids received in accordance with the criteria specified in the bid specifications, and submit a report and recommendation regarding the award of a bid to the bid adjudication committee.

17.6.3 The bid evaluation committee must be established for the Municipality and the Chairperson of the bid evaluation committee should at least be at the level of a general manager and a representative of the SCM Sub-Department must be included in this committee.

17.6.4 No person, advisor or corporate entity involved with the bid evaluation committee, or director of such a corporate entity, may bid for any resulting contracts.

17.6.5 The chairperson of the bid evaluation committee can invite technical / financial / external expertise if necessary, in an advisory capacity.

17.6.6 A copy of the bid evaluation report of the bid evaluation committee must after approval, be submitted to the bid adjudication committee for consideration.

17.6.7 It must be emphasized that bids may only be evaluated in accordance with the criteria specified in the bid specifications. According to the prescripts of the Preferential Procurement Policy Framework Act 5 of 2000, bids must be evaluated in accordance with a preference point system. Any specific goal for which a point may be awarded must be clearly specified in the invitation to submit a bid.

17.6.8 Not more than 60% of the members of the bid specification committee may be members of the bid evaluation committee and

17.6.9 The chairpersons of the bid specification committee cannot be the chairperson of the bid evaluation committee.

## **17.7 MMM Bid Adjudication Committee**

17.7.1 The Chairperson of this committee shall be appointed by the Municipal Manager and if the chairperson is absent from the meeting, the members of the committee who are present must elect one of them to preside at the meeting. The BAC shall consist of the following members, namely:

17.7.1.1 Chief Financial officer (as Chairperson)

- 17.7.1.2 At least four (4) senior officials (Executive Director Level)
- 17.7.1.3 At least one (1) Supply Chain management practitioner (in a advisory capacity).
- 17.7.1.4 At least one (1) official from legal services (in an advisory capacity).
- 17.7.2 The chairperson of the bid adjudication committee can invite Technical / External expertise if necessary, in an advisory capacity.
- 17.7.3 The bid adjudication committee must consider the reports and recommendations made by the bid evaluation committee, and must thereafter make a final awards or recommend to the Municipal Manager for approval depending on the delegations of powers.
- 17.7.4 It is important that the bid, specification committee, bid evaluation committee and the bid adjudication committee comprise different members to ensure that a transparent and fair review of the bid is undertaken. Members of a bid evaluation committee may however present their report to the bid adjudication committee and clarify any uncertainties, but such members have no voting power on the bid adjudication committee.
- 17.7.5 If a bid adjudication committee decides to recommend approval of a bid other than the one recommended by the bid evaluation committee, the reasons for the deviation must be clearly stated and submitted to the Municipal Manager.
- 17.7.6 The Municipal Manager may after due consideration of the reasons given by the bid adjudication committee for the deviation, ratify the recommendation of the bid adjudication committee or refer the matter back to that committee for reconsideration.
- 17.7.7 The Municipal Manager may at any stage of a bidding process, refer any recommendation made by the bid evaluation committee or the bid adjudication committee back to that committee for reconsideration of the recommendation.
- 17.7.8 The Municipal Manager must comply with the provisions of section 114 of the MFMA within 10 working days.

### Part 3: Logistics management

#### 18. LOGISTICS MANAGEMENT

- 18.1 The SCM Sub-Department shall be responsible and accountable for the establishment, management and operation of store facilities for the Municipality, which shall consist of a main store and such satellite stores in other urban areas within the Municipality as may be necessary.
- 18.2 The General Manager Supply Chain Management shall be responsible and accountable for:
- 18.2.1 The day-to-day operation of the Municipality's store facilities;
  - 18.2.2 Determining the range and nature of items that will be carried in the main store facility and satellite stores;
  - 18.2.3 Setting of inventory levels;
  - 18.2.4 Timely placement of orders when stock levels are low;
  - 18.2.5 Receiving and distribution of goods; and
  - 18.2.6 Expediting orders.
  - 18.2.7 Expediting payments transaction emanating from stock purchases.

### Part 4: Disposal Management

#### 19. DISPOSAL MANAGEMENT

##### 19.1 Introduction

- 19.1.1 In accordance with the provisions of section 14(5) of the MFMA, the transfer of ownership of a capital asset of the Municipality must be fair, equitable transparent, competitive and consistent with this policy.
- 19.1.2 In compliance with the provisions of section 14(1) of the MFMA, the Municipality shall not transfer ownership as a result of a sale or other transaction, or otherwise permanently dispose of a capital asset that is needed to provide the minimum level of basic municipal services. The following eight municipal services are classified as basic municipal services for the purposes of section 14(1) of the MFMA, and this classification must be used by the administration as criteria to compile a List of all Municipal Land and Buildings:
- 19.1.2.1 Electricity services;

- 19.1.2.2 Water services;
- 19.1.2.3 Sanitation services;
- 19.1.2.4 Refuse removal, refuse dumps and solid waste disposal services;
- 19.1.2.5 Municipal Health Services;
- 19.1.2.6 Municipal Roads;
- 19.1.2.7 Public Places;
- 19.1.2.8 Cemeteries;  
(Subparagraph 19.1.2 substituted by Council on 18 May 2006 under item 74A4)

19.1.3 Section 14(2) of the MFMA authorizes the Council to decide on reasonable grounds during a council meeting that is open to the public, whether a capital asset is needed for the provision of the minimum level of basic municipal services or not so needed, and to consider the fair market value of the capital asset and the economic and community value to be received in exchange for a transfer of ownership of the capital asset. The SCM Policy already make ample provision for the disposal of movable assets of the municipality that are redundant, and it is therefore deemed necessary to only provide for a procedure to obtain Council resolution on the possible transfer of land and buildings of the municipality in accordance with section 14(2) of the MFMA. To enable Council to take an informed decision on the possible transfer of ownership of its land and buildings as provided for in section 14(2) of the MFMA, the Property Management Unit must compile a List of all Municipal Land and Buildings which will contain at least the following information in respect of each piece of land and building:

Part A. Land and Buildings needed for Basic Municipal Services (not transferable)

| Description | Zoning | Fair market & economic value |
|-------------|--------|------------------------------|
|             |        |                              |
|             |        |                              |

Part B. Land and Buildings not needed for Basic Municipal Services (transferable)

| Description | Zoning | Fair market & economic value |
|-------------|--------|------------------------------|
|             |        |                              |
|             |        |                              |

19.1.4 The above list must be submitted to Council as soon as possible for consideration and approval. After approval of the list by Council in compliance with section 14(2) of the MFMA, the administration must ensure that:

- 19.1.4.1 the land and buildings contained in Part A of the List of Municipal Land and Buildings is maintained properly, and that ownership thereof is not transferred unless Council has once again conducted a section 14(2) enquiry;

19.1.4.2 in the event of the transfer of ownership of land and buildings contained in Part B of the List of Municipal Land and Buildings, the process is fair, equitable transparent, competitive and consistent with the MFMA and the municipality's SCM Policy.

19.1.5 The List of Municipal Land and Buildings must be maintained and regularly updated by the Property Management Unit, and the List must be submitted to Council on a quarterly basis for consideration and approval

## **19.2 Role of the Municipal Manager in the disposal of assets**

19.2.1 The Municipal Manager must ensure that :

19.2.1.1 Immovable capital assets are sold at market related prices, except when there is public interest or the plight of the poor demands otherwise;

19.2.1.2 Movable capital assets are sold either by way of written quotation, a competitive bidding process, auction or at market related prices, whichever is the most advantageous to the Municipality;

19.2.1.3 Immovable capital assets are leased at market related rates, except when there is public interest or the plight of the poor demands otherwise;

19.2.1.4 Where assets are traded-in for other assets the highest possible trade-in price is negotiated;

19.2.1.5 All fees, charges, rates, tariffs, scales of fees or other charges relating to the leasing of property are reviewed annually;

19.2.1.6 In the case of the free disposal of computer equipment, that the provincial department of education must first be approached to indicate within 30 days whether any of the local schools are interested in the equipment; and

19.2.1.7 In the case of the disposal of firearms, the applicable legislation is complied with;

## **19.3 Disposal of immovable capital assets, including land of the Municipality**

Subject to and in accordance with the provisions of the Municipality's Policy for the Disposal of Municipal Land and Other Immovable Property, the disposal of immovable capital assets shall be effected by means of a competitive bidding process. The Property Management Unit shall be responsible for the administration of the competitive bidding process, in consultation with and with the assistance of the SCM Sub-Department.

## **19.4 Disposal of movable assets of the Municipality**

19.4.1 Only movable assets that have been declared unserviceable, redundant or obsolete may be disposed of.

19.4.2 A movable capital asset below the value of R1 million that has not yet reached its estimated useful lifespan in terms of generally recognized accounting practices (GRAP), may not be declared unserviceable, redundant or obsolete without the express written approval of the Municipal Manager.

- 19.4.3 The Head of Department who is responsible for the management of the movable asset concerned, shall not later than 31 October of each year supply the SCM Sub-Department with a list of movable capital assets the control of which vest in him that has, in his opinion, become redundant, unserviceable or obsolete.
- 19.4.4 The SCM Sub-Department shall inspect the movable capital assets included in a list concerned, and shall submit a report on its findings to the Municipal Manager. The Head of Department concerned shall supply such assistance as may reasonably be required for the purpose of an inspection to the SCM Sub-Department.
- 19.4.5 The Municipal Manager shall consider the report and recommendations of the SCM Sub-Department and shall determine which assets mentioned in the report is unserviceable, obsolete or redundant. The decision of the Municipal Manager regarding an asset is final.
- 19.4.6 Capital assets with the total value below R 1 million shall be approved by the municipal manager.
- 19.4.7 Capital assets with a value of R 1 million and above shall be referred to the Council for decision.
- 19.4.8 Any movable asset that has been declared unserviceable, obsolete or redundant must be kept in a place indicated by the manager responsible for corporate support and auxiliary services until its disposal is decided on.
- 19.4.9 If a movable asset that has been declared redundant, obsolete or unserviceable has been financed by means of a loan not yet fully redeemed, the CFO must determine the method in accordance with and source from which the outstanding balance of the loan will be repaid.
- 19.4.10 The SCM Sub-Department shall determine the best method for disposing of any unserviceable, redundant and obsolete assets, including written quotation, competitive bidding, public auction or by private treaty at market related prices:
- 19.4.11 The SCM Sub-Department shall dispose of the capital assets as determined by the Municipal Manager or the Council.

## Part 5: Risk Management

### 20. RISK MANAGEMENT

- 20.1 The Municipal Manager must establish an effective system of risk management for the identification, consideration and avoidance of potential risks in the supply chain management system.
- 20.2 Risk management must include:
- 20.2.1 The identification of risks on a case-by-case basis;
  - 20.2.2 The allocation of risks to the party best suited to manage such risks;
  - 20.2.3 Acceptance of the cost of the risk where the cost of transferring the risk is greater than that of retaining it;
  - 20.2.4 The management of risks in a pro-active manner and the provision of adequate cover for residual risks; and
  - 20.2.5 The assignment of relative risks to the contracting parties through clear and unambiguous contract documentation.
- 20.3 The performance and compliance and risk management unit must be aware of the risks that contracts may have and ensure that the necessary preventative and correction actions are put in place and enforced to limit such risks.

## Part 6: Performance Management

### 21. PERFORMANCE MANAGEMENT

#### 21.1 Performance of the Supply Chain Management System

21.1.1 The accounting officer must establish an effective internal monitoring system in order to determine, on the basis of a retrospective analysis, whether the authorized supply chain management processes were followed and whether the desired objectives were achieved. In this regard, compliance to this Policy will form an integral part of the Municipality's performance measurement system for all Head of Departments and Supply Chain Management practitioners. The necessary Supply Chain Management Sub-Department objectives will be set and measured annually as per the Municipality's Integrated Development Plan.

#### 21.2 Performance monitoring of Contractors

21.2.1 Contractual performance expectations must be measurable and therefore data must be captured, recorded and analyzed to ensure that contractual expectations are met.

21.2.2 Each executive director must ensure that performance reporting arrangements are implemented and complied with.

21.2.3 The SCM Performance and Compliance management unit must monitor and review the supply vendor's performance to ensure compliance with specifications and contract conditions for particular goods or services.

21.2.4 Delivery of the goods and performance of services shall be made by the Contractor in accordance with the time schedule prescribed by the Municipality in the contract.

21.2.5 If at any time during performance of the contract, the Contractor or its subcontractor(s) should encounter conditions impeding timely delivery of the goods and performance of services, the Contractor shall promptly notify the Municipality in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the Contractor's notice, the Municipality shall evaluate the situation and may at his discretion extend the Contractor's time for performance, with or without the imposition of penalties, in which case the extension shall be ratified by the parties by amendment of contract.

21.2.6 Except as provided otherwise, a delay by the Contractor in the performance of its delivery obligations shall render the Contractor liable to the imposition of penalties, unless an extension of time is agreed upon without the application of penalties.

21.2.7 Upon any delay beyond the delivery period in the case of a goods contract, the Municipality shall, without canceling the contract, be entitled to purchase goods of a similar quality and up to the same quantity in substitution of the goods not supplied in conformity with the contract and to return any goods delivered later at the Contractor's expense and risk, or to cancel the contract and buy such goods as may be required to complete the contract and without prejudice to its other rights, be entitled to claim damages from the Contractor.

21.2.8 The municipality's rights as contained in contracts, including but not limited to the rights pertaining to penalties, breach of contract, termination of contract, amendment, extension and renewal of contracts shall be protected and exercised in accordance with the municipality's Delegation of Powers Policy.



## Part 7: Process and Contract Management

### (b) PROCESS AND CONTRACT MANAGEMENT

#### 22.1 Contract Drafting

- 22.1.1 The bid specification committee will consider and approve the specifications and other bid documentation prepared for a bid. A copy of the minutes of the meetings of the bid specification committee must after approval, be submitted to the SCM Sub-Department, together with the bid documentation, for the calling of bids. The SCM Sub-Department will receive and record all bids, whereafter it will be submitted to the bid evaluation committee for consideration.
- 22.1.2 The bid evaluation committee will evaluate all bids received relating to the specific Department, in accordance with the criteria specified in the bid specifications, and submit a report and recommendation regarding the awarding of a bid to the bid adjudication committee.
- 22.1.3 The bid adjudication committee will consider the reports and recommendations made by the bid evaluation committee, and will thereafter make a final approval or recommendation to the Municipal Manager for approval depending on the delegations of powers. The recommendations will be recorded, and the minutes of the bid adjudication committee will be submitted to the chairperson of the Bid Adjudication Committee for approval.
- 22.1.4 Committee Services will within 3 (three) days after approval of the minutes and recommendations by the Chairperson of the Bid Adjudication Committee, provide an execution letter in respect of each bid approved By the Chairperson of the Bid Adjudication Committee to the Department concerned, with copies to the General Manager Supply Chain and Legal services: Contract Management Unit for execution.
- 22.1.5 On receipt of the execution letter, Legal Services: Contract Management / Acquisition management Unit shall request the Department to submit all documents to legal services: Contract & Performance / Acquisition Management who will draft an appointment letter to the successful bidder. A copy of each appointment letter will be provided to the Department.
- 22.1.6 It is the responsibility of each Department concerned to timely submit all relevant documentation to legal services: Contract Management Unit for the drafting of a valid and legally binding contract between the municipality and the successful bidder in line with the bid specifications, after approval of the bid as mentioned above.
- 22.1.7 In the event that a suitable contract not has been included in the bid documentation, the original signed bid documents together with the approval and all relevant documentation must be submitted to Legal Services: Contract Management Unit.
- 22.1.8 After signing of the contract by the parties, Legal Services: Contract Management Unit must ensure that copies are made available to all role players including the Finance Department. The originally signed copy must be filed at the Records Unit in legal services as custodian of all procurement contracts of the municipality.

22.1.9 The Department concerned is responsible, in consultation with the SCM Sub-Department and Legal Services: Contract Management Unit, to ensure that service providers comply with the provisions of the contract, and in the event of a possible breach of contract or proposed amendment to the contract, to submit a report in this regard to the Municipal Manager.

22.1.10 6 (Six) months prior to termination of the contract, Legal services: Contract Management Unit will notify the Department concerned of the termination date in order to provide adequate time for the Department to commence with the tender/quotation process to appoint a new service provider, if necessary.

## **22.2 Contract Extensions**

22.2.1 Contract extensions are allowed in cases where:

22.2.1.1 the tender process has not yet been finalized for the appointment of new Service Providers; or

22.2.1.2 the project has not yet been completed due to reasons other than poor or non-performance.

22.2.2 Requests for extensions of contracts by the Department concerned, should indicate the following detail:

22.2.2.1 Reasons for extension;

22.2.2.2 Duration of extension;

22.2.2.3 Financial Implications of extension;

22.2.2.4 Past Performance Evaluation of the Service Provider concerned;

22.2.3 Extensions or amendments of contracts may not :

22.2.3.1 exceed 15% of the original contract amount, subject to funds being available in the current operating or capital budget related to that contract;

22.2.3.2 Exceed a period of 3 (three) years, contrary to the stipulations of Section 33 of the MFMA.

22.3 The Municipal Manager shall ensure that provisions of contract management as envisaged in Section 116 of the MFMA are observed and complied with at all times.

## **22.4 Publications**

22.4.1 The bid register will be published on the website of the Municipality for public inspection.

22.4.2 The following information on the successful bids shall be published on the Municipality's website:

(a) Contract number and description;

(b) Name(s) of successful bidder(s);

(c) Contract price(s);

(d) Brand name(s) of the product or the name of the manufacturer where applicable;

(e) Contract period;

(f) Delivery basis where applicable; and

(g) Preferences claimed where applicable

**22.5 Terminations due to poor performance and register of restrictions**

- 22.5.1 Service Providers who fails to perform in accordance with the terms and conditions as set out in the contract will be notified in writing of such poor or non performance.
- 22.5.2 Should the Service Provider continue to fail to perform, the contract will be terminated and the Service Provider shall be reported to National Treasury for inclusion on the database of restricted Service Providers.
- 22.5.3 The maximum period of restriction shall be 5 (five) years and shall be determined on a case-by-case basis.

**Part 8: Preferences Management**

**23. PREFERENCES FOR PROCUREMENTS**

- 23.1 Offers for the procurement of goods and services shall be in line with the applicable procurement legislation, namely the Preferential Procurement Policy Framework Act, 2000 (Act No 5 of 2000) and its associated Preferential Procurement Regulations, and the Broad-Based Black Economic Empowerment Act, 2003 (Act No 53 of 2003).
- 23.2 Offers for the procurement of goods and services shall be adjudicated on the following criteria:
  - 23.2.1 Contracts for the supply of goods and services and the execution of work with a Rand value between R30 000 up to R1 000 000 shall be adjudicated on an 80/20 points system, as follows:

(a) Points awarded for price:

$$Ps = 80 \left( 1 - \frac{Pt - P \text{ min}}{P \text{ min}} \right)$$

Where

Ps = Points scored for price of the tender under consideration

Pt = Rand value of the tender under consideration

P min = Rand value of lowest acceptable tender

(b) Points awarded for B-BBEE status level of contributor:

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

The evaluation criteria and the weight of each criterion shall be as follows:

|  |            |
|--|------------|
| <b>Price</b>   | <b>80</b>  |
| <b>Maximum Points awarded for B-BBEE status level of contributor</b> | <b>20</b>  |
| <b>Total points for price and B-BBEE status must not exceed</b>      | <b>100</b> |

23.2.2 Contracts for the supply of goods and the execution of work with a Rand value exceeding R1 000 000, will be adjudicated on an 90/10 points system, as follows:

(a) Points awarded for price

$$Ps = 90(1 - \frac{Pt - P \text{ min}}{P \text{ min}})$$

Where

Ps = Points scored for price of tender under consideration

Pt = Rand value of the tender under consideration

P min = Rand value of lowest acceptable tender

(b) Points awarded B-BBEE status level of contributor:

| <b>B-BBEE Status Level of Contributor</b> | <b>Number of Points</b> |
|---|-------------------------|
| 1   | 10                      |
| 2   | 9                       |
| 3   | 8                       |
| 4   | 5                       |
| 5   | 4                       |
| 6   | 3                       |
| 7   | 2                       |
| 8   | 1                       |
| Non-compliant Contributor                 | 0                       |

The evaluation criteria and the weight of each criterion shall be as follows:

|  |            |
|--|------------|
| <b>Price</b>   | <b>90</b>  |
| <b>Maximum Points awarded for B-BBEE status level of contributor</b> | <b>10</b>  |
| <b>Total points for price and B-BBEE status must not exceed</b>      | <b>100</b> |

23.2.3 The points scored by a bidder in terms of paragraph 23.2.1(a) must be added to the points scored in terms of paragraph 23.2.1(b). The points scored in terms of paragraph 23.2.2(a) must be added to the points scored in terms of paragraph 23.2.2(b).

23.2.4 Unless there are reasonable and justifiable reasons, which reasons must be fully set out in the minutes of the meeting concerned, only the offer with the highest number of points scored may be selected.

23.2.5 No preference points shall be awarded for BBEE if the bidder is a public company.

### **23.3 Broad-Based Black Economic Empowerment Status Level Certificates**

- 23.3.1 Tenderers with annual total revenue of R5 million or less qualify as Exempted Micro Enterprises (EMEs) in terms of the Broad-Based Black Economic Empowerment Act. and must submit a certificate (issued by a registered auditor, accounting officer (as contemplated in section 60(4) of the Close Corporation Act, 1984 (Act No. 69 of 1984) or an accredited verification agency.
- 23.3.2 Tenderers other than Exempted Micro-Enterprises (EMEs) must submit their original and valid B-BBEE status level verification certificate or a certified copy thereof, substantiating their B-BBEE rating.
- 23.3.3 The submission of such certificates must comply with the requirements of instructions and guidelines issued by the National Treasury and be in accordance with notices published by the Department of Trade and Industry in the Government Gazette.
- 23.3.4 A trust, consortium or joint venture will qualify for points for their B-BBEE status level as a legal entity, provided that the entity submits their B-BBEE status level certificate.
- 23.3.5 A trust, consortium or joint venture will qualify for points for their B-BBEE status level as an unincorporated entity, provided that the entity submits their consolidated B-BBEE scorecard as if they were a group structure and that such a consolidated B-BBEE scorecard is prepared for every separate tender.
- 23.3.6 The points contemplated in 23.3.4 and 23.3.5 must be added to the points scored for price, in order to establish the total number of points scored.
- 23.3.7 Subject to 23.3.5 and 23.3.6, the contract must be awarded to the tender, which scores the highest points.
- 23.3.8 A person must not be awarded points for B-BBEE status level if it is indicated in the tender documents that such a tenderer intends sub-contracting more than 25% of the value of the contract to any other enterprise that does not qualify for at least the points that such a tenderer qualifies for, unless the intended sub- contractor is an exempted micro enterprise that has the capability and ability to execute the sub-contract.
- 23.3.9 A person awarded a contract may not sub-contract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level than the person concerned, unless the contract is sub-contracted to an exempted micro enterprise that has the capability and ability to execute the sub-contract.
- 23.3.10 A person awarded a contract in relation to a designated sector, may not sub-contract in such a manner that the local production and content of the overall value of the contract is reduced to below the stipulated minimum threshold.
- 23.3.11 When the municipality is in need of a service provided by only tertiary institutions, such services must be procured through a tendering process from the identified tertiary institutions.
- 23.3.12 Tertiary institutions referred to in 23.3.11 will be required to submit their B-BBEE status in terms of the specialized scorecard contained in the B-BBEE Codes of Good Practice.

23.3.13 Should the municipality require a service that can be provided by one or more tertiary institutions or public entities and enterprises from the private sector, the appointment of a contractor must be done by means of a tendering process.

23.3.14 Public entities will be required to submit their B-BBEE status in terms of the specialized scorecard contained in the B-BBEE Codes of Good Practice.

23.3.15 A person awarded a contract by the Municipality, may not subcontract more than 40% of the value of the contract.

#### **23.4 CANCELLATION OF SPECIFIC BIDS**

23.4.1 A bid must be cancelled when:

23.4.1.1 in the application of the 80/20 preference point system all bids received exceed the estimated Rand value of R1 000 000; and

23.4.1.2 in the application of the 90/10 preference point system all bids received are equal to, or below R1 000 000.

23.4.1.3 The Municipality may, prior to the award of a tender, cancel a tender if:

(a) Due to changed circumstances, there is no longer need for the goods or services tendered for; or

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

(c) No acceptable tenders are received.

23.4.2 After cancellation of a bid in terms of this paragraph, the Municipality must re-invite bids stipulating the correct preference point system to be applied.

#### **23.5 PREFERENCE POINT SYSTEM FOR DISPOSALS**

23.5.1 The following formula must be used to calculate the points for price in respect of competitive bids for disposals:

23.5.1.1 equal to or above R30 000 up to a value of R1 000 000:

$$Ps = 80(1 + \frac{Pt - Ph}{Ph})$$

Where –

Ps = Points scored for comparative price of bid / offer under consideration

Pt = Comparative price of bid / offer under consideration

Ph = Comparative price of highest acceptable bid / offer

23.5.1.2 with a value above R1 000 000:

$$Ps = 90(1 + \frac{Pt - Ph}{Ph})$$

Where –

Ps = Points scored for comparative price of bid / offer under consideration

Pt = Comparative price of bid / offer under consideration

Ph = Comparative price of highest acceptable bid / offer

23.5.2 A maximum of 10 or 20 points, as the case may be, may be awarded to a bidder for B-BBEE status.

23.5.3 The points scored by a bidder in respect of B-BBEE status level must be added to the points scored for price.

23.5.4 Only the bid with the highest number of points scored may be selected.

## **23.6 PRINCIPLES**

23.6.1 In the event that the B-BBEE status level changes after the closing date of a quotation or bid, the bidder must notify the Municipality of the changes. The bidder will, if the B-BBEE status level increases, not be eligible for any additional preference points. Should the B-BBEE status level decrease, the preference points for equity ownership shall be reduced accordingly.

23.6.2 Equity claims for a trust may only be allowed in respect of those persons who are both trustees and beneficiaries and who are actively involved in the management of the trust.

23.6.3 A consortium or joint venture shall be entitled to preference claims, based on the percentage profit for a particular contract value, shared by black-owned and black-empowered enterprises in the consortium or joint venture for the particular contract.

23.6.4 A person awarded a contract as a result of B-BBEE status level may not subcontract more than 25% of the value of the contract to a person who does not qualify for such preference.

## **23.7 DECLARATIONS**

23.7.1 A bidder must, in the stipulated manner, declare that:

23.7.1.1 the information regarding any claim or preference points provided is true and correct;

23.7.1.2 the signatory to the bid document is duly authorised; and

23.7.1.3 documentary proof regarding any bidding issue will, when required, be submitted to the satisfaction of the Municipality.

## **23.8 PENALTIES**

23.8.1 Where a contract has been awarded on the strength of preference information furnished by the contractor which, after the conclusion of the relevant contract, is proved to have been incorrect, the Municipality may, in addition to any other legal remedy it may have:

23.8.1.1 recover from the contractor all costs, losses or damages incurred or sustained by the Municipality as a result of the award of the contract; and/or

- 23.8.1.2 cancel the contract and claim damages which the Municipality may suffer as a result of having to make less favourable arrangements;
- 23.8.1.3 impose on the contractor a penalty not exceeding five per cent of the value of the contract; or
- 23.8.1.4 prohibit the contractor from obtaining business from the Municipality for a period not exceeding 10 years;

**23.9 SPECIFIC GOALS – LOCAL PRODUCTION AND CONTENT**

- 23.9.1 The municipality must, in the case of designated sectors, where in the award of tenders local production and content is of critical importance, advertise such tenders with a specific tendering condition that only locally produced goods, services or works or locally manufactured goods, with a stipulated minimum threshold for local production and content will be considered.
- 23.9.2 The municipality will comply with instructions, circulars and guidelines issued by the National Treasury to all organs of state, with specific reporting mechanisms to ensure compliance with 23.9.1 above.
- 23.9.3 Where there is no designated sector, the municipality may include, as a specific tendering condition, that only locally produced services, works or goods or locally manufactured goods with a stipulated minimum threshold for local production and content, will be considered. on condition that such prescript and threshold(s) are in accordance with the specific directives issued for this purpose by the National Treasury in consultation with the Department of Trade and Industry.
- 23.9.4 Every tender issued in terms of 23.9 must be measurable and audited.
- 23.9.5 Where necessary, for tenders referred to 23.9.1 and 23.9.3 above, a two-stage tendering process may be followed, where the first stage involves functionality and minimum threshold for local production and content and the second stage price and B-BBEE with the possibility of price negotiations only with the short listed tenderer/s.



## CHAPTER 4 : MISCELLANEOUS MATTERS

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

- 24.1 Service providers whose tax matters are not known or have not been declared to be in order by the South African Revenue Services are not eligible to be awarded business by the Municipality. An Original and valid Tax Clearance Certificate is a mandatory requirement for all procurement mechanisms listed in this Policy.
- 24.2 The Municipality may not make any award above R30 000 to a person whose tax matters have not been declared by the SARS to be in order. It is the service provider's responsibility to provide the Municipality with a valid and original Tax Clearance Certificate and failure to do so shall result in the automatic disqualification of the relevant service provider. Contracts may be cancelled by the Municipality if a person or entity deregisters for VAT purposes after obtaining business from the Municipality, without advising the Municipality prior to deregistration accordingly. Should the Municipality establish that a service provider has deregistered after the contract award and is claiming VAT; the Municipality shall be entitled to summarily cancel the contract, prohibit the offender from doing future business with Municipality and/or lay criminal charges against the offender.
- 24.3 It shall be the responsibility of the bidder to provide the Municipality with the original and valid tax clearance certificate together with the bid document on the closing date of the bid.
- 24.4 In the case of a tender awarded to a partnership or joint venture, a valid tax clearance certificate for each of the partners or individual entities in a joint venture must be submitted together with the bid on the closing date of the bid.

### 25. PROHIBITION ON AWARDS TO PERSONS IN THE SERVICE OF THE STATE

- 25.1 The Municipality may not make any award to and conclude a contract with a person:
- 25.1.1 who is in the service of the state;
- 25.1.2 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
- 25.1.3 who is an advisor or consultant contracted with the municipality or municipal entity on the same contract that he/she is managing.
- 25.2 The service provider is prohibited from effecting amendments to the company profile as stipulated in 25.1 above after the award of the tender for the duration of the contract period.

25.3 In the event that the service provider fails to comply with the above provision, the Municipality will enforce the Penalty Clause as outlined in paragraph 23.8 above.

## **26. AWARDS TO CLOSE FAMILY MEMBERS OF PERSONS IN THE SERVICE OF THE STATE**

26.1 The Municipality does not encourage awarding contracts by employees in decision-making positions to close family members or friends, to this extent the Municipality requires of all employees to make full disclosures of such businesses owned by close family and/or friends. It is further expected that such individuals must declare such a potential conflict of interest and recuse themselves from the meeting in which decisions are taken regarding the awarding of such businesses.

26.2 The Municipal Manager must ensure that notes to the annual financial statements of a municipality 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:

26.2.1 the name of that person;

26.2.2 the capacity in which that person is in the service of the state; and

26.2.3 the amount of the award.

## **27. ETHICAL STANDARDS**

27.1 All employees of the Municipality must comply with the provisions of the Code of Conduct for Staff Members contained in Schedule 2 to the Systems Act, and the National Treasury's Code of Conduct for Supply Chain Management Practitioners and other Role Players involved in Supply Chain Management as contained in Annexure A.

27.2 Any breach in the Code of Conduct shall be dealt with in accordance with the Municipality's Conditions of Service.

## **28. OBJECTIONS AND COMPLAINTS**

Persons aggrieved by decisions or actions taken by the Municipality in the implementation of its supply chain management system, must lodge within 14 days of the decision or action a written objection or complaint to the Municipal Manager against the decision or action.

## **29. RESOLUTION OF DISPUTES, OBJECTIONS, COMPLAINTS AND QUERIES**

- 29.1 The Municipal Manager may appoint an independent and impartial person not directly involved in the supply chain management processes of the Municipality:
- 29.1.1 to assist in the resolution of disputes between the municipality and other persons regarding:
- 29.1.1.1 any decisions or actions taken by the municipality or municipal entity in the implementation of its supply chain management system;
- 29.1.1.2 any matter arising from a contract awarded in the course of its supply chain management system; or
- 29.1.1.3 to deal with objections, complaints or queries regarding any such decisions or actions or any matters arising from such contract.
- 29.2 A parent municipality and a municipal entity under its sole or shared control may for this purposes appoint the same person.
- 29.3 The Municipal Manager, or another employee designated by him, is responsible for assisting the appointed person to perform his or her functions effectively.
- 29.4 The person so appointed must :
- 29.4.1 strive to resolve promptly all disputes, objections, complaints or queries received; and
- 29.4.2 submit monthly reports to the Municipal Manager on all disputes, objections, complaints or queries received, attended to or resolved.
- 29.5 A dispute, objection, complaint or query may be referred to the Free State Provincial Treasury if :
- 29.5.1 the dispute, objection, complaint or query is not resolved within 60 (sixty) days; or
- 29.5.2 no response is received from the Municipality within 60 (sixty) days.
- 29.6 If the Free State Provincial Treasury does not or cannot resolve the matter, the dispute, objection, complaint or query may be referred to the National Treasury for resolution.

## **30. CONTRACTS PROVIDING FOR COMPENSATION BASED ON TURNOVER**

- 30.1 If a service provider acts on behalf of the Municipality to provide any service or act as a collector of fees, service charges or taxes and the compensation payable to the service provider is fixed as an agreed percentage of turnover for the service or the amount collected, the contract between the service provider and the Municipality must stipulate:
- 30.1.1 a cap on the compensation payable to the service provider; and
- 30.1.2 That such compensation must be performance based.

**31.****AVOIDING ABUSE OF SUPPLY CHAIN MANAGEMENT SYSTEM**

- 31.1 The Municipal Manager :
- 31.1.1 must take all reasonable steps to prevent abuse of the supply chain management system;
- 31.1.2 Investigate any allegations against an employee or other role player, of corruption, improper conduct or failure to comply with the supply chain management system. If justified, the Municipal Manager must take steps against such employee or other role player and inform the provincial treasury of such steps, and report any conduct that may constitute a criminal offence to the South African Police Service;
- 31.1.3 must check the National Treasury's database prior to awarding any contract to ensure that no recommended bidder, nor any of its directors are listed as companies or persons prohibited from doing business with the public sector;
- 31.1.4 must reject any bid from a service provider:
- 31.1.4.1 who fails to provide written proof from the South African Revenue Service that that supplier either has no outstanding tax obligations, or has made arrangements to meet such outstanding tax obligation;
- 31.1.4.2 who has any outstanding obligations in respect of municipal fees, levies and other charges as prescribed by the Municipality, or has not made any arrangements with the Municipality to meet such outstanding obligations;
- 31.1.4.3 who during the last 5 (five) years has failed to perform satisfactorily on a previous contract with the municipality or municipal entity or any other organ of state after written notice was given to that bidder that performance was unsatisfactory;
- 31.1.5 may disregard the bid of any bidder if that bidder, or any of its directors:
- 31.1.5.1 has abused the national or provincial department's, or the Municipality's supply chain management system;
- 31.1.5.2 has committed fraud or any other improper conduct in relation to such system;
- 31.1.6 must inform the relevant provincial treasury of any action taken in terms of this paragraph;
- 31.1.7 may cancel a contract awarded to a person if :
- 31.1.7.1 the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract; or
- 31.1.7.2 an employee or other role player committed any corrupt or fraudulent act during the bidding process or the execution of the contract that benefited that person;
- 31.1.8 must reject the bid of any bidder if that bidder or any of its directors :

- 31.1.8.1 has abused the supply chain management system of the municipality or municipal entity or has committed any improper conduct in relation to such system;
- 31.1.8.2 has been convicted for fraud or corruption during the past five years;
- 31.1.8.3 has willfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
- 31.1.8.4 has been listed in the Register for Tender Defaulters In terms section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004).

**32. NATIONAL INDUSTRIAL PARTICIPATION PROGRAM (NIPP)**

The Municipal Manager must obtain clearance for a recommended bidder from the Department of Trade and Industry in respect of contracts, which are subject to NIPP.

**33. REPORTING OF SUPPLY CHAIN MANAGEMENT INFORMATION**

- 33.1 The Municipal Manager must submit to the provincial treasury such supply chain management information as that treasury may require.
- 33.2 The required information must be submitted in such a format and at such intervals as the provincial treasury may require.

**34. COMPLIANCE WITH PROVISIONS OF CONSTRUCTION INDUSTRY DEVELOPMENT BOARD ACT**

- 34.1 From the date determined by the Minister of Public Works in terms of section 16(4) of the Construction Industry Development Board Act, 2000 (Act No.38 of 2000) namely 14 November 2005, the Municipality may not award a contract for construction work to a contractor that is not suitably registered with the Construction Industry Development Board and that cannot supply sufficient proof of such registration. The SCM Sub-Department must verify the registration and grading of the Contractor prior to submission of tenders to the Bid Evaluation Committee. Misrepresentation or false statements made with regard to registration and grading must be dealt with in terms of this policy.
- 34.2 From the same date, the Municipality must, in addition to its own register of accredited prospective suppliers, apply the national register of construction contractors established in terms of the Construction Industry Development Board Act, 2000 (Act No.38 of 2000) when contracting for construction work.
- 34.3 In the case of bids relating to the construction industry, institutions are required to adhere to the prescripts of the Construction Industry Development Board as prescribed in Municipal Supply Chain Management regulation 21(a)(iii).

**35. SCM PROCEDURE MANUAL, PRACTICE NOTES AND NATIONAL TREASURY GUIDELINES**

- 35.1 The Chief Financial Officer may from time to time through the General Manager: Supply Chain issue practice notes and amendments to the SCM Procedure Manual as may be deemed expedient for the implementation of this Policy.
- 35.2 Any such amendments to the SCM Procedure Manual and Practice Notes referred to above, and any National Treasury Guidelines that may be issued by National Treasury from time to time, shall upon the issuing thereof be deemed to be incorporated in and form part of this Policy.

**36. AUTHORITY**

|                            |  |
|----------------------------|--|
| Formulation                | : General Manager: Supply Chain management |
| Consideration              | : Chief Financial Officer                  |
| Ownership and maintenance  | : Municipal Manager                        |
| Authorization and approval | : Council                                  |

**37. IMPLEMENTATION AND REPEAL**

This amended internal policy will be effective from the 1<sup>ST</sup> July 2014 as prescribed under document and version control section of this policy,

**THE NATIONAL TREASURY**

**MANGAUNG METROPOLITAN MUNICIPALITY**

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

*In accordance with regulation 46(4) and 46(5) of the Local Government Municipal Finance Management Act, 2003: Municipal Supply Chain Management Regulations, the supply chain management policy of a municipality is required take into account the National Treasury's code of conduct for supply chain management practitioners and other role players. Alternatively a municipality may adopt the National Treasury code of conduct. When adopted, such code of conduct becomes binding on all officials and other role players involved in the implementation of the supply chain management policy of the municipality.*

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

**General Principles**

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

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

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

**Conflict of interest**

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

- (i) must treat all providers and potential providers equitably;
- (ii) may not use his or her position for private gain or to improperly benefit another person;
- (iii) 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;
- (iv) 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;

- (v) must declare to the accounting officer details of any private or business interest which that person, or any close family member, partner or associate, may have in any proposed procurement or disposal process, or in any award of a contract by the **municipality**;
- (vi) 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;
- (vii) must declare any business, commercial and financial interests or activities undertaken for financial gain that may raise a possible conflict of interest;
- (viii) should not place him/herself under any financial or other obligation to outside individuals or organizations that might seek to influence them in the performance of their official duties; and
- (ix) should not take improper advantage of their previous office after leaving their official position.

### ***Accountability***

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

Practitioners should use public property scrupulously.

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

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

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

Practitioners must report to the accounting officer any alleged irregular conduct in the supply chain management system which that person may become aware of, including

- (i) any alleged fraud, corruption, favouritism or unfair conduct;
- (ii) any alleged contravention of the policy on inducements, rewards, gifts and favours to municipalities or municipal entities, officials or other role players; and
- (iii) any alleged breach of this code of conduct.

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

### ***Openness***

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



## **Confidentiality**

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

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

## **Bid Specification / Evaluation / Adjudication Committees**

- 6.1 Bid specification, evaluation and adjudication committees should implement supply chain management on behalf of the **municipality** in an honest, fair, impartial, transparent, cost-effective and accountable manner.
- 6.2. Bid evaluation / adjudication committees should be familiar with and adhere to the prescribed legislation, directives and procedures in respect of supply chain management in order to perform effectively and efficiently.
- 6.3 All members of bid adjudication committees should be cleared by the accounting\_officer at the level of "CONFIDENTIAL" and should be required to declare their financial interest annually.
- 6.4 No person should-
  - 6.4.1 interfere with the supply chain management system of the **municipality**; or
  - 6.4.2 amend or tamper with any price quotation / bid after its submission.

## **(x) Combative Practices**

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

- (i) Suggestions to fictitious lower quotations;
- (ii) Reference to non-existent competition;
- (iii) Exploiting errors in price quotations / bids;
- (iv) Soliciting price quotations / bids from bidders / contractors whose names appear on the Register for Tender Defaulters.

**DELEGATION OF SUPPLY CHAIN MANAGEMENT POWERS AND DUTIES**

1. The procurement of goods and services, either by way of quotation or through a competitive bidding process, will be within the following threshold values (all amounts include VAT):
  - (a) For amounts to a maximum of R2 000.00 : petty cash purchases
  - (b) For amounts above R2 001.00 to a maximum of R30 000 : 3 x Written Quotations
  - (c) For amounts above R30 001 to a maximum of R200 000 : formal written quotations
  - (d) For amounts above R200 000 : competitive bidding process
  
2. The following approval shall apply in respect of procurement of goods, works and services (quotations / bids) in accordance with the prescribed process (all amounts include VAT):
  - (a) For amounts to a maximum of R2000 : Head of Departments
  - (b) For amounts from R2001 to R200 000 : GM: Supply Chain Management
  - (c) For amounts from R200 001 to R10 000 000 : Bid Adjudication Committee (CFO)
  - (d) Above R10 000 000 : City Manager
  
3. The following approval shall apply in respect of payment approval on contracted services for procured goods, works and services (Quotations / bids in accordance with the prescribed process (all amounts include VAT) :
  - (a) For amounts from R0 to R100 000 : General Managers
  - (b) For amounts from R100 001 to R1000 000 : Head of Department
  - (c) For amounts from 1000 001 to R5000 000 : Chief Financial Officer
  - (d) Above R5000 000 : City Manager

The above mentioned thresholds will be subject to the delegations not being withdrawn by the delegating authority.

  - (a) For all amounts above R10 000 000: shall be approved by Municipal Manager after receiving report from Bid Adjudication Committee
  
4. Subject to the provisions of sections 14 and 90 of the MFMA, the Municipal Manager will ensure that:
  - (a) immovable property is sold at market related prices, except when the public interest or the plight of the poor demands otherwise;
  - (b) movable assets are sold either by way of price quotation, an advertised competitive bidding process, auction or at market related prices, whichever is the most advantageous to the municipality;
  - (c) immovable property is let at market related rates, except when the public interest or the plight of the poor demands otherwise;
  - (d) all fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of property are reviewed annually;
  
5. The powers to sign a contract and the resulting requisition and other required documents after the prescribed approval for the procurement or disposal has been given to the City Manager.