

AMENDED
PROCUREMENT POLICY
MATJHABENG



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CHAPTER 1 DEFINITIONS

1.1 In this Code, unless the context of a particular tender, contract or order indicates otherwise, a word or expression to which a meaning has been assigned in the Act or the regulations has the same meaning as in the Act or regulations, and:

"Acceptance of an offer" means awarding a contract to a supplier in response to a tender or price quotation submitted by that supplier;

"Accredited supplier" means a prospective supplier whose details are recorded in the Register at the time when the Municipality invites offers;

"Acquisition" means a process of preparing, soliciting, negotiating and concluding a contract for the benefit and on behalf of the Municipality for –

- (a) the acquisition of goods, services and the execution of work or any combination thereof;
- (b) the acquisition of capital assets;
- (c) the acquisition of rights relating to any of the above matters;

"Act" means the Local Government: Municipal Finance Management Act 2003 (Act No 56 of 2003);

"administration" in relation to the Municipality, means the Municipal Manager and other employees of the Municipality;

"asset management unit" means the organisational unit within the department responsible for financial services that was assigned the responsibility for asset management;

"asset utilisation management" means is the systematic process of operating, preserving/maintaining and upgrading/restoring assets cost-effectively to meet and continue meeting predetermined standards, including regular performance of condition assessments of assets and reporting there-on and estimating the annual amount required to maintain and preserve assets at the condition level originally established for those assets;

"bid" means a written offer for the supply of goods to, the execution of work for or the rendering of a service to the Municipality the value of which exceeds R 200,000 (VAT inclusive) submitted on the official bid documents forming part of an invitation to bid or a request for proposals which invitation has been dealt with in accordance with the requirements of the general terms, conditions and procedures contained in, or any special terms, conditions and procedures issued in terms of, the official bid documents and this Code and has been advertised, unless specifically determined otherwise by the Municipality and includes a "tender";

"bid committee" means the appropriate committee contemplated in Chapter 4 of this Code;

“black-empowered enterprise” means an enterprise in which at least 25,1% of the equity is owned by **Black people**;

“black-owned enterprise” means an enterprise in which at least 50,1% of the equity is owned by **Black people**;

“capacity” in relation to a supplier, means the ability of the supplier concerned in terms of the availability to her/him, of the human and financial resources, expertise and administrative infrastructure to execute the contract concerned at the required standard and within the prescribed or agreed time;

“capital asset” means non-consumable movable and immovable property, including land and improvements thereon, of the Municipality;

“certificate of satisfactory execution” means a certificate issued and signed by a departmental head or the Municipal Manager that a specific contract or part of a specific contract has been completed satisfactorily and in accordance with the relevant contract and order;

“closing time” in relation to offers means the date and hour specified in the invitation for the receipt of offers;

“combative practice” includes, but is not limited to –

- (a) suggesting that fictitious lower quotations have been submitted;
- (b) refer to non-existent competition;
- (c) exploit errors in price quotations/bids; and
- (d) soliciting offers from suppliers whose names appear on the Register for Tender Defaulters;

“contract” means the agreement which results from the acceptance of an offer whether or not the parties formalised their agreement by means of negotiation and signing of a single document;

“contractor” means any person whose offer has been accepted and includes a supplier;

“control” in relation to a claim for preference based on ownership of equity in the business of a supplier, means to have and to exercise legal authority to manage the assets, goodwill and daily operations of the business concerned and the active and continuous exercise of meaningful managerial authority in determining the policies of the business and directing its operations;

“delivery” means delivery or completion in compliance with the conditions of the relevant contract or order;

“delivery into store” means delivered and unloaded in the specified store or depot or on the specified site in compliance with the conditions of the relevant contract or order, the contractor bearing all risks and charges involved until the supplies are so delivered and a valid receipt is obtained;

“departmental head” in relation to the Municipality, means any employee of the Municipality who is directly accountable to the Municipal Manager and has been appointed as departmental head, and includes any person lawfully acting in her/his stead or under her/his instructions;

“disability” in respect of a person, 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 within the range, considered normal for a human being;

“disposal” means –

- (a) the process of preparing, soliciting, negotiating and concluding a contract for the alienation of an asset by means of–
 - (i) sale, including the transfer of ownership in the asset concerned;
 - (ii) lease which does not include the transfer of ownership in the asset concerned;
 - (iii) donation, including the transfer of ownership in the asset concerned; and
- (b) the destruction of an obsolete, redundant or unserviceable asset

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

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

- (a) the construction, alteration, erection, demolishing, repair, maintenance or refurbishment and commissioning of any building, part of a building or similar structure;
- (b) the laying, installation, diversion, repair, maintenance, cleaning or removal and commissioning of any pipe, cable, pump, dam, tank, reservoir, borehole or other infrastructure used to provide or in connection with the provision of municipal services;
- (c) the construction, rebuilding, resurfacing, diversion, maintenance or repair and commissioning of any street, road, parking area, culvert, storm water drain or pavement;
- (d) the installation, alteration, removal, maintenance or replacement and commissioning of any lifts, electrical wiring, plugs and switches, plumbing, geysers, wash basins, substations, toilets and urinals within or outside a structure owned or under the control, of the Municipality;
- (e) the installation, repair, maintenance, upgrading and replacement and commissioning of any computer, network cabling and channelling, servers, printers, computer soft ware, routers, modems and like information technology hardware, photocopiers, facsimile machines, photocopying equipment, telephones and telephone systems and telephone cabling;
- (f) the replacement of any broken or damage part, repair, alteration or maintenance and commissioning of any vehicle or mechanical equipment of the Municipality; and

- (g) the installation, maintenance, repair, upgrading or replacement and commissioning of damage parts of any closed-circuit television system and the hardware associated with it within any office or building of the Municipality,
- (h) the administration or management of the Municipality or part thereof ‘
- (i) the rendering or provision of professional services this includes consultancy within the prescribed tariff of the particular profession .

whether on or below the surface of the ground;

“fixed price” means a price that is not subject to contract price adjustment;

“firm price” in relation to an offering, means the stated price which are only subject to adjustments in accordance with actual increases or decreases resulting from a change, imposition or abolition of any duty, levy or tax which, in terms of a law is binding upon the supplier and demonstrably have an influence on the prices of any goods, the execution of any work or the rendering of any service, for the execution of the contract. Where different prices are tendered for different periods of the same contract, the bid price applicable in respect of a particular period of the contract shall be a firm price if, as regards such period, it conforms to this definition;

“historically disadvantaged individual (BLACK PEOPLE)” means a person who obtained South African citizenship before the coming into operation of the Interim Constitution and who –

- (a) due to the apartheid policy that had been in place, had no franchise in national elections prior to the introduction of the Constitution of the Republic of South Africa, 1983 (Act No 110 of 1983) or the Interim Constitution; and/or
- (b) is a female; and/or
- (c) has a disability;

“invitation to bid” means an invitation to bid or a request for proposals extended –

- (a) to the general public by way of publication in a newspaper to submit tenders or price quotations for a specific contract; or
- (b) in writing to a supplier registered in the Register or Roster to submit offers for a specific contract; or
- (c) orally or in writing to a supplier to submit an offer for a specific contract;

“knowledge management database” means the database of information established by the Municipality to facilitate learning of councillors and officials;

“Municipality” means Matjhabeng Local Municipality and includes any political structure, political office-bearer or employee of the Municipality lawfully acting in its stead;

“Municipal Manager” means the person appointed in that position, regardless of her/his designation, and includes any person lawfully acting in her/his stead or under her/his instructions;

"non-firm prices" mean all prices other than firm prices;

“non-BLACK PEOPLE firm” means an enterprise in which less than 25,1% of equity is owned by **Black people**;

“offer” means a bid or price quotation and “offering” has a similar meaning;

"order" means an official written and properly authorised order for the supply of goods to, the execution of work for or the rendering of a service to the Municipality issued after the acceptance of an offer;

“own” in relation to a claim for preference based on ownership of equity in an enterprise, means having all the customary incidents of ownership including the authority to dispose of and share risks and profits commensurate with the degree of ownership evidenced by the substance rather than the form of ownership arrangements;

"period contract" means a contract entered into for the supply of goods, the rendering of a service or the execution of work during a specified period of time;

"preference" means a percentage of the offered price deducted from the offered price of certain products or services, as determined by the Minister of Finance, for use when calculating the comparative price in terms of Chapter 8 ;

“proposal” means a written exposition of a service to be rendered to the Municipality in response to an invitation to submit offers;

“prospective supplier” means any natural or legal person or association of persons, whether registered in terms of legislation or not, who participates in any procurement process of the Municipality with a view to be awarded a contract to supply goods, render a service or execute work on behalf and for the benefit of the Municipality and includes any such person or association registered in the register;

“policy” means the Municipality’s supply chain management policy;

“publish” means publish in a newspaper of record determined by the Municipality in terms of section 21(1)(b) of the Local Government: Municipal Systems Act 2000 (Act No 32 of 2000) and made available in terms of section 21A of the Act;

“purchasing department” means the department or other organisational entity within the Municipality that wishes to –

- (a) acquire any goods or services on behalf and for the benefit of the Municipality; and
- (b) secure a contractor for the execution of work on behalf of the Municipality.

"quotation" means a verbal or written offer for the supply of goods to, the execution of work for or the rendering of a service to the Municipality for which tenders do not need to be invited due to the estimated value of the contract being less than R 200,000 (VAT inclusive);

"register" means the Register of Accredited Prospective Suppliers contemplated in Chapter 7;

"regulations" means the Municipal Supply Chain Management Regulations promulgated in terms of Government Notice No 868 of 2005 (Government Gazette No 27636 of 30 May 2005)

"Republic" means the Republic of South Africa;

"roster" means the Roster of Professional Service Providers contemplated in Chapter 7;

"small, medium or micro enterprise" means a separate and distinct business entity, including cooperative enterprises and non-governmental organisations, managed by one owner or more which, including its branches or subsidiaries, if any, is predominantly carried on in any sector or sub-sector of the economy mentioned in column 1 of the Schedule to the National Small Business Act 1996 (Act No 102 of 1996) and which can be classified as a micro-, a very small, a small or a medium enterprise by satisfying the criteria mentioned in columns 3, 4 and 5 of the Schedule to the said Act opposite the smallest relevant size or class as mentioned in column 2 of that Schedule;

"supplier" means any natural or legal person or association of persons, whether registered in terms of legislation or not, who has been awarded a contract to supply goods, render a service or execute work on behalf and for the benefit of the Municipality;

"tender" means a bid; and

"written" or **"in writing"** means handwritten in ink or any form of mechanical writing.

Definitions to be added to the amended SCM policy

"all applicable taxes" includes value-added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies;

"B-BBEE" means broad-based black economic empowerment as defined in section 1 of the Broad-Based Economic Empowerment Act;

"B-BBEE status level of contributor" means the B-BBEE status received by a measured entity based on its overall performance using the relevant scorecard contained in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;

"Broad-Based Black Economic Empowerment Act" means the Broad- Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);

"black people" is a generic term which means Africans, Coloured and Indian;

"comparative price" means the price after the factors of a non-firm price and all unconditional discounts that can be utilized have been taken into consideration;

“consortium or joint venture” means an association of persons for purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract;

“designated sector” means a sector, sub-sector or industry that has been designated by the Department of Trade and Industry in line with national development and industrial policies for local production, where only locally produced services, works or goods or locally manufactured goods meet the stipulated threshold for local production and content;

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

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

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

“person” includes a juristic person;

“rand value” means the total estimated value of a contract in South African currency, calculated at the time of tender invitation, and includes all applicable taxes and excise duties;

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

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

“total revenue” bears the same meaning assigned to this expression in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad- Based Black Empowerment Act and promulgated in the Government Gazette on 9 February 2007;

“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; and

“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.

CHAPTER 2 INTRODUCTION, PURPOSE AND OBJECTIVES

Introduction

2.1 The primary goal of the Municipality's supply chain management system is –
to find reliable, cost effective suppliers for the Municipality.

This means –

- (a) that acceptable norms and standards of quality, expected service delivery and technical performance will not be relaxed or compromised , while ensuring the promotion of BLACK PEOPLE's in the process ; and
 - (b) that personnel associated with the Municipality's supply chain management system are required to be made aware of this policy and code and are expected to commit themselves to its implementation through good faith and appropriate purchasing procedures and decisions.
- 2.2 It is clear that the local economy is declining. For this purpose the Municipality has incorporated a number of local economic development initiatives and projects in the integrated development plan. The Municipality also realises that its supply chain management policy and practices can play an important role in stimulating local economic growth and development. This policy is therefore designed to contribute to the achievement by the Municipality of its objectives regarding local economic growth and development.
- 2.3 It is also a primary strategic objective of the Municipality to affirm the historically disadvantaged community in order to eradicate the legacy of apartheid and colonialism and the resulting exclusion from opportunity. In this regard the Municipality supports the Government's broad-based black economic empowerment policies and strategy completely. A key objective of this policy is therefore to promote entrepreneurship to allow **Black people** access to the mainstream of business opportunities. This will be achieved by increasing business opportunities for **Black people** and maximising purchases of goods and services from black owned and black empowered enterprises.
- 2.4 The acquisition and disposal of capital assets were not previously part of the asset management system of the Municipality, but are now included in the supply chain management system as required by the Act. All land transactions, including the acquisition and alienation/disposal thereof, will therefore be dealt with in terms of the provisions of this policy.

Legal framework

2.5 Section 217 of the Constitution of the Republic of South Africa requires all organs of state, including municipalities, to contract for goods or services in accordance with a system which is fair, equitable, transparent, competitive and cost effective. This policy aims to give effect to these principles.

2.6 The policy further aims to give effect to the enabling legislation outlined in the -

- (a) Preferential Procurement Policy Framework Act 2000 (Act 5 of 2000);
- (b) Preferential Procurement Regulations;
- (c) the Broad-Based Black Economic Empowerment Act 2003 (Act No 53 of 2003);
- (d) the Construction Industry Development Board Act 2000 (Act No 38 of 2000);
- (e) the Act; and
- (f) the regulations.

Integrated system

2.7 The Municipality's supply chain management and contract management systems are integral parts (sub-systems) of its asset management system. It is therefore imperative that the institutional arrangements of the Municipality to implement this policy are contextualised within the broader asset management process and policy of the Municipality.

2.8 The principal goal of the Municipality's asset management policy and process is to enable the Municipality to meet its service delivery objectives efficiently and effectively.

2.9 The Municipality's asset management system recognises that the life-cycle of any asset consists of four stages, namely -

- (a) Planning during which stage the need for a particular asset is identified or recognised, the acquisition of the asset is budgeted for and the design of the particular asset;
- (b) Acquisition at which time an asset is purchased, leased, constructed or acquired and the installation and commissioning of the asset concerned;
- (c) Operation and maintenance during which period the asset receives whatever is necessary to allow it to operate efficiently in the delivery of services; and
- (d) Disposal at which time the asset may be sold, transferred, demolished or otherwise disposed of when it is no longer required or it has reached the end of its useful life.

Policy objectives

2.10 The specific objectives of this policy are:

- (a) To ensure that all acquisitions, including the appointment of professional service providers, and disposals are conducted in the most effective, efficient, transparent and consistent manner;
- (b) To demonstrate the Municipality's commitment towards the achievement of the national government's black economic empowerment goals;
- (c) To facilitate the engagement of **Black people** in the supply chain management system;
- (d) To promote equity, fairness and increased participation of local business in the Municipality's supply chain management system;
- (e) To outline the process followed by the Municipality in competitive bidding and awarding of contracts;
- (f) To consistently ensure that the Municipality receives value for money;
- (g) To adopt a uniform supply chain management system across the Municipality;
- (h) To maintain national standards and pursue best practice;
- (i) To combat corruption;
- (j) To stimulate and promote local economic development in a targeted and focused manner; and
- (k) To increase the small business sector's access to business opportunities created by the Municipality.

Nature and scope of this policy

2.11 This policy must at all times be read with the provisions of relevant legislation listed in paragraph 2.6 above.

Exemptions from this policy

2.12 This policy and Code does not apply –

- (a) to the procurement of water from the Department of Water Affairs or a public entity, another municipality or a municipal entity;
- (b) to the procurement of electricity from Eskom or another public entity, another municipality or a municipal entity;
- (c) if the Municipality contracts with another organ of state for -
 - (i) the provision of goods or services to the municipality or municipal entity;
 - (ii) the provision of a municipal service or assistance in the provision of a municipal service; or

- (iii) the procurement of goods and services under a contract secured by that other organ of state, provided that the relevant supplier has agreed to such procurement.

- 2.13 The Municipal Manager may procure goods or services for the Municipality under a contract secured by another organ of state, if –
- (a) the contract has been secured by that other organ of state by means of a competitive bidding process applicable to that organ of state;
 - (b) she/he has no reason to believe that such contract was not validly procured;
 - (c) there are demonstrable discounts or benefits for the Municipality to do so; and
 - (d) that other organ of state and the provider have consented to such procurement in writing.

Institutional locus of the asset management, supply chain management and contract management functions

2.14 Asset Management and Contract Management are two sub-sections of Supply Chain Management and are located in the department responsible for financial services.

2.15 The asset management **section** shall provide asset management (including supply chain management and contract management) services on a shared service centre basis to the Municipality's departments. The asset management **section** is therefore required to cooperate closely with the Municipality's other departments.

2.16 The Municipality realises that it is not productive, nor efficient to attempt to structurally and functionally ring fence the entire asset management process. Therefore, the following sub-functions and processes are assigned to other organisational units -

- (a) Asset utilisation management
The organisational unit of the Municipality that is the primary user of a specific asset is responsible and accountable for managing that asset's utilisation.
- (b) Capital accounting and maintenance of asset records
The Municipality must at all times have an up-to-date inventory of its assets. Such an inventory must be held in the formats required by law and generally recognised accounting practice (GRAP). The capital accounting and asset records function of the Municipality is assigned to the Budget and Treasury Office.
- (c) Securities related to assets
Original records relating to the acquisition, holding and disposal of assets, such as contracts, deeds of transfer, contracts of sale and lease and notaries deeds shall be held within a secure, fire-proof, limited access facility within the central records and archives office of the Municipality. The manager responsible for records and achieves shall be competent to issue such prescripts and procedures

regarding the storage, safe-keeping and access to such records as may required in terms of relevant legislation and best practice.

Unsolicited bids

2.17 The Municipality is not be obliged to consider an unsolicited bid , but may

(a) spell out the process to be followed in either accepting or if conditions exist that may cause unfair practice in disposal rejecting unsolicited bids of assets not used by the Municipality. Solicitation may only be for rental or lease or right of use until time of disposal.

Implementation and amendment of policy

2.18 The Municipal Manager must –

(a) at least annually review the implementation of this policy and code; and

(b) when she/he considers it necessary, submit proposals for the amendment of the policy to the Executive Mayor for consideration of the Council.

(c) Notwithstanding section (a) and (b) above, the council reserves its right to review this policy any time it deems necessary to do so.

CHAPTER 3 SUPPLY CHAIN MANAGEMENT SYSTEM

General object of the supply chain management system

- 3.1 This policy provides for acquisitions and disposals to ensure that an effective, efficient and transparent supply chain management system is implemented for the Municipality.

Part 1 Demand management

Duties of departmental heads

- 3.2 Each departmental head shall during the preparation of her/his department's estimates for the budget year –
- (a) determine which functions it performs;
 - (b) determine the products and services it must provide in the performance of those functions;
 - (c) conduct a condition assessment of the assets managed by her/his department;
 - (d) on the basis of its analysis in terms of paragraphs (a), (b) and (c) determine its financial needs during the budget year for –
 - (i) maintaining existing assets at an acceptable level calculated to ensure the continued productivity of the asset in question and minor repairs to such assets;
 - (ii) repairing existing assets;
 - (iii) refurbishing or renovating existing assets;
 - (iv) extensive repairing of existing assets;
 - (v) replacing existing assets; and
 - (vi) acquiring new assets.

Establishment of a corporate programme of acquisitions

- 3.3 The Asset Management **section** shall, after consultation with departmental heads, compile a programme of acquisitions in respect of the budget year, which programme shall be attached to the Municipality's service-delivery and budget implementation plan,

taking into account that the process for procuring a contract for banking services must commence at least nine months before the end of an existing contract and that the closure date for the submission of bids in respect of supplying banking services to the Municipality may not be less than 60 days from the date on which the advertisement is placed in a newspaper.

- 3.4 During consultations between the Asset Management **section** and departmental heads, all reasonable efforts shall be made to determine –
- (a) the desired time at which a specific contract must be awarded;
 - (b) the desired time when specific goods must be delivered, services rendered or work executed;
 - (c) where any goods to be supplied shall be delivered;
 - (d) the quantity and quality of any goods to be supplied; and
 - (e) any other relevant matter.

Part 2 Acquisition management

Supremacy of this policy and the approved budget

3.5 With due regard for paragraphs 2.12 and 2.13 goods and services may be acquired, and assets disposed of, only in accordance with this policy and code and the relevant law

3.6 Expenditure on the acquisition of goods and services and the execution of work, including goods and services referred to in paragraph 3.5 (a) to (c) may be incurred only in terms of an approved budget.

Range of supply chain management processes

3.7 Acquisitions by the Municipality shall be made in terms of –

- (a) petty cash purchases;
- (b) verbal quotations;
- (c) formal written price quotations; and
- (d) competitive bids.

Petty cash purchases

3.8 A departmental head may authorise the procurement of goods, services or the execution of work to an amount of R 2,000 (VAT inclusive) from petty cash, subject to the Municipality's rules regulating petty cash purchases and the provisions of this policy and Code.

- 3.9 No goods, services or the execution of work with a transaction value between R 500 (VAT inclusive) and R 2,000 (VAT inclusive) may be procured by way of petty cash purchase unless two verbal quotations have been obtained from two different suppliers registered in the Register. The person inviting verbal quotations shall keep a written record of prices quoted. A verbal quotation shall only be accepted against written confirmation of the quoted price.
- 3.10 A departmental head may in writing sub-delegate the authority to procure goods, services and the execution of work from petty cash to a manager who is directly accountable to her/him.
- 3.11 The Municipal Manager may in writing –
- (a) direct that written quotations be obtained for the procurement of any specific goods or services or the execution of work of a transaction value lower than R 2,000;
 - (c) limit the number of petty cash purchases or the maximum amount of purchases from petty cash per month for each departmental head, provided that a different number or amount may be set for different departmental heads;
 - (d) exclude any types of expenditure from petty cash purchases, where she/he considers it necessary.
- 3.12 Each departmental head shall within five working days after the end of each month supply to the chief financial officer –
- (a) a written reconciliation report, including –
 - (i) the total amount of petty cash purchases for that month; and
 - (ii) receipts and appropriate documents for each purchase; and
 - (b) a written report on all purchases made in terms of a sub-delegation in terms of paragraph **3.10**.

Verbal quotations

- 3.13 No goods, services or the execution of work to an amount over R 2,000 (VAT inclusive) up to R 10,000 (VAT inclusive) shall be acquired unless three verbal quotations have been obtained, preferably from but not limited to, different suppliers registered in the Register. If quotations are obtained from providers who are not listed, such providers must meet the criteria for registration in the Register. The person inviting verbal quotations shall keep a written record of prices quoted. A verbal quotation shall only be accepted (i.e. an order issued) against written confirmation of the quoted price.
- 3.14 If it is not possible to obtain at least three quotations, the relevant departmental head **or supply chain management head** must apply in writing, stating the reasons why three quotations could not be obtained, to the chief financial officer or an official designated by her/him for an exemption from the requirement that three written quotations be obtained. The official designated by the chief financial officer shall, within three working days after

- the end of each month, submit a written report to the chief financial officer on any exemption she/he granted during the period since her/his previous report.
- 3.15 When inviting verbal quotations the **supply chain management head** shall ensure on-going competition between registered suppliers, including inviting suppliers to submit quotations on a rotation basis.
- 3.16 The Municipal Manager may –
- (a) require that formal written price quotations be obtained for the procurement of any specific goods or services or the execution of any specific work of a transaction value lower than R 10,000 (inclusive of VAT).
- 3.17 A departmental head may in writing sub-delegate the authority to procure goods, services and the execution of work by way of verbal quotations in terms of paragraph **3.13** to a manager who is directly accountable to her/him.

Formal written price quotations

- 3.18 No goods, services or the execution of work to an amount exceeding R 10,000 (VAT inclusive) up to R 200,000 (VAT inclusive) shall be acquired unless three formal written price quotations have been obtained preferably from, but not limited to, different suppliers registered in the Register, provided that if the estimated price of the acquisition is likely to exceed R 30,000 (VAT included) an invitation to submit written price quotations shall be published on the Municipality's website and official notice boards for a period of at least 7 days from the date of publication. If quotations are obtained from providers who are not listed in the Register, such providers must meet the criteria for registration.
- 3.19 If it is not possible to obtain at least three quotations, the relevant departmental head **or supply chain management head** must apply in writing, stating the reasons why three quotations could not be obtained, to the chief financial officer or an official designated by her/him for an exemption from the requirement that three written quotations be obtained. The official designated by the chief financial officer shall, within three working days after the end of each month, submit a written report to the chief financial officer on any exemption she/he granted during the period since her/his previous report.
- 3.20 When inviting formal written price quotations the **supply chain management head** shall ensure on-going competition between registered suppliers, including inviting suppliers to submit quotations on a rotation basis.
- 3.21 The Municipal Manager may –
- (a) lower any amount referred to in paragraph 3.19;
- (b) direct that a competitive bidding process be followed for the procurement of any specific goods or services or the execution of work of a transaction value lower than R 200,000.

Prohibitions with regard to quotations

- 3.22 No compulsory meeting of any nature shall be required in respect of quotations.
- 3.23 No charge shall be levied in respect of the issuing of documentation for quotations.

Quotation documentation

- 3.24 Quotation documents shall be prepared and made available for submitting written price quotations.
- 3.25 Quotation documents shall clearly indicate the terms and conditions of contract, the specifications of the goods or services or execution of work required, evaluation criteria and procedures to be followed.
- 3.26 Quotation documentation shall not be aimed at hampering competition, but rather to ensure fair, equitable, transparent, competitive and cost-effective bidding as well as the advancement of **black people**.
- 3.27 Where the specifications are based on standard documents available to suppliers, reference to those documents in the quotation documents is sufficient.
- 3.28 The Municipality may, if necessary, communicate with suppliers prior to the submission of written quotations in order to supply additional information or to clarify vague points or ambiguities in the quotation documents.

Quotation prices

- 3.29 All prices in written price quotations shall be deemed to be fixed prices unless otherwise stated in the quotation documents.
- 3.30 Quotations regarding the provision of services to the Municipality that may involve travelling, accommodation and subsistence cost by the supplier must include and separately stipulate any travelling, accommodation and other subsistence cost.

Issuing and submission of quotation documentation

- 3.31 Quotation documents pertaining to written quotations shall be issued and written quotations shall be received by the **Procurement Section** only.. The prescribed documentation shall be available for personal collection. The Municipality shall not dispatch any quotation documents by courier or similar commercial messenger service.
- 3.32 Quotation documents shall clearly state the place where written quotations must be submitted, the manner of submission and, if necessary, a date and time by when they must be returned.
- 3.33 Written quotations may be submitted by telefacsimile or electronic mail message: Provided that –

- (a) the original signed documentation is submitted to the Municipality upon request; and
 - (b) if such quotation is submitted by electronic mail, it must be in portable document format or other similar format that prevents changes being made in a document.
- 3.34 No written quotation submitted after the stipulated closing date and time (if any) shall be considered.
- 3.35 All prices offered shall remain confidential until all invited quotations have been received or the closing time on the closing date for submission of quotations, as the case may be.
- 3.36 The delegated body may negotiate the final contractual terms in respect of any offer received through the submission of written quotations, provided that such negotiation -
- (a) does not allow the preferred supplier an unfair or second opportunity; and
 - (b) is not to the detriment of any other supplier.

Acceptance of written quotations

- 3.37 A report regarding written quotations received, in the approved format, shall be submitted to the relevant delegated body for consideration.
- 3.38 Written quotations shall be accepted by means of issuing an official order.

Competitive bids

- 3.39 No goods, services or the execution of work –
- (a) the estimated cost of which is likely to exceed R 200,000 (VAT included); or
 - (b) involving the entering into by the Municipality of a long-term contract
- shall be acquired unless a competitive bidding process has been followed.
- 3.40 Notwithstanding anything to the contrary in this policy or Code a contract for the provision of banking services to the Municipality must be procured through the competitive bidding process described in this policy and Code.
- 3.41 For the acquisition of large complex plant or projects of special nature, when it may be undesirable to compare complete detailed technical specifications in advance, the Municipal Manager may in writing authorise that a two-stage bidding process be followed. 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 shall include amended bidding documents and the submission of final technical proposals and priced bids.
- 3.42 The Municipal Manager may, in exceptional circumstances, where statutory, design, technological or safety reasons require that bidding be restricted to suppliers that have

proven their capability and qualifications to meet the specific requirements of the bid authorise that suppliers must pre-qualify. The notice inviting suppliers to pre-qualify shall be in the format determined by the Municipal Manager. Once a supplier has been pre-qualified for a particular project, she/he shall be afforded not less than 7 working days to submit a bid after having been called upon to do so.

- 3.43 Unless specifically authorised by the Municipal Manager no compulsory tender meeting or meeting involving prospective suppliers shall be held in respect of any bid. If the Municipal Manager authorises such a meeting, or the relevant departmental head requires that a compulsory site meeting must be held in respect of bids to be invited for the execution of work on behalf of the Municipality, the invitation inviting bids shall stipulate the full detail as to venue, time and date of such meeting.
- 3.44 No bid may be disqualified for the mere fact that the supplier did not attend a tender meeting, meeting of prospective suppliers or site meeting, whether such meeting was compulsory or not.

Issuing of bid documentation

- 3.45 Bid documents and any subsequent notices shall be issued only by the **Supply Chain Management Unit**. The prescribed documentation shall be available for personal collection. The Municipality shall not dispatch any bid documents by courier or similar commercial messenger service.
- 3.46 The Municipality may raise a non-refundable bid charge for bid documents. If a bid charge is raised in respect of any specific bid, the notice inviting bids must state the amount of such charge.
- 3.47 Details of all prospective suppliers who have been issued with bid documents shall be recorded by the **Supply Chain Management Unit**. Such details shall include -
- (a) the legal and full name of the person or entity drawing documents;
 - (b) a contact person;
 - (c) a contact telephone number;
 - (d) a contact fax number;
 - (e) a postal address; and
 - (f) an e-mail address, if any.
- 3.48 The details recorded as required in paragraph **3.47** shall remain confidential for the duration of the bid period.

Part 3 Logistics management

Establishment of stores

- 3.49 The Municipality shall have a central store situate in Welkom and such decentralized stores in other places as may be required to ensure that the Municipality is able to perform its functions in an uninterrupted manner.
- 3.50 The manager responsible for asset management shall be responsible for managing the Municipality's stores.

Stock levels in the Municipality's stores

- 3.51 The chief financial officer shall –
- (a) after consultation with the departmental heads, determine -
 - (i) which items shall be carried in the Municipality's stores; and
 - (ii) the quantities in which such items shall be kept in stock;
 - (b) determine minimum and maximum levels to be kept in stock based on consumption figures or inputs from users; and
 - (c) determine the minimum and maximum levels of stock in store allowing for a safety margin to be added to the minimum level to cover unforeseen circumstances.
- 3.52 Nobody shall place an order for an item which is in stock in a store except where authorized

Placing of orders

- 3.53 An order for supplementing stock in store is placed when –
- (a) the stock level in respect of a specific stores item as prescribed by the chief financial officer is reached; or
 - (b) when a requisition is received from an end user for an item which is not held in stock.
- 3.54 Where a contract exists, orders must be placed for the item from the contract.

3.55 Where no contract exists the price quotation or competitive bidding method of ordering shall be applied.

Supplier performance

3.56 The manager responsible for **supply chain** management shall monitor the reliability of suppliers in terms of the following criteria –

- (a) contractual or promised delivery periods;
- (b) contractual quality; and
- (c) contractual quantities.

3.57 If any supplier is found to be unreliable the manager responsible for **supply chain** management shall –

- (a) follow the matter up with the with the vendor concerned; and
- (b) if it is a contract item, also report the matter to the department that procured the contract.

Stores management

3.58 The person who accepts delivery of any item into store must ensure that the conditions reflected on the order form, including any prescripts as to quantity and quality, are complied with. If any discrepancy occurs between the order the order form and actual items delivered, the matter must immediately be followed up with the supplier.

3.59 The manager responsible for **supply chain** management must ensure that –

- (a) all statutory provisions and safety regulations are complied with when items are being stored;
- (b) stock and equipment are stored properly and arranged in such a manner that the checking and handling thereof are being facilitated and the possibility of damage, exposure, deterioration and perishing thereof is limited or eliminated;
- (c) a proper records of all the stores items are kept consistent with the prescripts issued by the chief financial officer.

Issuing and distribution of stores items

3.60 No items shall be issued from a store unless a proper requisition is submitted for its issuing.

3.61 An issue voucher shall be generated for all stores items issued.

Stocktaking

3.62 Stocktaking of all stores items in stock shall be conducted at least once a year as may be directed by the Municipal Manager.

3.63 The Municipal Manager may at any time order a stock taking to be executed.

Losses and surpluses in stores

3.64 The Municipal Manager may issue such prescripts as may be necessary –

- (a) to eliminate theft, losses, wastage and misuse of stores items;
- (b) to ensure that all damages to and losses of stores items are accounted for in accordance with the relevant prescripts;
- (c) to ensure that damages and losses are investigated with a view to possible recovery; and
- (d) to ensure that surpluses are taken on record as assets immediately.

Part 4 Disposal management

3.69 Disposal of assets shall be done in accordance with Chapter 6 of this policy.

Part 5 Risk management

3.70 The manager responsible for **the procuring department** is responsible and accountable for -

- (a) identifying the risks in respect of each contract awarded by the Municipality;
- (b) ensuring that the risk is allocated to the party best suited to manage such risks;
- (c) accepting the cost of a risk on behalf of the Municipality where the cost of transferring it is greater than the cost of retaining it;
- (d) pro-actively managing risks and the provision of adequate cover for residual risks; and
- (e) the assignment of clear risk responsibilities to the contracting parties by means of clear and unambiguous contractual stipulations.

Part 6
Performance management

- 3.71 The Municipal Manager shall, not later than 31 July of each year, together with the Chief Financial Officer, set appropriate key performance indicators and performance targets for the **Supply Chain Management** Unit for the remainder of the financial year.
- 3.72 The manager responsible for asset management shall, within 10 work days after the end of each quarter assess the progress of the **Supply Chain Management** Unit in achieving its performance indicators and targets.
- 3.73 The Chief Financial Officer shall, within 10 work days after the end of the financial year assess the performance of the **Supply Chain Management** Unit in achieving its performance indicators and targets and submit a report thereon to the Municipal Manager.

CHAPTER 4 INSTITUTIONAL ARRANGEMENTS

Oversight role of the Council

4.1 The Council shall maintain oversight of the supply chain management system of the Municipality.

4.2 In order for the Council to perform its oversight function, the Municipal Manager shall –

- (a) not later than 10 working days after the end of each month, submit a written report regarding the implementation of this policy during the immediately preceding quarter to the Executive Mayor;
- (b) quarterly, within 30 days after the end of a financial year, submit a written report on the implementation of this policy during the immediately past financial year, to the Council, provided that the report contemplated in paragraph (a) in respect of the fourth quarter of a year may be incorporated into the annual report; and
- (c) whenever there are serious and material problems with the implementation of this policy, submit a written report to the Council

provided that any report in terms of this paragraph shall be published in terms of section 21A of the Local Government: Municipal Systems Act 2000 (Act No 32 of 2000).

4.3 The Council or the Executive Mayor may at any time require the Municipal Manager to submit a written report regarding a specific activity within the **supply chain** management process, including a specific bid.

Role of the Municipal Manager

4.4 The Municipal Manager is responsible and accountable for –

- (a) exercising the powers, performing the functions and discharging the duties conferred or assigned to her/him in terms of this policy and any relevant legislation;
- (b) implementing the Municipality's supply chain management policy;
- (c) ensuring compliance with the supply chain management policy;
- (d) annually reviewing the supply chain management policy;

- (e) approving the re-inclusion of a supplier's particulars in the suppliers' database after rehabilitation of the relevant supplier according to statutory requirements;
- (f) removing the details of a supplier from any suppliers' database that the Municipality may maintain; and
- (g) approving and changing the composition of any bid committee.

4.5 The Municipal Manager may at any time require the Chief Financial Officer to submit a written report to her/him regarding any aspect of the supply chain management policy and the supply chain management system.

Role of departmental heads

4.6 Each departmental head shall be responsible and accountable for –

- (a) exercising the powers, performing the functions and discharging the duties conferred or assigned to her/him in terms of this policy;
- (b) implementing the Municipality's supply chain management policy and any procedural and other prescripts issued in terms of the policy within her/his area of responsibility;
- (c) ensuring compliance with the Municipality's supply chain management policy and any procedural and other prescripts issued in terms of the policy within her/his area of responsibility;
- (d) developing, or causing to be developed, draft specifications and other quotation or bid documents for acquisitions by her/his department exceeding an amount of R 30,000 (VAT inclusive) or such other amount as may be determined by the Municipal Manager generally or in a particular case;
- (e) developing and approving bid specifications for acquisitions by her/his department for an amount over R 200,000 or such other amount as may be determined by the Municipal Manager generally or in a particular case;
- (f) financial management in respect of any acquisition or disposal by her/his department in terms of this policy and relevant legislation;
- (g) asset utilisation management in her/his area of responsibility;
- (h) 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;
- (i) ensuring implementation of standard appropriate preferential point system in the evaluation of offers; and
- (j) achieving any objectives and targets set with regard to acquisitions and disposals.

- (k) Ensure that the bid specifications are reasonably accessible to BLACK PEOPLE's.

Role of the Chief Financial Officer

4.7 The Chief Financial Officer shall be responsible and accountable for -

- (a) exercising the powers, performing the functions and discharging the duties conferred or assigned to her/him in terms of this policy;
- (b) reporting on progress with the implementation of, and compliance with, the Municipality's supply chain management policy to the Municipal Manager;
- (c) conducting assessments of the entire supply chain management system to identify successes and failures and beneficiation of the BLACK PEOPLE's for incorporation into the Municipality's knowledge management database;
- (d) the overall asset management process from solicitation of offers to the processing of invoices for payment;
- (e) promoting a corporate approach to procurement by encouraging standardisation of assets and inventory items acquired by the Municipality to realise economies of scale;
- (f) providing information regarding supplier performance issues to the Municipal Manager and the Council;
- (g) ensuring that acquisitions and disposals are effected through practices that demonstrate compliance with all relevant legislation;
- (h) for managing acquisitions and disposals to ensure that the supply chain management system of the Municipality is adhered to;
- (i) ensuring that the acquisition and disposal process followed adheres to preference targets without compromising price, quality, service delivery and developmental objectives;
- (j) ensuring that all employees involved in the development of enquiry documents, bidding and bid adjudication receive the necessary training to support implementation of this policy;
- (n) establishing the amount to be paid by prospective bidders as a non-refundable charge for bid documents issued by the Municipality, provided that such amount shall not exceed R1,000 (VAT inclusive) for one set of documents;
- (o) verifying all prospective suppliers for inclusion in the register or roster;
- (p) placing an advertisement in the press during February every year to invite prospective suppliers, including professional service providers, to apply for registration in the register or roster; and

- (q) ensuring that all personnel assigned to the **Supply Chain Management Unit** has the skills, knowledge and expertise to perform their functions effectively and efficiently.

4.8 The Chief Financial Officer may –

- (a) in writing prescribe procedures and best practices regarding asset management in the Municipality consistent with this policy and relevant legislation; and
- (b) in writing assign any employee assigned to her/his Department to temporarily perform the functions and discharge the duties conferred on, or assigned to, the Asset Management **Section**.

Establishment of an asset management unit

4.9 The Municipal Manager shall establish an Asset Management **Section** in the department responsible for financial services.

4.10 The Asset Management **Section** shall be subject to the management control of, and accountable to, the Chief Financial Officer.

4.11 The **Supply Chain Management Unit** shall consist of –

- (a) Procurement section;
- (b) Contract management section; and
- (c) Asset management section.

4.12 The **senior** manager responsible for supply chain management in the department responsible for financial services shall be responsible and accountable for the day-to-day management of the Asset Management **Section**.

4.13 The **Supply Chain Management Unit** shall consist of such personnel as the Municipal Manager may, after consultation with the Chief Financial Officer, assign to the Unit.

Establishment of bid committees

4.14 The following bid committees are hereby established –

- (a) Bid specification committee;
- (b) Bid evaluation committee; and
- (c) Bid adjudication committee

4.15 The following persons shall not be eligible to become members of a bid committee –

- (a) a councillor of any municipality; and
- (b) a member of the Municipality's audit committee or performance audit committee.

- 4.16 No councillor of any municipality may attend a meeting of a bid committee in any capacity, nor make a presentation or representations to or conduct an interview with a bid committee in any capacity.

Independence, impartiality and accountability of bid committees

- 4.17 A bid committee shall perform its functions, exercise its powers and discharge its duties independently and without fear, favour or prejudice.
- 4.18 A bid committee shall be accountable to the Municipal Manager.

Meetings of bid committees and decision-making

- 4.19 The chairperson of the relevant bid committee shall determine the date, time and venue of meetings of the committee concerned, provided that at least three working days written notice shall be given of a meeting of a bid committee to all the members.
- 4.20 A majority of the members of a bid committee must be present before the committee concerned may consider any matter.
- 4.21 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.
- 4.22 The Chief Financial Officer shall make appropriate arrangements to ensure that secretarial and such other administrative support services as may be required are provided to a bid committee.
- 4.23 Minutes shall be kept of each meeting of a bid committee. Such minutes shall –
- (a) 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;
 - (b) be signed by the person presiding at the meeting when they are approved; and
 - (c) Shall prima facie be evidence of the proceedings at a meeting of the relevant committee until the contrary is proven.

Conduct of bid committee members

- 4.24 Members of a bid committee shall at all times comply with the Code of Conduct contained in Chapter 16.

Procedures of bid committees

- 4.25 A bid committee shall determine its own procedures, provided that meetings –
- (a) of the bid specification and bid evaluation committee shall be closed; and

- (b) of the bid adjudication committee shall be open for the public and the media, provided further that 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.

Reporting

- 4.26 A bid committee shall within 7 working days after the end of each month, under the name and signature of its chairperson, submit a written monthly report of its activities to the Chief Financial Officer who shall submit such report, together with her/his comment and recommendations, if any, to the Municipal Manager.
- 4.27 The Chief Financial Officer may at any time require the chairperson of a bid committee to submit a report to her/him on any matter related to the functions of the committee.

Preparation of bid specifications and other bid documentation

- 4.28 The head of the purchasing department shall prepare, or cause to be prepared, written draft specifications and related documentation in respect of any offer to be invited by his/her department for the procurement of a contract the estimated value of which is likely to exceed R30,000, inclusive of VAT.
- 4.29 Specifications -
 - (a) Must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services;
 - (b) must take account of any accepted standards such as those issued by Standards South Africa, the International Standards Organisation or an authority accredited or recognised by the South African National Accreditation System with which the equipment or material or workmanship should comply;
 - (c) Where possible, be described in terms of performance required rather than in terms of descriptive characteristics for design;
 - (d) may not create trade barriers in contract requirements in the form of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labeling of conformity certification;
 - (e) may not make reference to any particular trade mark, name, patent, design, type, specific origin or producer unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the words "equivalent"; and
 - (f) Must indicate each specific goal for which points may be awarded in terms of the points system set out in this policy.
- 4.30 With due regard for the powers delegated to her/him, a departmental head may acquire the services of an external service provider, which may include the State Information Technology Agency, to assist her/him to write a draft specification and other documentation, provided that –

- (a) the relevant service provider is registered in the roster, except in the case of the State Information Technology Agency; and
- (b) A service provider that has been appointed in terms of this paragraph may not -
 - (i) quote or bid for the relevant contract; or
 - (ii) 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.

4.31 A specification shall specify –

- (a) the details of the preference point system which shall be used when evaluating a particular offer if the value of the contract, inclusive of VAT, exceeds R 30, 000 or such lower amount as the Municipal Manager may determine in any specific case or category of cases;
- (b) 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 VAT, exceeds R 30, 000 or such lower amount as the Municipal Manager may determine in any specific case or category of cases;
- (c) in the case of offers for the provision of goods to the Municipality, at least –
 - (i) the technical specifications of the goods to be acquired;
 - (ii) the quantity of the goods to be supplied; and
 - (iii) any other relevant matter;
- (d) In the case of offers for the provision of services to the Municipality, at least -
 - (i) the scope of work of the service to be rendered, stipulating the desired outputs; and
 - (ii) any other relevant matter;
- (e) in the case of offers for the execution of work on behalf of the Municipality, at least -
 - (i) the date on which delivery of the work is expected; and
 - (ii) any conditions of the Construction Industry Development Board approved by the National Treasury, if applicable; and
 - (iii) any other relevant matter; and
- (f) in the case of offers for the disposal of assets of the Municipality, at least –

- (i) if it is a land asset, the permitted use or uses for which the land may be utilised; and
- (ii) Any other relevant matter.

4.32 A draft specification in terms of paragraph 4.28 shall be submitted for consideration to the bid specification committee.

Part 1 Bid specification committee

Composition of the bid specification committee

4.33 For each department there shall be a bid specification committee, which shall consist of –

- (a) The head of the relevant department or a manager directly accountable to her/him designated by her/him who shall be the chairperson;
- (b) Such other officials of the department as may be determined by the departmental head; and
- (c) An official of the legal services section if, in the opinion of the departmental head, legal expertise is required in respect of the bid documentation or any proposed contract.
- (d) An official responsible for SMME development from the EDSP Department

4.34 The Municipal Manager may, upon receipt of a written application of the head of the department, appoint an external service provider as additional member of a bid specification committee in any particular case to assist that committee to perform its functions in respect of a specific bid: Provided that such an external service provider –

- (a) Shall be compensated per hour worked according to the agreed tariff;
- (b) Must be registered on the roster;
- (c) May not vote in respect of any matter before the committee in respect of which a vote may be required;
- (d) Shall sign such confidentiality agreement as the Municipal Manager may prescribe; and
- (e) May not bid for the relevant contract.

Objective of the bid specification committee

4.35 The objective of the bid specification committee is to ensure that–

- (a) comprehensive and proper bid documentation is prepared in respect of each written quotation and bid to be solicited by the Municipality;
- (b) The Municipality acquires goods and services in accordance with its needs;

- (c) Construction projects are executed on behalf of the Municipality to acceptable standards; and
- (d) The disposal of assets of the Municipality takes place in a transparent and fair manner.

Functions of the bid specification committee

- 4.36 The bid specification committee shall consider proposed specifications and other bid documentation submitted by a departmental head, and make recommendations to the Municipal Manager, in connection with –
- (a) the procurement of goods and services by the Municipality;
 - (b) the execution of work on behalf of the Municipality; and
 - (c) The disposal of assets of the Municipality.
- 4.37 The chairperson of the bid specification committee shall submit the report and recommendations regarding each specification and other bid documentation considered by the bid specification committee to the Municipal Manager.

Approval of bid specifications

- 4.38 The Municipal Manager shall consider the report and recommendations of a bid specification committee and may approve the specification and other bid documents with or without amendments.
- 4.39 Nobody shall amend, alter, delete or in any other way change a specification approved by the Municipal Manager without the express prior written approval of the Municipal Manager having been obtained: Provided that if such proposed amendment, alteration, deletion or change is material the Municipal Manager may, in her/his sole discretion, require the proposed amendment, alteration, deletion or change to be submitted to the bid specification committee first.

Part 2 Bid evaluation committees

Composition of bid evaluation committees

- 4.40 For each department there shall be a bid evaluation committee which shall consist of -
- (a) The head of the relevant department or a manager directly accountable to her/him designated by her/him who shall be the chairperson;
 - (b) Such other officials of the department as may be determined by the departmental head; and

- (c) The manager responsible for supply chain management or another supply chain management official designated by her/him; and
 - (d) an official responsible for SMME development from the EDSP Department
- 4.41 The Municipal Manager may, upon receipt of a written application of the head of the purchasing department, appoint an external service provider as additional member of the bid evaluation committee to assist the committee to perform its functions in respect of a specific bid: Provided that such an external service provider –
- (a) Shall be compensated per hour worked according to the agreed tariff;
 - (b) May not vote in respect of any matter before the committee in respect of which a vote may be required;
 - (c) shall be registered on the roster;
 - (d) shall sign such confidentiality agreement as the Municipal Manager may prescribe; and
 - (e) was not a bidder for the relevant contract and does not have any direct or indirect interest in any offer to be considered.

Objective of the bid evaluation committee

- 4.42 The objective of the bid evaluation committee is to ensure that all written quotations and bids received in response to an invitation by the Municipality to submit offers for the supply of goods or services to, or the execution of work on behalf of, or the disposal of assets by the Municipality are objectively, thoroughly and impartially evaluated.

Function of the bid evaluation committee

- 4.43 The function of the bid evaluation committee is to evaluate all written quotations and bids received in response to an invitation of the Municipality to submit written quotations and bids.

Powers of the bid evaluation committee

- 4.44 In the performance of its function the bid evaluation committee may –
- (a) Assess and verify -
 - (i) the capacity of the bidder to execute the contract concerned;
 - (ii) any tax clearance certificate issued by the South African Revenue Services and submitted by the bidder;
 - (iii) that the bidder is not in arrears with the payment of any municipal fees, levies and other charges to the Municipality or any other municipality;

- (iv) compliance with national industrial participation programme requirements in respect of contracts in excess of R 100 million;
 - (v) any certificate or declaration in terms of section 53 of the Employment Equity Act 1998 (Act No 55 of 1998) submitted or made by a bidder;
 - (vi) any claim for preferential points made by a bidder; and
 - (vii) the financial standing of any bidder;
- (b) require any bidder to make a presentation with regard to or to demonstrate any or all aspects of her/his offer at a venue and time determined by the committee before it formulates an opinion about an offer;
- (c) form an opinion as to whether an offer shall be accepted for consideration; and
- (d) Where non-firm prices are offered, require that proof of labour and material costs or other factors which are specified by the bidder, must be submitted.
- (e) Vetting for any possible corruption, fronting and falsification of information

Evaluation of bids

- 4.45 Quotations and bids shall be evaluated only in accordance with the criteria specified in the bid specifications, including the preference points so specified.

Recommendations regarding bids

- 4.46 The bid evaluation committee shall submit its report and recommendations regarding the award of -
- (a) quotations, to the relevant delegated body or person; and
 - (b) Bids, to the bid adjudication committee.

Part 3 Bid adjudication committee

Composition of the bid adjudication committee

- 4.47 The bid adjudication committee shall consist of four senior managers of the Municipality designated by the Municipal Manager, which shall include –
- (a) the chief financial officer or, if the chief financial officer is not available, another manager in the department responsible for financials services reporting directly to the chief financial officer and designated by her/him;
 - (b) the manager responsible for asset management or if she/he is not available, a senior supply chain management practitioner designated by her/him; and
 - (c) a technical expert in the relevant field who is an official of the municipality,

Provided that neither a member of a bid evaluation committee, nor an advisor or person assisting the evaluation committee, may be a member of a bid adjudication committee.

- 4.48 The Municipal Manager shall appoint the chairperson of the committee. If the chairperson is absent from a meeting, the members of the committee who are present shall elect one of them to preside at the meeting

Objective of the bid adjudication committee

- 4.49 The objective of the bid adjudication committee is to ensure that the Municipality –
- (a) Procure the best value for money when contracting for the supply of goods or services and the execution of work; and
 - (b) Disposes of assets in a transparent and fair manner.

Functions of the bid adjudication committee

- 4.50 The bid adjudication committee shall consider the report of the bid evaluation committee and with due regard for the powers delegated to it, –
- (a) Award a bid; or
 - (b) Submit its report and recommendation with regard to a bid to the Municipal Manager

Provided that if the committee decides to award a bid other than the one recommended by the bid evaluation committee, it shall prior to awarding the bid -

- (i) check in respect of the preferred bidder whether that bidder's municipal rates and taxes and municipal service charges are not in arrears; and
- (ii) notify the accounting officer of its intention to deviate from the bid evaluation committee's recommendation.

Powers and duties of the Municipal Manager with regard to contracts awarded contrary to the recommendation of the bid evaluation committee

- 4.51 The Municipal Manager may upon receipt of the bid adjudication committee's report in terms of paragraph 4.50 ratify or reject the decision of the bid adjudication committee. If the decision of the bid adjudication committee is rejected the Municipal Manager shall refer the decision of the adjudication committee back to that committee for reconsideration.
- 4.52 Whenever an offer other than the one recommended in the normal course of implementing this policy is accepted and a contract awarded the Municipal Manager shall within 10 working days after the decision to award the contract has been made in writing notify the Auditor-General, the provincial treasury and the National Treasury of the reasons for deviating from the recommendation.

**CHAPTER 5
THRESHOLD VALUES FOR ACQUISITIONS, APPROVAL AUTHORITIES AND
EXEMPTIONS FROM BIDDING REQUIREMENTS**

Prohibition on the splitting of acquisitions

5.1 Nobody may, in order to avoid compliance with any prescript of paragraphs 3.14, 3.19 or 3.42 split the procurement of any goods, services or the execution of work into lesser items or parts or enter into more than one contract.

Approval authorities

5.2 The following approval authority apply for acquisitions in respect of quotations obtained in terms of paragraphs 3.14 and 3.19 for the provision of goods, services (excluding the services of professional service providers) and the execution of work:

Amount (VAT inclusive)	Delegating authority
Acquisitions to a maximum of R 10,000	Managers
Acquisitions to a maximum of R 50,000	Executive Managers
Acquisitions to a maximum of R 100,000	Corporate Executive Managers/HOD
Acquisitions to a maximum of R 200,000	Municipal Manager

5.3 The following approval authority applies for acquisitions in respect of bids obtained in terms of paragraph 3.42 for the provision of goods, services (excluding the services of professional service providers) and the execution of work:

Amount (VAT inclusive)	Delegating authority
Acquisitions to a maximum value of up to R 500 000 for operational expenditure. Procedure to be followed through Bid Adjudication Committee	Bid adjudication committee
Acquisitions above R1,5 million for capital expenditure Procedure to be followed through Bid Adjudication Committee	Bid adjudication committee
Acquisitions above R1,5 million	Municipal Manager

5.4 The following approval authority applies in respect the appointment of professional service providers in accordance with the prescribed process:

Amount (VAT inclusive)	Delegating authority
Appointments up to R 10,000	Managers
Appointments up to R 50,000	Senior Managers
Appointments up to R 100,000	Executive Directors
Appointments exceeding R 100,000 up to R 200,000	Municipal Manager

Appointments exceeding R 200,000	Bid adjudication committee
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5.5 The following approval authorities apply for disposal of capital assets in respect of bids obtained in accordance with the prescribed process (all amounts include VAT):

Subject matter of disposal	Delegating authority
Disposal of all immovable capital assets, except residential land intended for development in terms of a national or provincial housing programme to supply the housing needs of a specific section of the community	Council
Disposal of movable capital assets with an estimated market value above R1 million	Council
Disposal of movable capital assets with an estimated market value below R1 million	Municipal Manager

Exemptions from acquisition/procurement requirements

5.6 The Municipal Manager may dispense with the prescribed processes and authorise the acquisition of any goods or services through any convenient process -

- (a) in the event of an emergency;
- (b) if the required goods or services are available from a single supplier only;
- (c) in any exceptional case where it is impractical to follow the prescribed procedure;
- (d) for the acquisition of special works of art or historical objects where specifications are difficult to compile;
- (e) acquisition of animals for zoos; or
- (f) if the Municipality contracts with another organ of state for the provision of goods or services to the Municipality, or the provision of a municipal service or assistance with the provision of a municipal service or the procurement of goods and services under a contract secured by another organ of state, provided that the supplier concerned consented in writing to such procurement.

5.7 A departmental head seeking the approval of the Municipal Manager in terms of paragraph 5.6 shall submit a written report to the Municipal Manager detailing the reasons why the Municipal Manager should authorise a departure from the prescribed requirements. A report in terms of this paragraph shall contain such information as the Municipal Manager may specify.

5.8 The Municipal Manager shall record her/his decision with regard to an application in terms of paragraph 5.7 in writing and shall, if she/he grants that application, stipulate the alternative procurement process to be followed.

5.9 The decision of the Municipal Manager in terms of paragraph 5.8 shall be final.

- 5.10 The Municipal Manager shall record the reasons for any exemption granted in terms of paragraph 5.8 and report them to the next meeting of the Council and include as a note to the annual financial statements.
- 5.11 Whenever the Municipality procures goods or services in terms of paragraph 5.6(f) the Municipal Manager shall ensure that details of such transaction, including a description of the kind of goods and services procured and the name of the supplier is published in a newspaper of record within seven working days after the relevant contract has been concluded.

CHAPTER 6 DISPOSAL OF THE MUNICIPALITY'S ASSETS

Part 1 Disposal of capital assets

Introduction

- 6.1 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.
- 6.2 The Municipality shall not transfer ownership as a result of a sale or other transaction, or otherwise permanently dispose of a capital asset needed to provide the minimum level of basic municipal services.
- 6.3 Capital assets that are not needed for the provision of basic municipal services may be disposed of, but only after the Council, in a meeting open to the public -
- (a) has decided on reasonable grounds that the asset is not needed to provide the minimum level of basic municipal services;
 - (b) has considered the fair market value of the asset and the economic and community value to be received in exchange for the asset; and
 - (c) has decided that the asset concerned may be disposed of.
- 6.4 The Council reserves the power to decide on the transfer of ownership or otherwise of the disposal of a capital asset that is not needed to provide a minimum level of basic municipal services.
- 6.5 The power to decide on the transfer of ownership or otherwise of the disposal of a movable capital asset below the value of R 1,000,000 that is not needed to provide a minimum level of basic municipal services is delegated to the Municipal Manager.

Role of the Municipal Manager in disposal of assets

- 6.6 The Municipal Manager must ensure that –

- (a) immovable capital assets are sold at market related prices, unless the public interest or the plight of the poor demands otherwise;
- (b) 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;
- (c) immovable capital assets are leased/let at market related rates, unless the public interest or the plight of the poor demands otherwise;
- (d) where assets are traded-in for other assets the highest possible trade-in price is negotiated; and
- (e) all fees, charges, rates, tariffs, scales of fees or other charges relating to the leasing of movable and immovable assets are reviewed annually.

Disposal of immovable capital assets

- 6.7 Subject to the provisions of this policy, the disposal of immovable capital assets shall be effected by means of competitive bidding, or by evaluated or negotiated price if no more than one company is bidding.

Key principles and values

- 6.8 The Municipality has a core responsibility to acquire land and buildings for its own use for purposes of –
- (a) developing and maintaining municipal infrastructure;
 - (b) promoting service delivery;
 - (c) facilitating social and economic development; and
 - (d) facilitating spatial integration.
- 6.9 Taking into account reasonable expected future requirements, land assets unrelated to these responsibilities are, by implication, surplus to the Municipality's requirements.
- 6.10 The Municipality further has a responsibility in terms of acquiring, managing, developing and releasing land, buildings and rights there-in or there-on on behalf of residents and ratepayers. In this regard the key consideration is that the best interests of the Municipality (and thus the residents) rather than that of individuals should be paramount in all real estate transactions that the Municipality enters into. This demands that, in all transactions that the Municipality enters into, there should be maximum benefit to the Municipality, its operational requirements and the local community.
- 6.11 Certain interventions are regularly necessary in land transactions pursued by the Municipality as compared to those of the private property market. As the private property market is solely concerned with maximising capital gain, as opposed to the role of the Municipality in acting in the best interests of local communities, it follows that the

Municipality will not singularly follow the processes and values of the private property market. Moreover, the historic accumulation of land and property is highly varied and the need for redistribution and reform in this regard must be addressed.

- 6.12 Land and buildings affect the entire Municipality and straddle all organisational units of the Municipality. Therefore, the Municipality's policy in this respect must support its sectoral policies such as economic development, environment management, land use, housing, social and community infrastructure, physical planning and infrastructure and culture and recreation. Market forces will always be the point of departure in any property transaction and must be recognised and acknowledged.
- 6.13 The policy regarding the disposal of immovable property includes any right, interest or servitude therein or there over and must also take account of other legislation, policies and practices relating to land use, health, the built and natural environment and safety. The Municipality, in subscribing to affirmative action principles, must therefore incorporate these principles within its real estate management process to redress practices of the past.

Categories of land assets

- 6.14 The Municipality's land assets are categorized as follows:
- (a) Land intended to be developed for residential purposes;
 - (b) Land intended to be developed for commercial and industrial purposes;
 - (c) Land intended to be developed for social purposes, including religious, educational and institutional purposes;
 - (d) Land intended to be developed for sport and recreation purposes; and
 - (e) Land intended for agricultural purposes.

Manner of disposal of the Municipality's various categories of land assets

- 6.15 Land incapable of development on its own within predominantly residential areas (e.g. sanitary lanes and unutilised substation erven) will be offered in ownership to the respective adjoining owner(s) at market value. Each transaction will be subject to a rebate of 50%. The purchaser will be responsible and liable for any and all costs associated with the possible relocation of municipal service infrastructure, rezoning, survey, registration and transfer. The creation of a free-standing lot will in each instance be preferred in order that new residential opportunities are created, subject to the Council's policy regarding minimum lot sizes for various uses.
- 6.16 Residential land capable of development on its own will be offered for sale by means of competitive bidding or public auction, as the Council may prefer from time to time, subject to an upset price that is marketed related and will, within certain pricing cohorts (as determined by the Council from time to time) be allocated to take account of **Black people**, provided that residential land intended for development and sale to beneficiaries of a housing programme of the national or provincial government, shall be offered for

- sale by means of private treaty at a price determined by the Council that takes into account the plight of the poor.
- 6.17 In pursuit of the Council's policy stated in par 6.16, the Council shall at least once during every financial every year –
- (a) Consider a list of all residential properties that may be sold during the financial year in question;
 - (b) Determine the upset price of each such property;
 - (c) Determine the permissible use of each such property; and
 - (d) Set the terms and conditions of sale of each such properties.
- 6.18 As soon as the Council has made the decisions required in terms of par 6.17, the Municipal Manager shall cause an invitation to bid for the purchase of the properties contained in the approved list to be published.
- 6.19 The Municipal Manager shall, as soon as reasonably possible after the closing date for bids in terms of par 6.18, consider and award bids, provided that no bid in respect of the purchase of a property that is lower than the upset price shall be awarded without the express approval of the Council.
- 6.20 The Municipal Manager shall cause a report concerning the outcome of the bidding process to be submitted to the Council.
- 6.21 Any property that has not been sold as a result of the bidding process shall remain available for sale by private treaty for the remainder of the financial year during which it was subjected to the bidding process.
- 6.22 Land that has been acquired primarily for housing or residential purposes which is thus not immediately required for the Municipality's need's will be offered on a short-term lease basis. The rental payable will be at a market rate, unless the Council determines otherwise. The property will be offered for rent by private treaty.
- 6.23 Commercial and industrial land that is incapable of development on its own will be offered in ownership to the respective adjoining owner(s) at market value. The purchaser will be responsible for any and all costs associated with the possible relocation of services, rezoning, survey, registration and transfer.
- 6.24 Commercial and industrial land that is capable of development on its own will be offered for sale by public competition (either by public auction or competitive bidding as the Council may prefer from time to time), subject to an upset price that is marketed related and such other conditions supporting the policies and programmes of the Municipality as the Council may decide from time to time.
- 6.25 Land which is located within an area of specific focus or which is subject to a specific development or social programme may be offered for sale or lease, as the Council may determine on a case-by-case basis, through a competitive bidding process. In such instances the maximisation of return will not necessarily be the determining factor and

the aims of the Municipality will be clearly articulated in the bid documentation. Land in this category may, within certain pricing cohorts (as determined by Council from time to time) be allocated to take account of **Black people**.

- 6.26 Commercial and industrial land not immediately required for the Municipality's needs is land that has been acquired for a capital project which has yet to commence. The property will be offered on a short-term lease basis and the notice period will vary based on when the property will be required. The rental will be at a market rate, unless determined otherwise by the Council.
- 6.27 Ownership of social sites will be offered by means of competitive bidding. Bidders will be subject to a screening process that will take account, amongst other things, of the needs of the community, the nature of the organisation and its ability to discharge its intentions. Sale will be subject to a predetermined price that is market related, or as may be determined by Council.
- 6.28 Amateur sports bodies are those bodies that are providing sporting opportunities of a nature as may be approved by Council from time to time. In this regard not all sport activity, notwithstanding its possible amateur status, is recognised as a responsibility of the Municipality. However, the Council recognises that amateur sports bodies provide a valuable service to the community in terms of recreation and development and assist the Council in the discharge of its responsibilities. Accordingly -
- (a) Land will be offered in an open and competitive process on a lease-hold basis;
 - (b) The lessee will be restricted to amateur status;
 - (c) The lease will be subject to development clauses to ensure the discharge of its intentions;
 - (d) Rental will be established on the basis of a nominal rental for the total land component of the lease as may be approved by the Council from time to time, together with a percentage of the actual market value of 50% of the land occupied by any buildings erected by the body concerned, such percentage being determined by Council from time to time;
 - (e) The lessee will not be liable for rates, but will be responsible for the costs of services consumed;
 - (f) The lease will be subject to conditions to allow the Municipality, through its departments, to utilise the grounds, subject to further terms and conditions as agreed by the lessee and the Council;
 - (g) The lease will preclude discrimination in the membership of the body concerned and the use of the facilities on any grounds as well as any scheme that may result in the exclusion of any person based on her/his physical features or origins;
 - (h) The lease will recognise that the Municipality has limited responsibility in terms of providing for sports and recreation opportunities;

- (i) The lease will ensure that the Municipality retains a minimum base of sport and recreational venues, which might vary from community to community as well as be constrained by operating and capital budgets; and
 - (j) Where existing facilities are being taken over, the lease will recognise the asset value of development already existing, whether this has been directly funded by the Municipality or not.
- 6.29 Agricultural land shall be offered for sale by means of competitive bidding, subject to an upset price that is marketed related and will, within certain pricing cohorts (as determined by the Council from time to time) be allocated to take account of **Black people**.

Transactions with Provincial or National Government

- 6.30 Whenever the Provincial or National Government desires to obtain land owned by the Municipality, ownership in such land shall be offered to the relevant organ of state at the full market value.

Part 2 Disposal of other assets

- 6.31 Only movable assets that have been declared unserviceable, redundant or obsolete may be disposed of.
- 6.32 A movable asset that has not yet reached its estimated asset lifespan in terms of generally recognised accounting practices (GRAP) may not be declared unserviceable, redundant or obsolete without the express written approval of the Municipal Manager.
- 6.33 The departmental head who is responsible for the management of the asset concerned shall not later than 31 October of each year supply the Asset Management **Section** with a list of assets the control of which vest in her/him that has, in her/his opinion, become redundant, unserviceable or obsolete.
- 6.34 The Asset Management **Section** shall inspect the assets included in a list in terms of paragraph 6.33 and shall submit a report on its findings to the Municipal Manager. The departmental head concerned shall supply such assistance as may reasonably be required for the purpose of an inspection to the Asset Management **Section**.
- 6.35 The Municipal Manager shall consider the report and recommendations of the Asset Management **Section** 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.
- 6.36 Any asset that has been declared unserviceable, obsolete or redundant must be kept in a place indicated by the manager responsible for corporate asset management until its disposal is decided on.

- 6.37 If an asset that has been declared redundant, obsolete or unserviceable has been financed by means of a loan not yet fully redeemed, the Chief Financial Officer must determine the method in accordance with and source from which the outstanding balance of the loan will be repaid.
- 6.38 The Asset Management **Section** shall determine the best method for disposing of any unserviceable, redundant and obsolete assets, including written quotation, competitive bid, public auction or by private treaty at market related prices: Provided that –
- (a) in the case of computer equipment the provincial department of education must first be approached to indicate whether any educational institution may be interested in the equipment; and
 - (b) redundant, unserviceable or obsolete firearms shall, under the supervision of the SAPS, be destroyed.
- 6.39 The provincial department of education shall be deemed not to be interested in any equipment offered to it in terms of paragraph 6.38 if it has not indicated its interest in writing within 30 days after the offer has been made.
- 6.40 No redundant, unserviceable or obsolete computer equipment shall be transferred to the provincial department of education or be sold in any manner unless the manager responsible for information technology services certifies in respect of each such computer that its hard drive has been formatted and that no data of the Municipality or any software programmes of which the Municipality is the owner or holder of a licence is stored on such computer.
- 6.41 The Asset Management **Section** shall submit its report and recommendations in terms of paragraph 6.38 to the Municipal Manager.
- 6.42 The Municipal Manager shall consider the report and recommendations of the Asset Management **Section** and shall determine the most advantageous method of disposing of the assets referred to in the report, and submit a report to council for consideration
- 6.43 The Asset Management **Section** shall dispose of the assets as determined by the Council.

CHAPTER 7
REGISTER OF ACCREDITED PROSPECTIVE SUPPLIERS

Part 1
Register of accredited prospective suppliers

Register of accredited prospective suppliers

7.1 The Municipal Manager shall establish and maintain a Register of Accredited Prospective Suppliers by means of an electronic database to be used for the procurement requirements of the Municipality for acquisitions below R 200,000. The register must have separate lists per commodity and per type of service.

Procedure for establishing and maintaining the register

7.2 The Municipal Manager shall within 30 days of the adoption of this policy cause an invitation to be enrolled in the Register to be published and shall, in such notice, stipulate the information that must be submitted and the closing time and date for submission of such information. The Municipal Manager shall thereafter during February of each year by public notice invite prospective suppliers to apply for evaluation and inclusion in the Register **as well as to invite existing suppliers to update their profiles. It will be the suppliers' own responsibility to provide the municipality with a valid tax clearance certificate as and when their tax clearance certificate expires.**

7.3 The Municipal Manager shall make appropriate arrangements to ensure as far as is reasonably possible that –

- (a) the register is updated at least quarterly;
- (b) prospective suppliers can at any time apply for evaluation and inclusion in the register;
- (c) no prospective supplier whose name appears on a database maintained by the National Treasury as a person prohibited from doing business with the public sector, is included in the Register; and
- (d) applications for registration as accredited suppliers may be submitted electronically.
- (e) Prospective suppliers must pay a non-refundable fee of R200.00 for registration on the database of the municipality

7.4 The Municipal Manager shall before she/he publishes an invitation in terms of paragraph 7.2 cause to be compiled a prospective supplier information questionnaire and transmit or give it to all applicants who respond to the invitation, all existing contractors of the Municipality and all known suppliers for completion. Information required shall include –

- (a) 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;
- (b) Registration details regarding income tax, value-added tax, unemployment insurance and skills development levy;
- (c) Postal and physical address of prospective suppliers that will be used as Dom cilium citadel ET executants for the purpose of submitting offers;
- (d) 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;
- (e) Ownership details, e.g. % BLACK PEOPLE ownership of equity;
- (f) Size of enterprise, e.g. micro, small, medium or large;
- (g) Category/ies of goods or services supplied or work performed;
- (h) Number of employees employed by the enterprise; and
- (i) Whether the enterprise is a new (i.e. having been established in the past year) or an existing enterprise.

Evaluation of applications

7.5 In order to ascertain the suitability of applicants for registration, the Chief Financial Officer shall, after consultation with the heads of the Municipality's other departments, –

- (a) 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
- (b) evaluate the amount of assistance that may be required by each applicant.

7.6 Evaluation criteria shall be based on the following:

- (a) Previous experience;
- (b) Qualifications of owner(s), directors, members, trustees and staff;
- (c) Value of contracts completed in the past year;
- (d) Value and duration of current contracts;
- (e) Persons that may be contacted for references;
- (f) Contracts completed on time and within budget; and
- (g) Contracts awarded as a main contractor or as sub-contractor.

7.7 The Municipal Manager shall,(together with the relevant Head of Department) as soon as possible after the closing time of the invitation in terms of paragraph 7.2 examine and assess all applications submitted.

Registration in register

- 7.8 An applicant is suitable for registration on the appropriate list in the Register if she/he, in the opinion of the Municipal Manager together with the relevant Head of Department as determined –
- (a) has the capacity in terms of the availability of personnel, financial resources and administrative infrastructure to execute contracts to a specified value;
 - (b) has relevant experience of a particular nature related to a specific kind or type of contract;
 - (c) has previously executed a contract of a similar nature for the Municipality successfully;
 - (d) complies with the Municipality's policy regarding the economic advancement of **black people**; and
 - (e) is a small, medium or micro-enterprise.
- 7.9 The names of potential suppliers considered to be suitable for the specific purpose to undertake contracts shall be included in the appropriate list within the register. The Chief Financial Officer shall, as soon as she/he has registered a prospective supplier in the Register supply that enterprise with a reference number.

Removing entries from the register

- 7.10 The Municipal Manager shall authorise the removal from the Register –
- (a) the name and other particulars of any supplier at her/his request;
 - (b) if the Municipality considers her/him to be no longer suitable to undertake the contracts concerned, provided that the Municipality shall in writing inform the supplier concerned of its intention to remove her/him from the register stating the respects in which the supplier allegedly is no longer deemed to be suitable to undertake the contracts concerned and granting the supplier concerned an opportunity to reply in writing to such notification before the Municipality makes such a decision;
 - (c) any person contemplated in paragraph 7.3(c) as soon as it becomes known that her/his name is included in the said database;
 - (d) the name and other particulars of a supplier who has been declared insolvent;
 - (e) the name and other particulars of any supplier who is a natural person who enters the services of the State or if that person is not a natural person, if any director, manager, principal shareholder or stakeholder is enters into the service of the state;
 - (f) who is appointed as an advisor or consultant contracted with the municipality; and

(g) the name and other particulars of any supplier

7.11 New applications for inclusion in the Register are considered by the Municipality in the light of the circumstances pertaining to each list.

Utilisation of the register

7.12 Unless otherwise directed by the Municipal Manager, invitations to submit quotations for the goods, work or services concerned are limited to the suppliers whose names are included in the relevant lists in the Register. Invitations for quotations from the Register shall be done on rotation basis in such a manner that ongoing competition amongst suppliers is promoted.

7.13 Where no suitable suppliers are available from the Register, quotations may be obtained from other possible suppliers.

Part 2 Appointment of professional service providers

Principle of a roster system

7.14 This part outlines the approach of the Municipality in the appointment of professional service providers (PSPs), otherwise referred to as consultants. The Municipality shall, like government departments, appoint PSPs using a roster system. The policy sets out the principles used for the establishment and operation of a roster system for the appointments of PSPs.

Categories of PSPs

7.15 This roster system will generally cover, but will not be limited to, the following categories of PSPs.

List	Discipline
A	Integrated development planning and strategic planning
B	Municipal service delivery planning
C	Municipal finance strategy and planning including the development of medium term budgets
D	Human resource management, excluding presiding officers and prosecutors for disciplinary cases
E	Information and communications technology and systems, including design of websites
F	Development of public participation arrangements
G	Economic development
H	Environmental management
I	Advertising, branding and marketing
J	Agri-business development and agricultural extension
K	Project management
L	Corporate communication systems

List	Discipline
M	Legal services, excluding presiding officers and prosecutors for disciplinary cases
N	Engineering services
O	Provision of training
P	Performance management
Q	Surveying
R	Designs, architectural services and quantity surveying
S	Presiding officers and prosecutors for disciplinary cases
T	Organisation design, organisation development and business process design/redesign
U	Financial management and accounting

Purpose of the roster

7.16 The purposes of the roster are to –

- (a) Enable the Municipality to appoint PSPs efficiently without having to follow a competitive bidding process;
- (b) Ensure that the services are carried out in a professional, competent and cost effective manner;
- (c) Allocate work in a fair and equitable manner;
- (d) Promote access to assignments by **Black people**;
- (e) Provide accelerated work opportunities for black owned and black-empowered companies; and
- (f) Promote and encourage mutually beneficial relationship between established service providers and black-owned companies for capacity building.

Assignment from roster

7.17 The Roster will be a single list of PSP firms covering the relevant disciplines and will contain the following data in respect of the offices of every PSP firm –

- (a) the number of registered (where registration is required) active professional personnel employed at the office applying for registration classified in respect of race, gender, disability and age;
- (b) the disciplines and sub-disciplines in which the office applying for registration is competent;
- (c) the geographical location of the office applying for registration with a domicile in the Free State;
- (d) the empowerment status of the firm applying for registration, i.e. whether it is black-owned or black-empowered;
- (e) the field(s) of specialisation of the firm applying for registration;

- (f) the rand value of work done for the Municipality (including previous town councils) since the national elections on 27 April 1994.

Preferential treatment of preferred firms

- 7.18 PSPs that are black-owned and black-empowered shall receive accelerated benefit from inclusion in the roster. Such firms shall qualify for preferred status, will be given accelerated access to work opportunities and will rotate faster on the roster than firms which do not enjoy such status.
- 7.19 The Municipality may require non-**BLACK PEOPLE** firms to enter into structured joint ventures with **BLACK PEOPLE** firms in order to develop skills, competency, expertise and capacity in the latter;
- 7.20 The mechanism for allowing accelerated access to work will be applied as follows.
 - (a) Category A (Black-owned enterprises): move up 3 positions during the updating of the list annually;
 - (b) Category B (Black-empowered enterprises): move up 2 positions during the updating of the list annually; and
 - (c) Category C (More than 20% equity in the enterprise is owned by women, differently-abled persons and the youth): move up 1 position during the updating of the list annually.

Financial targets

- 7.21 The following targets will apply in the case of **BLACK PEOPLE** firms, based on estimated professional fees:
 - (a) Category A: 40% of the annual value of professional fees;
 - (b) Category B: 30% of the annual value of professional fees; and
 - (c) Category C: 20% of the annual value of professional fees
- 7.22 To achieve the minimum goals set above, **BLACK PEOPLE** PSP firms shall be appointed irrespective of the position on the roster, provided they can demonstrate the ability to undertake and complete the work.

Registration on the roster

- 7.23 PSP firms are encouraged to register by 31 March every year.
- 7.24 No individual may be a principal of more than one PSP firm on the roster, unless such different firms practice different disciplines and offer specialist competencies.

- 7.25 A PSP firm which enjoys **BLACK PEOPLE** status may be registered on the roster without professional indemnity insurance, but will be expected to obtain such insurance upon receipt of an appointment from the Municipality.
- 7.26 In a joint venture between a **BLACK PEOPLE** and non-**BLACK PEOPLE**, the **BLACK PEOPLE** partner shall contribute at least 30% in the joint venture.

CHAPTER 8 PREFERENCES

Preferences for acquisitions

8.1 Offers for the acquisition of goods and services shall be adjudicated on the following criteria:

- (a) Contracts for the supply of goods and the execution of work with a Rand value between R 30, 000 up to **R 1 000 000(one million rands)** shall be adjudicated on an 80/20 basis, as follows –

- (i) Points awarded for price and functionality:

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

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) Contracts for the supply of goods and the execution of work with a Rand value exceeding **R 1 000 000(one million rands)**, will be adjudicated on an 90/10 basis, as follows –

- (i) Points awarded for price and functionality

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

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

- 8.2 The points scored by a bidder in terms of paragraph 8(a)(i) must be added to the points scored in terms of paragraph 8(a)(ii). The points scored in terms of paragraph 8(b)(i) must be added to the points scored in terms of paragraph 8(b)(ii).
- 8.3 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.
- 8.4 No preference points shall be awarded for equity ownership if the bidder is a public company.

Cancellation of specific bids

8.5 A bid must be cancelled when –

- (a) in the application of the 80/20 preference point system all bids received exceed the estimated Rand value of **R 1 000 000**; and
- (b) in the application of the 90/10 preference point system all bids received are equal to, or below, R 500,000.

8.6 After cancellation of a bid in terms of paragraph 8.6, the Municipality must re-invite bids stipulating the correct preference point system to be applied.

Preference point system for disposals

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

- (a) equal to or above R 30 000 up to a value of **R 1 000 000.00**:

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

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

- (b) with a value above **R 1 000 000.00**:

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

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

- 8.9 A maximum of 10 or 20 points, as the case may be, may be awarded to a bidder for **BLACK PEOPLE** ownership.
- 8.10 The points scored by a bidder in respect of **BLACK PEOPLE** ownership must be added to the points scored for price.
- 8.11 Only the bid with the highest number of points scored may be selected.

Principles

- 8.12 In the event that the percentage **BLACK PEOPLE** ownership of any bidder changes after the closing date of a quotation or bid, the bidder must notify the Municipality of the changes. The bidder will, if the percentage **BLACK PEOPLE** ownership increases, not be eligible for any additional preference points. However, should the percentage **BLACK PEOPLE** ownership decrease, the preference points for equity ownership shall be reduced accordingly.
- 8.13 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.
- 8.14 A consortium or joint venture shall be entitled to preference claims, based on the percentage of profit allocated to black-owned and black-empowered enterprises in the consortium or joint venture for the particular contract.
- 8.15 A person awarded a contract as a result of preference for **BLACK PEOPLE** equity may not subcontract more than 25% of the value of the contract to a person who does not qualify for such preference.

Declarations

- 8.16 A bidder must, in the stipulated manner, declare that –
- (a) the information regarding any claim from preference points provided is true and correct;
 - (b) the signatory to the bid document is duly authorised; and
 - (c) documentary proof regarding any bidding issue will, when required, be submitted to the satisfaction of the Municipality.

Penalties

- 8.17 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 -
- (a) 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
 - (b) cancel the contract and claim damages which the Municipality may suffer as a result of having to make less favourable arrangements; and/or

- (c) impose on the contractor a penalty not exceeding five per cent of the value of the contract.

CHAPTER 9 GENERAL DIRECTIVES

Conditions and procedures

- 9.1 The general conditions and procedures set out in this policy and code are, subject to paragraph 9.2, applicable to all bids, written and verbal quotations, contracts and orders.
- 9.2 The Municipal Manager may, after consideration of the report and recommendations of the bid specification committee, prior to the Municipality inviting bids or written quotations determine special terms and conditions of contract and offer or procedures to cover the supply of specific goods, the execution of specific work or the rendering of specific services. Where such special terms and conditions or procedures are in conflict with the general terms and conditions and procedures contained in this Code, the special terms and conditions and procedures shall apply.
- 9.3 The Municipality shall not consider any unsolicited bid received outside its normal bidding process.

Communication with the Municipality

- 9.4 All correspondence in regard to this code, the policy and any bid or written quotation and contract -
 - (a) must, if made by ordinary mail, be addressed to the Municipal Manager, P O Box 708, Welkom; or
 - (b) may be transmitted to the Municipal Manager at –
 - (i) telefacsimile number 057-391- 2482; or
 - (ii) munman@matjhabeng.co.za if made by electronic mail

Availability of conditions and procedures

- 9.5 Copies of this code and the policy, and any amendment thereto, shall be available -
 - (a) free of charge on the Municipality's website; and
 - (b) in hard copy from the Municipal Manager at a price determined from time to time by the Council.

Formal contracts

- 9.6 Formal contracts are concluded with contractors only if the Municipality states it as a requirement in the relevant invitation.
- 9.7 Should the Municipality not require that a formal contract be entered into between the Municipality and the contractor, the bid or quotation, letter of acceptance of and/or official order issued by the Municipality shall be deemed to contain the contract between the parties.
- 9.8 Notwithstanding section 9.7 the municipality is obliged to enter into a formal standard contract with the service provider
- 9.9 The SA Post Office Ltd is deemed to be the agent of the bidder. The Municipality shall post to the bidder concerned by ordinary pre-paid mail at the address furnished in her/his bid or written price quotation or to the address notified later by her/him in writing any and all such documents, orders and correspondence as may be required. Such posting shall be deemed to be proper service of such documents, orders and correspondence. Any period of time mentioned in the bid or written price quotation or in the contract for performing any act after such aforesaid notice has been given, shall be reckoned from the date of posting of such notice.

CHAPTER 10 INVITATION OF WRITTEN PRICE QUOTATIONS AND BIDS

General

- 10.1 The Municipality shall not be liable for any expense incurred by a bidder –
- (a) in respect of the preparation and submission of an offer;
 - (b) when required to do so, for making any presentation or performing any demonstration to the bid evaluation committee or any official authorised to procure goods, services or the execution of work on behalf of the Municipality;
 - (c) in respect of the services of any legal practitioner during any negotiation regarding a contract.
- 10.2 Unless the Municipal Manager directs otherwise, written quotations and bids shall be invited in the Republic only.
- 10.3 The laws of the Republic shall govern contracts arising from the acceptance of any offer.
- 10.4 A bidder must choose domicilium citadel ET executants in the Republic.
- 10.5 The bid number must not appear on any envelope containing enquiries regarding a bid or written quotation. In particular, the bid number must not appear on an envelope containing a request for bid or quotation documents.

- 10.6 Any offer must be filled in and completed in an official language of the Republic.
- 10.7 All prices offered in any offer must be in South African currency.
- 10.8 Should there be any difference or discrepancy between the prices or particulars contained in the official bid or quotation form and those contained in any covering letter of the bidder, the prices or particulars contained in the official bid or quotation form shall in all circumstances prevail.

Steps to be taken prior to inviting written quotations and bids

- 10.9 Before any bid or written quotation for the acquisition of any goods, the execution of any work or the rendering of any service may be invited, the relevant departmental head shall obtain the written approval of the Municipal Manager, whose decision in the matter shall be final, to incur such expenditure if the estimated expenditure will amount to more than R 30,000 (VAT inclusive). The Municipal Manager may –
- (a) refuse the application;
 - (b) grant the application but direct that the invitation of quotations or bids be delayed until a date determined by her/him; or
 - (c) Grant the application without any conditions.
- 10.10 No bid or written quotation may be invited for the supply of any goods, the rendering of any service or the execution of any work unless –
- (a) adequate provision has been made to cover the full amount of the expenditure to be incurred in the appropriate budget; and
 - (b) the bid documentation, including the specifications, if any, of the goods to be acquired, work to be executed or service to be rendered has been submitted to the bid specification committee and approved by the Municipal Manager if the estimated total value of the contract will exceed R30,000 (VAT inclusive).
- 10.11 If it is expected that the actual expenses (inclusive of VAT and disbursements) that must be incurred for the acquisition of any goods, execution of any work or rendering of any service for which provision has been made in the budget will exceed the amount provided in the appropriate budget and in respect of which the Municipal Manager has granted approval in terms of paragraph 10.9, the departmental head concerned must obtain the approval of the Executive Mayor for the over-expenditure prior to inviting bids or written price quotations. The Executive Mayor shall include any authorisation which she/or may grant in the adjustments budget for consideration by the Council. The decision of the Executive Mayor regarding the matter shall be final.
- 10.12 If its is clear, after quotations or bids have been invited and opened that the expenses to be incurred in relation to a contract will exceed the approved budget vote, the departmental head concerned must –

- (a) obtain the approval of the Executive Mayor for the over-expenditure prior to submitting her/his report regarding the quotations or bids to the bid evaluation committee, provided that the Executive Mayor shall include any such authorisation in the adjustments budget for consideration by the Council; or
- (b) Recommend to the bid evaluation committee that the Municipality not accept any quotation or bid or to accept only part of a quotation or bid in order not to exceed the amount proved for in the budget.

10.13 The Executive Mayor shall not approve an application in terms of paragraph 10.11 or 10.12(a) unless the departmental head concerned, after consultation with the Chief Financial Officer, indicates the budget vote or votes under which money can or has been saved and reallocated to the budget vote or votes that will be exceeded. Any saving and reallocation of money between votes must be in the same budget.

Bids for the supply of information technology related goods or services

10.14 The Municipal Manager –

- (a) may request the State Information Technology Agency (SITA) to assist the Municipality with the acquisition of information technology related goods or services through a competitive bidding process;
- (b) may enter into a written agreement to regulate the services rendered by, and the payments to be made to, the SITA; and
- (c) Shall notify the SITA together with a motivation of the information technology needs of the Municipality if -
 - (i) The transaction value of information technology related goods or services required by the Municipality in any financial year will exceed R50 million (VAT included); or
 - (ii) The transaction value of a contract to be procured by the Municipality whether for one or more years exceeds R50 million (VAT included).

10.15 If SITA comments on the submission and the Municipal Manager disagree with such comments, the comments and the reasons for rejecting or not following such comments must be submitted to the Council, the National Treasury, the provincial treasury and the Auditor General.

Bid documentation

10.16 Bid documentation must specify that the Municipality shall not consider any offer unless the supplier who submitted the quotation or bid -

- (a) Has furnished the Municipality with her/his -
 - (i) Full name;

- (ii) Identification number, if she/he is a natural person, or company or other registration number; and
- (iii) Tax reference number and VAT registration number, if any;
- (b) Has authorised the Municipality to obtain a tax clearance from the South African Revenue Services that the provider's tax matters are in order;
- (c) Has indicated -
 - (i) Whether she/he is in the service of the state, or has been in the service of the state during the previous twelve months;
 - (ii) if the supplier is not a natural person, whether any of its directors, managers, principal shareholders or stakeholder is in the service of the state, or has been in the service of the state during the previous twelve months; or
 - (iii) whether a spouse, child or parent of the provider or of a director, manager, shareholder or stakeholder referred to in subparagraph (ii) is in the service of the state, or has been in the service of the state during the previous twelve months;
- (d) has supplied and attached to her/his bid or quotation a certified copy of her/his registration certificate in terms of section 16(7) of the Construction Industry Development Board Act 2000 (Act No 38 of 2000) together with her/his bid if the contract is for the execution of work;
- (e) Is registered in terms of the Banks Act 1990 (Act No. 94 of 1990) if the bid involves the procurement of banking services; and
- (f) has supplied and attached to her/his bid or quotation a certificate or declaration in terms of section 53(1)(b) of the Employment Equity Act 1998 (Act No 55 of 1998).

10.17 The bid documentation must -

- (a) Take into account -
 - (i) The general conditions of contract set out in Chapter 15;
 - (ii) Any Treasury guidelines on bid documentation; and
 - (iii) The requirements of the Construction Industry Development Board, in the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure;
- (b) Include the evaluation and adjudication criteria, including any criteria required by other applicable legislation;

- (c) Compel bidders to declare any conflict of interest they may have in the transaction for which the bid is submitted;
- (d) If the value of the transaction is expected to exceed R10 million (VAT included), require bidders to furnish –
 - (i) if the bidder is required by law to prepare annual financial statements for auditing, their audited annual financial statements -
 - (AA) for the past three years; or
 - (Bb) since their establishment if established during the past three years;
 - (ii) a certificate signed by the bidder certifying that the bidder has no undisputed commitments for municipal services towards a municipality or other service provider in respect of which payment is overdue for more than 30 days;
 - (iii) Particulars of any contracts awarded to the bidder by an organ of state during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract;
 - (iv) a statement indicating whether any portion of the goods or services are expected to be sourced from outside the Republic, and, if so, what portion and whether any portion of payment from the municipality is expected to be transferred out of the Republic; and
- (e) Stipulate that disputes must be settled by means of mutual consultation, mediation (with or without legal representation), or, when unsuccessful, in a South African court of law.
- (f) Registration of the company with relevant institutions as required by any applicable law

10.18 The relevant bid specification shall, where applicable, indicate the quantity of any goods that must be supplied, using one of the following methods –

- (a) a quantity which may not be varied without mutual consent between the Municipality and the contractor;
- (b) a quantity which may be subject to a percentage increase or decrease;
- (c) a maximum quantity where the minimum quantity ordered cannot be guaranteed but where the maximum quantity may not be exceeded without the consent of the contractor;
- (d) a quantity not specified; or
- (e) A quantity not guaranteed.

10.19 The Municipality does not bind itself to accept the offer of any bidder for, or purchasing, the exact quantity of any item or items specified in the quotation or bid documents or

invitation to submit offers for any item or items but may alter such quantities as it deems necessary for its requirements and to suit its present stock and other reasonable considerations, provided that this stipulation applies, with the necessary changes, to any stipulated timeframe for the delivery of any goods, the rendering of any service and the execution of any work.

10.20 The Municipality reserves the right to vary the quantities of any goods actually purchased in terms of the contract concerned, provided that that any such variations shall not increase or decrease the total contract price by more than 20 per cent.

10.21 All quantities offered or delivered shall be net mass and/or metric measure.

Publication of bid invitations

10.22 Invitations soliciting written quotations and bids shall be published under the name and signature of the Municipal Manager.

10.23 An invitation to prospective providers to submit bids must be by means of a public advertisement in newspapers of record, the website of the municipality and any other appropriate ways.

10.24 A copy of any notice inviting bids shall be posted on the Municipality's –

- (a) notice boards in all its office-buildings; and
- (b) website

Not later than the date of publication and shall be maintained on such notice boards and website until the closing time on the closing date: Provided that –

- (i) where accredited suppliers have been identified in respect of the subject matter of any quotation, such notice shall be transmitted to them; and
- (ii) invitations soliciting written quotations for contracts with an estimated value exceeding R 30,000 (VAT inclusive) shall be published only as specified in paragraphs (a) and (b).

10.25 The notice inviting offers shall stipulate –

- (a) the nature of the goods, services or work required by the Municipality;
- (b) whether the Municipality has prescribed quotation or bid documents relating to the specific enquiry that must be used;
- (c) where and at what cost, if any, such documents may be obtained;
- (d) if applicable, the quantity of the items the Municipality wishes to purchase where there are no documents indicating such quantities;
- (e) the closing date and time of the quotation or bid concerned, which may not be less than 30 days in the case of transactions over R10 million (VAT included), or

which are of a long term nature, or 14 days in any other case, from the date on which the advertisement is placed in a newspaper, provided that the Municipal Manager may, on a case by case basis, in writing determine a closing date for the submission of bids which is less than the 30 or 14 days, as the case may be, 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 prescribed procurement process;

- (f) the number of the quotation or bid;
- (g) the contact details of the person to whom enquiries with regard to a quotation or bid may be directed;
- (h) whether or not prospective bidders are required to attend any compulsory meeting prior to submission of a bid and the time, date and venue of such meeting;
- (i) the preference point system that will be applied during the adjudication of offers;
- (j) that it is an objective criterion of the offer concerned, in accordance with section 2(1)(f) of the Preferential Procurement Policy Framework Act, that bidders must have the necessary skills, experience and capacity to perform the required work and that bidders must provide at least 3 references of similar work done previously;
- (k) that the Municipality has the right not to accept any offer or only part of an offer if –
 - (i) the offered amounts are too high;
 - (ii) the bidders do not comply with the specific bid goals; or
 - (iii) objective criteria exist which justify or necessitate the non-acceptance of any offer;
- (l) the place where and manner in which offers must be submitted; and
- (m) Any other relevant information.

Charge for documents

10.26 A charge, as determined by the Chief Financial Officer and stated in the invitation to bid, shall be raised for bid documents.

Availability of specifications

10.27 Where SABS or any other specifications are referred to in quotation or bid documents, any bidder has the right to consult such specifications during office hours at the Municipal Manager's office or to purchase copies thereof from the Municipality at a price determined by the Council.

Procurement of consulting services

- 10.28 The Municipal Manager may procure consulting services for the Municipality, provided that any Treasury guidelines in respect of consulting services are taken into account when such procurements are made.
- 10.29 A contract for the provision of consulting services to the Municipality must be procured through competitive bids if –
- (a) The value of the contract exceeds R200,000 (VAT included); or
 - (b) The duration period of the contract exceeds one year.
- 10.30 In addition to any requirements prescribed by this policy and Code for competitive bids, bidders for providing consulting services must furnish the Municipality with particulars of –
- (a) All consulting services provided to an organ of state in the last five years; and
 - (b) Any similar consulting services provided to an organ of state in the last five years.
- 10.31 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 rendering a consulting service vests in the Municipality.

Closing of bids

- 10.32 Submission of offers close at 12:00 on the closing date indicated in the invitation to quote or bid. No offer may close on a Saturday, Sunday or public holiday.
- 10.33 The Municipal Manager may in her/his sole discretion, extend the closing date of any invitation to submit offers in exceptional circumstances, provided that a further notice to this effect is published before the closing date.

CHAPTER 11 LODGING AND OPENING OF OFFERS

Bid box

- 11.1 The Chief Financial Officer shall supply and maintain a lockable bid box at the Municipality's administrative headquarters in a place that is accessible for the public during normal business hours. The bid box must –

- (a) have an opening in the top or front through which bids may be dropped but which is not large enough for any package or envelope deposited there-in to be removed through such opening;
 - (b) Be clearly marked; and
 - (c) Securely fixed to the floor or a wall of the place where it is provided in a manner that would prevent it from being removed from that place.
- 11.2 The Chief Financial Officer shall ensure that the bid box is always locked, except when quotations and bids are removed from it in terms of this policy and Code, and that the key to it is kept in a safe place.

Lodging of bids

- 11.3 Bids, in sealed envelopes, shall during normal office hours be lodged not later than the closing time on the closing date specified for their receipt by deposit in the bid box at the Municipality's administrative headquarters situated at the Civic Centre, State Way, Welkom.
- 11.4 All bids received by ordinary mail or courier in a sealed envelope or package with the relevant bid number on the envelope or package shall be deposited forthwith and unopened in the bid box until the closing time of the bids concerned.
- 11.5 No bid received by electronic mail, telefacsimile, telex, telegram or similar device shall be accepted for consideration.
- 11.6 No official or councillor of the Municipality or service provider engaged by the Municipality or employee of such service provider shall accept receipt of a bid and promise or undertake to deposit such bid in the bid box.

Lodging of written quotations

- 11.7 A written quotation may be submitted by electronic mail or telefacsimile message, provided that an original, signed and properly completed quotation shall be submitted upon request of the Municipality.
- 11.8 The Municipality is not liable for the information contained in any quotation submitted by electronic mail or telefacsimile being properly and completely transmitted or for any delay in its transmission or receipt.
- 11.9 No official or councillor of the Municipality or service provider engaged by the Municipality or employee of such service provider shall receive a price quotation sent by electronic mail or telefacsimile and promise or undertake to deliver such quotation to the relevant person, except in the normal course of her/his duties.
- 11.10 A written quotation submitted by electronic mail or telefacsimile shall not be accepted for consideration unless all the pages of such quotation have been received by the closing time on the closing date.

Documents to be used and information to be furnished

11.11 Bidders are required to –

- (a) make use of the prescribed quotation or bid documents, if any;
- (b) insert the prices offered and other required information in the appropriate spaces on the prescribed forms;
- (c) furnish all further information called for in the documents; and
- (d) supply such pamphlets, samples and other information as may be required.

11.12 An offer may be rejected as invalid if the bidder fails to –

- (a) submit an offer signed in ink;
- (b) complete the quotation or bid documents, certificates, questionnaires, specification forms and other documents in all respects;
- (c) state the price offered in South African currency;
- (d) include sufficient information to determine whether the offer complies to the specifications;
- (e) fails to renounce any terms and conditions set by the bidder when called upon to do so;
- (f) accept the terms and conditions of quote or bid set out in this code and the relevant documents;
- (g) disclose the country of origin and the name of the manufacturer of any goods offered;
- (h) furnish the Municipality with her/his -
 - (i) full name;
 - (ii) identification number or company or other registration number; and
 - (iii) tax reference number and VAT registration number, if any;
- (i) authorise the Municipality to obtain a tax clearance from the South African Revenue Services that the provider's tax matters are in order;
- (j) Indicate -
 - (i) Whether he or she is in the service of the state, or has been in the service of the state during the previous twelve months;
 - (ii) if the supplier is not a natural person, whether any of its directors, managers, principal shareholders or stakeholder is in the service of the

state, or has been in the service of the state during the previous twelve months; or

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

(k) supply, attached to her/his bid or quotation, a certified copy of her/his registration certificate in terms of section 16(7) of the Construction Industry Development Board Act 2000 (Act No 38 of 2000) together with her/his bid if the contract is for the execution of work; or

(l) supply, attached to her/his bid or quotation, a certificate or declaration in terms of section 53(1)(b) of the Employment Equity Act 1998 (Act No 55 of 1998).

Municipality's terms and conditions shall prevail

11.13 The bidder shall, when submitting an offer, be deemed to have satisfied her/him as to all the terms and conditions and procedures relating to, and circumstances affecting, the offer concerned.

11.14 Except when the Municipality expressly agrees thereto, offers shall not be qualified by the bidder's own conditions.

11.15 The bidder shall be deemed to know and understand any general and specific terms and conditions of purchase and contract and the submission of an offer shall presume complete acceptance of the said terms and conditions. Variation by the bidder of the terms and conditions afore-said may render the offer liable for rejection.

11.16 No term or condition contained upon any stationary used by a bidder for the purpose of, or in connection with, an offer shall form part of the contract between the Municipality and the bidder. If the offer concerned is accepted where such term or condition is in conflict with any general or specific terms and conditions of purchase set by the Municipality, the term or condition set by the Municipality shall prevail in all circumstances.

Identification requirements

11.17 Each bid shall be addressed and marked for identification in accordance with the directives in the invitation to bid and shall be lodged in a separate sealed envelope or package with the name and address of the bidder, the bid number and the closing date indicated on the envelope.

11.18 Each written quotation submitted by ordinary mail or delivered by hand shall be addressed and marked for identification in accordance with the directives in the invitation to quote and shall be lodged in a separate sealed envelope or package with the name and address of the bidder, the quotation number and the closing date indicated on the envelope.

Invalid offers

- 11.19 No bids forwarded by telegram, telex, telefacsimile, electronic mail or similar apparatus shall be considered.
- 11.20 Photocopies of bids or photocopies of facsimiles which are lodged in the prescribed way and in which the relevant documents, forms and certificates are signed in ink, after being copied, are accepted as valid bids.
- 11.21 Offers shall not be included in packages containing samples and such offers may be rejected as being invalid.

Late offers

- 11.22 An offer is late if it is received at the address indicated in the quotation or bid documents or discovered in the bid box after the specified closing time.
- 11.23 A late offer shall under no circumstances be admitted for consideration. Where practicable a late offer shall be returned unopened to the bidder accompanied by a written explanation.

Quotations or bids received open

- 11.24 Where the envelope or package containing an offer is received open, it shall be sealed and the person receiving and sealing it, shall endorse the envelope or package in ink as follows –

“Quotation/Bid received open. Sealed by me”

and sign her/his name, job title and the time and date underneath such statement and deposit such envelope or package in the bid box.

Opening of quotations and bids

- 11.25 An employee instructed by the Chief Financial Officer shall, accompanied by an official of the purchasing department who was designated by the relevant departmental head and in the presence of such bidders as may be present, immediately after the closing time for offers as stipulated in the invitation to submit offers, unlock the bid box and remove all offers found there-in. If at that time there are offers in the bid box that has not yet closed, such offers shall be replaced in the bid box, where after the bid box shall be locked.
- 11.26 Offers are opened in public as soon as practicable after the closing time and in the presence of such bidders as may be present.
- 11.27 As soon as an offer has been opened, the representative of Chief Financial Officer shall enter into the bid register the name of the bidder, the price offered and such other particulars regarding every offer as may be appropriate, including any quotations received by electronic mail and telefacsimile.
- 11.28 Except as provided for herein, the names only of the bidders are read out, if so requested, at the time of opening of offers and after the offers received has been entered into the bid register. The prices offered shall be disclosed on request at the time of opening of the offers.

11.29 The bid register contemplated in paragraph 11.27 shall –

- (a) be available for public inspection during office hours at the office of the Chief Financial Officer; and
- (b) be published on the Municipality's website.

Handing over of offers received to the purchasing Department

11.30 The Chief Financial Officer's representative shall, as soon as she/he completed the bid register and complied with paragraph 11.28, hand the offers to the purchasing Department's representative against her/his signature.

Samples

11.31 When samples are called for in quotation or bid documents, such samples (marked with the quotation or bid and item number as well as the bidder's name and address) shall be dispatched to the Municipality so as to reach it not later than the closing time of the quotation or bid. Samples may be sent by air but if same are air-freighted, shall be delivered by the bidder's own agent, at her/his own expense and risk. No employee or councillor of the Municipality or a service provider of the Municipality or an employee of such a service provider may offer or agree to fetch any package containing samples from an airport or agent of a bidder. Offers shall not be included in parcels containing samples and samples shall not be included in parcels containing offers.

11.32 If samples are not submitted as requested, the offer concerned may be declared invalid.

11.33 Samples shall not be submitted in support of offers unless called for in the quotation or bid documents.

11.34 Samples shall be supplied by a bidder at her/his own expense and risk and the Municipality shall not be obliged to pay for, or to return, such samples. The Municipality reserves the right to dispose of samples not returned to a bidder at its own discretion. When samples have served their purpose and are to be returned to the bidder, the bidder shall be given written notice to remove the samples at her/his own expense and risk within a specified period, failing which the bidder concerned forfeits ownership of the samples and the samples shall forthwith be disposed of at the discretion of the Municipality.

11.35 Where an offer is accepted for the supply of goods according to a sample submitted by the bidder, such sample becomes the contract sample and further samples as required for the purposes of the contract shall be provided by the contractor as requested by the Municipality and at the contractor's own expense and risk.

Validity period of quotations and bids

11.36 The period for which offers shall remain valid and binding for the period indicated in the quotation or bid documents, which period shall be calculated from the closing date.

11.37 Offers shall remain in force and binding until the close of business on the last day of the period calculated, provided that if that day falls on a Saturday, Sunday or public holiday, the offer shall remain valid and binding until close of business on the first working day following such Saturday, Sunday or public holiday.

Bid prices and delivery periods

11.38 Firm quoted and bid prices and delivery periods shall be preferred.

11.39 The following considerations shall apply when quotations and bids with non-firm prices and delivery conditions are evaluated:

- (a) Claims in respect of exchange rate fluctuations, in the case of firm as well as non-firm prices.
- (b) The bid evaluation committee may, where non-firm prices are offered, require that proof of labour and material costs or other factors which are specified by the bidder, must be submitted.
- (c) Where a range of delivery periods is quoted, the worst implied or stated delivery period is used when calculating comparative prices.
- (d) Where a bidder has not indicated whether her/his prices or delivery periods are firm or not, the offered prices and delivery periods are deemed to be firm and the contractor shall be bound thereby.

11.40 Expressions such as "soonest" or "earliest" or delivery periods which are unspecified shall not be accepted.

Alternative offers

11.41 Offers which are to specification shall be preferred.

11.42 A bidder may, unless otherwise directed by the Municipal Manager, submit offers which are almost, but not strictly to, specification irrespective of whether she/he also submits one or more offers conforming strictly to specification.

11.43 Alternative offers which are made in addition to offers that conform to the stated specifications, shall be submitted on separate copies of the quotation or bid documents.

11.44 Any alternative offered by a bidder may only be accepted for consideration if it, in the opinion of the bid adjudication committee, or the Municipal Manager, as the case may be, is to the Municipality's economic and technical advantage.

11.45 In the event of offers for the supply of goods or the execution of work differing or varying from the requirements of the specification, all such variations and differences shall be indicated clearly and described in the offer.

Partial quotations and bids

11.46 Offers may be submitted for some of the specified items or part of the specified quantity or requirement in respect of contracts for the supply of goods and the rendering of services only.

Bids for banking services

11.47 No bid for providing banking services to the Municipality may be for a period of more than five years.

CHAPTER 12 PREPARATION OF QUOTATION AND BID REPORTS

Commencement with evaluation

12.1 The relevant departmental head shall, as soon as reasonably possible after the offers have been opened, prepare the bid report.

12.2 The departmental head may –

- (a) instruct an official in her/his department to prepare the bid report; or
- (b) If the offer involves the execution of work or the supply of goods the specifications and other bid documents of which have been prepared by an external service provider appointed by the Municipality, instruct such service provider to prepare the bid report.

Sorting of offers

12.3 The person preparing the bid report (hereinafter called the evaluator) shall separate the offers according to those complying in all respects with the relevant specifications, if any, and those that do not.

12.4 Thereafter the offers complying with the specifications shall be further sorted according to those offers the maximum price of which is within the amount appropriated in the approved budget and those that are not, and thereafter the offers not complying with the specifications shall be similarly sorted.

12.5 Once the offers have been sorted in terms of paragraph 12.4, the evaluator must further sort them according to –

- (a) whether or not the bidder claimed any preferences in terms of this policy and code; and
- (b) Whether or not the bid documentation has been signed in ink by a person who has been authorised to do so.

Evaluation procedure

- 12.6 As soon as the offers have been sorted in terms of paragraphs 12.3 to 12.5, inclusive, the evaluator shall, starting with those offers that in all material respects comply with the specifications, if any, determined in the bid documents and that offer prices that are within the amount provided for in the appropriate budget for the expense to be incurred, bring the offers to the comparative price level by deducting valid claims for preferences and adding delivery and other incidental cost and bringing implied contract price adjustments into account.
- 12.7 Thereafter, offers that are within the provision made for the expense in the appropriate budget that offers the goods, work or services departing from the prescribed specifications, if any, shall be evaluated by determining whether the specifications offered shall be adequate in terms of the quality standards expected by the Municipality and such other reasonable and relevant criteria, including availability of spare parts, durability and aesthetic appearance.
- 12.8 As soon as the quotations or bids referred to in paragraph 12.7 has been evaluated, the evaluator shall repeat the processes in paragraphs 12.6 and 12.7, respectively, in relation to those offers that offer prices that are more than the amounts provided for in the appropriate budget.

Determination of BLACK PEOPLE equity ownership

- 12.9 Equity ownership in any enterprise which submitted an offer and which claims preference points based on BLACK PEOPLE ownership, shall be equated to the percentage of the enterprise concerned which is owned by **Black people**, or in the case of close corporations and private companies, the percentage of shares or interest, as the case may be, that are owned by **Black people** who are actively involved in the daily management and operation of the enterprise and who exercises control over the enterprise commensurate with their degree of ownership. If any BLACK PEOPLE in respect of whom preference points are claimed is not actively involved in the daily management and operation of the enterprise and does not exercise control over the enterprise commensurate with their degree of ownership, the bid evaluation committee may adjust the preference points awarded by the evaluator.

Format of the bid report

- 12.10 The bid report shall state –
- (a) The purpose of the report;
 - (b) The purpose of the quotation or bid;
 - (c) Whether the invitation to quote or to bid was published or extended only to preferred suppliers;
 - (d) The amount of money provided for in the budget for the expense to be incurred, as well as the number of the relevant budget vote which will be debited with payments resulting from the offer;
 - (e) A list of offers that are considered to be invalid in terms of the code and policy and the reason for their invalidity;

- (f) The criteria that were used to determine the appropriateness of offers offering alternative specifications than those prescribed;
- (g) A list, in the form of a separate schedule, of the valid offers that must be considered, separating bids according to the criteria determined in paragraphs 12.6 to 12.8, inclusive;
- (h) If the acceptance of the offer will result in over expenditure of the relevant budget vote, recommendations regarding financing of any excess or accepting only part of the offer;
- (i) Any incident of a bidder making a misleading or false claim or supplying false or misleading representations in her/his offer, including any incident relating to the overstatement of an BLACK PEOPLE's degree of managerial and operational involvement in an enterprise or the level of control she/he exercises over the enterprise; and
- (j) The recommendation of the evaluator, briefly stating the reasons for the recommendation and the reason why any of the other eligible offers should not be accepted.

Circulation of the bid report prior to submission

- 12.11 The departmental head concerned shall, as soon as she/he completed and signed the bid report, or received the draft bid report from the external service-provider contemplated in paragraph 12.2(b) and signed it, transmit the bid report to the Chief Financial Officer.
- 12.12 The Chief Financial Officer shall as soon as is reasonably possible after she/he received a bid report, study the report and comment on it with specific reference to –
- (a) its financial implications;
 - (b) the correctness of the calculation of any preferences claimed;
 - (c) whether sufficient funds have been provided for in the budget to cover the expense; and
 - (d) any brokerage or discount allowed to the Municipality.
- 12.13 The Chief Financial Officer shall, after she/he has considered the bid report, submit the report, together with her/his comment and recommendation, to the bid evaluation committee, provided that if the amount of the offer exceeds the amount provided for in the appropriate vote of the relevant budget and the departmental head concerned recommends that the over expenditure be incurred, the bid report containing the comment of the Chief Financial Officer shall first be submitted to the Executive Mayor.

Powers of the Executive Mayor in relation to bid reports

12.14 The Executive Mayor may consider only the recommendation of the departmental head and the Chief Financial Officer relating to the approval of any over expenditure, provided that the departmental head concerned has indicated from which other budget vote or vote savings may be utilises to defray such excess.

Duties and powers of the evaluator

12.15 The evaluator shall, during the preparation of the bid report –

- (a) make every reasonable effort to establish and verify the legitimacy and accuracy of any bidder's claim for preferences, if that bidder's particulars are not available in the Register;
- (b) make every reasonable effort to determine any bidder's capacity to supply the goods, render the services or execute the work required;
- (c) perform the evaluation in terms of this code and such best practices as may be known and acceptable; and
- (d) Supply the bid evaluation committee with the information required to make a decision regarding the offers.

12.16 The evaluator may not –

- (a) disclose to any person, whether orally or in writing, other than her/his departmental head (if she/he is not the departmental head) and the Municipal Manager her/his recommendations regarding any offer prior to or after the bid evaluation committee has made its decision, unless ordered to do so in terms of written instruction of the Municipal Manager or a competent court or in defence of any of her/his rights; and
- (b) Evaluate any offer in which she/he or a close family member, partner or business associate may have a personal or financial interest, unless she/he declares such an interest to her/his departmental head and the departmental head decides that her/his interest is remote and trivial.

CHAPTER 13 CONSIDERATION OF OFFERS

Awarding of contracts

13.1 The authorised person or body –

- (a) is obliged to accept the offer that scored the most points;
- (b) may, where an offer relates to more than one item, accept such offer in respect of any specific item or items; and
- (c) may accept any offer for the supply of specific goods, the execution of specific work or the rendering of a specific service to the Municipality notwithstanding the

fact that such offer does not conform to the conditions or specifications set out in the bid documents,

Provided that if –

- (i) an authorised body or person other than the Municipal Manager awards a contract to a supplier other than one recommended by the bid evaluation committee, that person or body must immediately in writing inform the Municipal Manager of the reasons for the deviation; and
- (ii) the Municipal Manager awards a contract to any supplier other than the one recommended by the bid evaluation or the bid adjudication committee, as the case may be, she/he must immediately in writing notify the Auditor-General, the provincial treasury and the National Treasury of the reasons for the deviation.

13.2 The Municipal Manager may at any time after receiving a report in terms of paragraph 13.1(i) refer the matter back to the relevant person or body for reconsideration.

Reasons for not accepting an offer

13.3 Any decision by an authorised body or person regarding the awarding of a contract shall, subject to the provisions of paragraph 13.2, be final.

13.4 The authorised body or person is obliged to give reasons for the acceptance or passing over of an offer if requested to do so in terms of relevant legislation.

13.5 A person whose rights are affected by a decision taken by an authorised body or person in relation to awarding a contract may appeal against that decision by giving written notice and reasons for the appeal to the Municipal Manager within 21 days of the date of the notification of the decision. The Municipal Manager must promptly submit the appeal to the appropriate appeal authority who must decide the appeal in the manner and within the time set out in the Local Government: Municipal Systems Act 2000 (Act No 32 of 2000). The appeal authority must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision. When the appeal is against a decision taken by -

- (a) a staff member other than the Municipal Manager or the bid adjudication committee, the Municipal Manager is the appeal authority; and
- (b) the Municipal Manager, the Executive Mayor is the appeal authority, except in the case of decisions where the Council is the appeal authority;

Incorrect preference information

13.6 Where a contract has been awarded on the strength of 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 -

- (d) 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
- (e) cancel the contract and claim damages which the Municipality may suffer as a result of having to make less favourable arrangements; and/or
- (f) impose on the contractor a penalty not exceeding five per cent of the value of the contract.

13.7 If, at any time during the evaluation or adjudication of an offer, doubt exists in respect of any statement made in support of a preference claim documentary proof may be called for in substantiation of the statements.

Equal offers

13.8 If, after prices have been brought to comparative level, two or more offers are equal, the offer scoring the highest points for BLACK PEOPLE ownership of equity, subcontracting with an BLACK PEOPLE and achieving specified goals relating to location of the bidder, shall be awarded the contract, provided that all things still being equal, the offer shall be awarded by the drawing of lots.

Notification of acceptance

13.9 Successful bidders shall be notified by ordinary prepaid mail of the acceptance of their offers.

13.10 If a bidder is informed by telefacsimile that her/his offer has been accepted, the original notification of acceptance need not be posted to her/him.

Publication of acceptance of offers and disclosure of offers

13.11 Where no offer has been accepted, particulars of the offers received shall not be made public.

13.12 Offers shall not be made available for perusal of, or inspection by, the public.

13.13 The following particulars regarding contracts awarded shall be published on the Municipality's website:

- (a) the names and addresses of all the bidders;
- (b) the prices and bases of delivery offered by all bidders;
- (c) the brand name of the product and the name of the manufacturer, if available, in respect of the accepted offer;
- (d) where applicable, the preference percentages claimed by and allowed in respect of the successful bidder; and
- (e) the name of the successful bidder, provided that if more than one offer has been accepted, the respects in which each offer has been accepted.

13.14 In addition to the information provided for in paragraph 13.13, any further information may be furnished as may be deemed necessary by the Municipal Manager.

13.15 Publication in terms of paragraph 13.13 shall be effected on the day that the successful bidder is informed that her/his offer has been accepted. Such notice shall be maintained on the website for a period of not less than 30 days after publication.

Rejection of offers

13.16 The relevant delegated body shall reject any offer from a bidder -

- (a) which is deemed to be an invalid bid in terms of paragraphs 11.12 or 11.19;
- (b) who fails to submit written proof obtained from the South African Revenue Service that she/he has no outstanding tax obligations or has made arrangements to meet outstanding tax obligations;
- (c) whose tax matters have not been declared by the South African Revenue Service to be in order;
- (d) whose municipal rates and taxes or municipal service charges owed to the Municipality or to any other municipality, are in arrears for more than three months;
- (e) who during the last five years has failed to perform satisfactorily on a previous contract with the Municipality after written notice was given to her/him that her/his performance was unsatisfactory;
- (f) if her/his name, or the names of any of its directors, members or trustees, is listed as a person prohibited from doing business with the public sector;
- (g) if it is suspected that the bidder has committed a corrupt or fraudulent act in competing for the contract;
- (h) if the bidder, or any of its directors, members, trustees, employees, agents or representatives has abused the Municipality's supply chain management system;
- (i) if the bidder, or any of its directors, members, trustees, employees, agents or representatives, has committed any improper conduct in relation to the Municipality's supply chain management system;
- (j) if the bidder, or any of its directors, members, trustees, employees, agents or representatives, has been convicted of fraud or corruption during the past five years;
- (k) if the bidder, or any of its directors, members, trustees, employees, agents or representatives, has wilfully neglected, reneged on or failed to comply with any government, municipal or any other public sector contract during the past five years; and

- (l) who is in the service of the state;
- (m) 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; and
- (n) who is an advisor or consultant contracted with the municipality.

Reporting regarding verbal and written quotations

13.17 Any person authorised in terms of this policy and/or the Municipality's delegated powers to procure contracts in terms of verbal or written quotations shall, not later than 10 working days after the end of each month, in writing notify the Municipal Manager, and submit a copy of such notice to the Chief Financial Officer, of all verbal and written price quotations accepted by her/him during the past month.

Objections and complaints

13.18 Any person aggrieved by decisions or actions taken by the Municipality or any body or person on behalf of the Municipality in the implementation of this policy and Code may, within 14 days of the decision or action lodge a written objection or complaint against the decision or action.

13.19 An objection or complaint must be submitted to the Municipal Manager.

Resolution of disputes, objections, complaints and queries

13.20 The Municipal Manager must appoint an independent and impartial person not directly involved in the supply chain management processes of the Municipality –

- (a) To assist in the resolution of disputes between the Municipality and other persons regarding –
 - (i) Any decisions or actions taken by the Municipality in the implementation of its supply chain management system; or
 - (ii) Any matter arising from a contract between the Municipality and a supplier; or
- (b) To deal with objections, complaints or queries regarding any such decisions or actions or any matters arising from such contract.

13.21 The person appointed in terms of paragraph 13.20 must -

- (a) Strive to resolve promptly all disputes, objections, complaints or queries received; and
- (b) Submit monthly reports to the Municipal Manager on all disputes, objections, complaints or queries received, attended to or resolved.

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

- (a) The dispute, objection, complaint or query is not resolved within 60 days; or
 - (b) No response is received from the municipality within 60 days.
- 13.23 If the provincial treasury does not or cannot resolve the matter, the dispute, objection, complaint or query may be referred to the National Treasury for resolution.

CHAPTER 14 ADMINISTRATION AND MANAGEMENT OF CONTRACTS

Settlement of disputes

- 14.1 Should any dispute arise between a contractor and the Municipality as to, or there appears to be any discrepancy, ambiguity or want of agreement in description, dimensions or qualities in a contract or order or as to the interpretation of the terms and conditions of an offer, contract or order, the parties shall endeavour to solve the matter by means of –
- (a) mutual consultation and agreement; failing which
 - (b) any party may refer the matter to mediation by an independent mediator; failing which
 - (c) Any party may refer the matter to a Court of law in the Republic.
- 14.2 Execution of a contract or order shall not be delayed pending an agreement or decision in terms of paragraph 14.1, unless the contractor is instructed in writing by the Municipal Manager not to proceed with the execution of the contract or part of the contract in relation to which the said discrepancies, ambiguities or want of agreement or conflicting interpretation exist.

Orders

- 14.3 Goods shall be delivered, work executed and services rendered only upon receipt of a properly signed and authorised written official order or letter of appointment.

Packing, packing material and containers

- 14.4 Unless otherwise specifically provided for in a contract, the contractor is responsible for packing goods at her/his own cost and in such a manner as to ensure that there is no loss or damage during loading, whilst in transit or being off-loaded.
- 14.5 Unless otherwise agreed no charge shall be allowed for packing material or containers and such material or containers shall not be returned to the contractor.

Invoices

14.6 Invoices shall be rendered as indicated on the official order or in the contract, as the case may be.

Payment for supplies and services

14.7 Subject to any instructions issued with a contract or order, a contractor shall be paid by the Chief Financial Officer, in accordance with the following provisions, for goods delivered, work executed and services rendered:

- (a) On a basis of delivery into store or to another nominated destination or collected in the Republic: Only after receipt of a detailed invoice and after delivery has been effected.
- (b) On a basis of delivered and erected, installed, commissioned or tested in the Republic: Only after receipt of a detailed invoice supported by a certificate of satisfactory execution.
- (c) In the case of services rendered: Unless otherwise specified, only after receipt of a detailed invoice supported by a certificate of satisfactory execution.

14.8 Payment will normally be effected within 30 days of receipt of all the required documentation which should be correct in every respect. Should a contractor indicate a special discount on her/his account provided payment is made within a certain time, every effort shall be made to take advantage of such discount.

14.9 Payment shall be made to the contractor only.

14.10 Any enquiry concerning the non-payment of an invoice shall be directed to the Chief Financial Officer.

Inspections, tests and analyses

14.11 If it is a contractual condition that goods to be produced, work to be executed or services to be rendered should at any stage during production or execution or on completion be subject to inspection, any cost to be recovered in relation to such inspection shall in all cases be for the account of the contractor. The premises of the contractor shall be open, at all reasonable hours, for inspection by a representative of the Municipality.

14.12 Inspections, tests and analyses may be carried out prior to dispatch in regard to such goods as may be deemed necessary by the Municipality and the contractor shall provide, if required, all the required facilities for such inspections, tests and analyses of the goods free of charge and shall, if required, provide all the materials, samples, labour and available apparatus which may be required for the purpose of such inspections, tests and analyses free of charge unless otherwise specified.

14.13 If any inspection, test and analysis show the goods to be in accordance with the contract requirements, the cost of the inspections, tests and analyses shall be defrayed by the Municipality; otherwise the cost shall be defrayed by the contractor and the Municipality shall have the right, without prejudice to any other legal remedy it may have, to deduct

such costs from payments due to the contractor under the contract or under any other contract.

- 14.14 Goods, work and services which do not comply with the contract requirements may be rejected.
- 14.15 Any goods may on or after delivery be inspected, tested or analysed and may be rejected if found not to comply with the requirements of the contract and such rejected goods shall be held at the cost and risk of the contractor who shall, when called upon, remove them immediately at her/his own cost and forthwith substitute them with goods which comply with the requirements of the contract. Failing such removal the rejected goods shall be returned at the contractor's cost and risk. Should the contractor fail to provide the substitute goods forthwith, the Municipality may, without giving the contractor further opportunity to substitute the rejected goods, purchase such goods as may be necessary at the expense of the contractor.
- 14.16 Transport costs and any other expenses with regard to rejected goods shall be refunded by the contractor.
- 14.17 The provisions of preceding paragraphs shall not prejudice the right of the Municipality to cancel the contract on account of a breach of the conditions thereof.

Municipal property in possession of a contractor

- 14.18 Municipal property supplied to a contractor for the execution of a contract remains the property of the Municipality and shall at any time be available for inspection by the Municipality or its representatives. Any such property in the possession of the contractor on completion of the contract shall, at the contractor's expense, be returned to the Municipality forthwith.
- 14.19 The contractor shall be responsible at all times for any loss of or damage to municipal property in her/his possession and if required she/he shall furnish such security for the payment of any such loss or damage as the Municipality may require. The contractor shall use all reasonable endeavours to ensure that equipment provided by the Municipality for the use of her/his personnel is kept and treated in a proper and professional manner. The contractor must maintain an inventory of the equipment throughout the execution of the contract. At the conclusion of the assignment, the contractor shall apply for instructions from the Municipal Manager for the disposal of the equipment and shall arrange disposal in accordance with such instructions. At such time the equipment shall be in good condition after making due allowance for fair wear and tear. Equipment lost or damaged must be reported at the time of such loss or damage and the reasons immediately explained in writing to the Municipal Manager. Where it is concluded that such loss has occurred as a result of the contractor's breach of contract or negligence, the contractor shall be responsible for the costs of reinstatement. The amount of such costs shall be agreed between the contractor and the Municipality and paid to the Municipality within 30 days after the agreement.

Statements of goods work and services

- 14.20 The contractor shall, when requested to do so, furnish particulars of goods delivered, work executed or services rendered. If she/he fails to do so, the Municipality may, without

prejudice to any other rights which it may have, institute inquiries at the expense of the contractor to obtain the required particulars.

CHAPTER 15 STANDARD TERMS AND CONDITIONS OF CONTRACT

Assignment, cession and transfer of contract

15.1 The contract concluded with a bidder is personal to the contractor and the contractor shall not sub-let, assign, make over, transfer or cede the contract or any part thereof, or any share or interest there-in, to any other person without the written consent of the Municipal Manager and on such terms and conditions as she/he may approve.

Risk management

15.2 The risk in all goods, services and work procured under a contract shall remain with the contractor until such goods, work or services have been delivered to the Municipality and the authorised representative of the Municipality has certified in writing that such goods, work or service has been delivered, received or completed, as the case may be.

Cancellation of invitations to submit offers

15.3 The Municipality may, prior to the award of a contract, cancel it if –

- (a) Due to changed circumstances, there is no longer need for the goods, work or services for which offers have been invited; or
- (b) Funds are no longer available to cover the total envisaged expenditure; or
- (c) No acceptable offers were received.

Failure to submit an original tax clearance certificate

15.4 No contract shall be awarded to a bidder who has failed to submit an original Tax Clearance Certificate from the South African Revenue Service (SARS) certifying the taxes of that bidder to be in order or that suitable arrangements have been made with SARS.

Insurance in respect of works to be executed

15.5 Every contractor appointed for the execution of work for the Municipality is responsible for obtaining and maintaining adequate insurance and must submit proof of such

insurance to the Project Management Unit for approval before the work may commence.

- 15.6 Without any way limiting her/his obligations in terms of the contract, the contractor shall bear the full risk of damage to and/or destruction of any works by whatever cause during the construction of the works and by submission of her/his offer indemnifies and holds harmless the Municipality against any such damage. The contractor shall take such precautions and security measures and other steps for the protection and security of the works, as she/he may deem necessary.
- 15.7 The contractor shall immediately remove and/or dispose of any debris arising from damage to or destruction of the works and rebuild, restore, replace and/or repair the works.
- 15.8 The Municipality shall carry the risk of damage to or destruction of the works and material paid for by the Municipality that is the result, whether direct or indirect, of the excepted risks.
- 15.9 Where the Municipality bears the risk in terms of the contract, the contractor shall, if requested to do so, reinstate any damage or destroyed portions of the works and the costs of such reinstatement shall be measured and valued.

Injury to persons or loss or damage to property

- 15.10 The contractor shall be liable for and indemnify the Municipality against any liability, loss, claim or proceeding whether arising in common law or by statute, consequent upon personal injuries to or the death of any person whomsoever arising out of or in the course of or caused by the execution of the work unless such personal injuries or death is due to any act or neglect of any person for whose actions the Municipality is legally liable.
- 15.11 The contractor shall be liable for and indemnify the Municipality against any liability, loss, claim or proceeding consequent upon loss or damage to any moveable or immovable personal property or property contiguous to the site where the work is executed whether belonging to or under the control of the Municipality or any other body or person, arising out of or in the course of or by reason of the execution of the work unless such loss or damage is due to any act or neglect of any person for whose actions the Municipality is legally liable.
- 15.12 The contractor shall upon receiving an order in writing from the Municipal Manager cause any loss or damage in terms of paragraph 15.11 to be made good in a perfect and workmanlike manner at her/his own cost and in default thereof the Municipality shall be entitled to cause such loss or damage to be made good and to recover the cost thereof from the contractor or to deduct the same from amounts due to the contractor.
- 15.13 The contractor shall be responsible for the protection and safety of such portions of the premises placed under her/his control by the Municipality for the purpose of executing the work until the issue of the certificate of completion.
- 15.14 Where the execution of the work involves the risk or removal of or interference with support to adjoining properties, including land or structures or any structure to be altered or added to, the contractor shall and will remain adequately insured or insured

against the death of or injury to persons or damage to such property consequent on such removal or interference with support until such portion of the work has been completed.

Public liability cover

- 15.15 Any contractor for the execution work must have current public liability cover, adequate for the service being rendered and must provide a copy of the insurance certificate for approval to the Municipal Manager, prior to being allowed on site. The value of the public liability cover required will be specified in the bid documents.

“As built” drawings

- 15.16 The contractor shall, at the completion of any contract involving the execution of work, supply the Municipality, free of charge, with a full set of “as built” drawings of the work concerned.

Professional indemnity

- 15.17 Where the Municipality considers professional indemnity insurance cover to be warranted because of the size or nature of a particular contract, the contractor must provide proof that it is in possession of adequate professional indemnity insurance that covers at least 1, 2 times the estimated value of the work to be carried out.

Ownership and copyright

- 15.18 Ownership of, and copyright in, any document, drawing, plan or any other matter in respect of which a patent or copyright may be registered shall vest in the Municipality free of charge. The contractor shall be obliged to provide to the Municipal Manager originals of such documents, drawings, plans and other material before final payment shall be made.

Quality

- 15.19 Goods supplied and services rendered shall be in accordance with, and the contractor guarantees that they are equal in all respects to, the samples, patterns, drawings and specifications stipulated in the contract or order and unless otherwise specified, goods shall be new and unused. Where specific grades and special brands are specified, such grades and brands only shall be supplied unless the Board agrees otherwise.
- 15.20 Where a contract calls for goods or a service according to a standard specification of the South African Bureau of Standards, the bidder is required to take cognisance of the provisions of section 15 of the Standards Act 1982 (Act No. 30 of 1982).
- 15.21 Any person who designs, manufactures, imports, sells or supplies any article or substance for use by the Municipality or in relation to the business of the Municipality or on, at or in any premises of the Municipality, shall ensure that such article or substance is safe and without risks to health when properly used, that it complies with all relevant prescribed requirements and take such necessary steps to ensure that information is available with regard to the use of the substance or article.

Guarantees and warranties

- 15.22 Unless the contract stipulates otherwise, the contractor shall guarantee for a period of twelve months that no faulty material or workmanship was used in the manufacture of goods or in the execution of work and that the finishing thereof is not defective. Should the guarantee not be complied with, the Municipality may, without prejudice to any other rights it may have, demand that the supplies be replaced and the services repaired without cost to the Municipality.
- 15.23 The period of guarantee shall commence on the date of receipt of the goods by, or handing over of the work or service to, the department concerned or, where so specified, on the date the goods or service are brought into commission.
- 15.24 The liability of the contractor under the guarantee shall cover the free delivery to the Municipality of goods required in replacement of defective goods, and where parts are to be replaced the liability shall include their free installation. The goods and the parts so replaced or the services so rendered shall be guaranteed in a similar manner for a similar period.
- 15.25 The principal features of any goods to be supplied, service to be rendered or work to be executed shall be prescribed in the bid documentation, but the bid specification does not purport to indicate and describe the construction, manufacture or arrangement of the goods, service or work necessary to meet the requirements of the Municipality. Omission in the bid documentation of reference to any part or parts shall not relieve the contractor of her/his responsibility to carry out the work, render the service or supply the goods required as required in terms of the contract.
- 15.26 If at any time up to a date 12 months after delivery the Municipality shall be dissatisfied with the goods, service or work or any part or parts thereof on account of materials being faulty or of inferior quality or workmanship or of a bad design or on account of the goods, work or service not having been delivered strictly in terms of the contract, the Municipality may -
- (a) call on the contractor to remedy the said defects free of cost to the Municipality within such period as the Municipality may determine and in the event that the contractor fails to do so within the period determined by the Municipality, the Municipality may have such remedial work executed at the contractor's expense; or
 - (b) to reject the goods or work immediately and to require the contractor to supply the Municipality with, within a period determined by it, with other goods or work of best quality in conformity with the contract in the place of the goods or work so rejected, without prejudice to the Municipality to claim penalties for late delivery as provided in this code and any loss, damage, cost and charges as the Municipality may have suffered in the circumstances, as may be determined by the Municipality; or
 - (c) to reject the work or goods forthwith and, without prejudice to the Municipality, to claim penalties for late delivery as provided in this code and any loss, damage, cost and charges as the Municipality may have suffered in the circumstances, as may be determined by the Municipality.

15.27 Where any goods have been rejected in terms of paragraph 15.26, they shall be held at the risk of the contractor who shall be required to take back and remove such goods at her/his own cost: Provided that should the contractor fail to do so, the Municipality may dispose of such goods in any manner that it seems fit and the contractor shall have no claim against the Municipality, provided further that should the Municipality sell such goods, the price it realise from such sale shall, less any cost incurred in relation to the sale, be set off against any claims it may have against the contractor.

15.28 Where the contract is for the provision of services to the Municipality and the contractor does not perform to the satisfaction of the Municipality and/or provides a service of poor and unacceptable quality, the Municipality may, in its sole discretion, and after allowing the contractor reasonable time to improve her/his performance and/or the quality of her/his work, cancel the contract for poor performance.

Failure to comply with conditions and delayed execution

15.29 If a bidder –

- (a) amends or withdraws her/his offer after the closing time but before she/he is notified that her/his offer has been accepted; or
- (b) when notified that her/his offer has been accepted, she/he fails, within the period stipulated in the conditions of offer or such extended period as the Municipality may allow, to sign a contract;
- (c) or to provide security when requested to do so,

She/he shall, unless the Municipality decides otherwise, and without prejudice to any other right which the Municipality may have under paragraphs 12.30 to 12.32, including the right to claim damages if a less favourable offer is accepted or less favourable arrangements are to be made, forfeit any deposit which may have been made with the offer.

15.30 Should the contractor fail to comply with any of the conditions of the contract, the Municipality shall be entitled, without prejudice to any of its other rights, to cancel the contract.

15.31 Upon any delay beyond the contract period in the case of a contract for the supply of goods, the Municipality shall be entitled forthwith to –

- (a) 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 without cancelling the contract; or
- (b) cancel the contract and buy such goods as may be required to complete the contract; and
- (c) Without prejudice to its other rights, be entitled to claim damages from the contractor.

- 15.32 Upon any delay beyond the contract period in the case of a contract for the execution of work or the rendering of a service, the Municipality shall, without prejudice to any other right, be entitled forthwith to –
- (a) arrange for the execution of the work or the rendering of the service not executed or rendered or not executed or rendered in conformity with the contract without cancelling the contract; or
 - (b) To cancel the contract and without prejudice to its other rights, be entitled to claim damages from the contractor.
- 15.33 In the event of the Municipality availing itself of the remedies provided for in paragraphs 15.30 to 15.32 –
- (a) the contractor shall bear any adverse difference in price of the said goods, work or services and these amounts plus any other damages which may be suffered by the Municipality shall be paid by the contractor to the Municipality immediately on demand or the Municipality may deduct such amounts from moneys (if any) otherwise payable to the contractor in respect of goods, work or services rendered or to be rendered under the contract or under any other contract or any other amount due to her/him; or
 - (b) if the contractor fails to supply the goods, execute the work or render the service within the period stipulated in the contract, the Municipality shall have the right, in its sole discretion, either to deduct as a penalty from the value of the contract sum an amount of one-fourteenth per cent thereof per day for the period of delay or to claim any damages or loss suffered in lieu of such penalty: Provided that where beneficial use of the completed portion is enjoyed, the penalty shall be applied to the value of the outstanding portion only.
- 15.34 No penalty or damages shall be claimed in respect of any period of delay which the contractor can prove to the satisfaction of the Municipality to be directly due to a state of war, sanctions, strikes, lockouts, damage to machinery as a result of accidents, fire, flood or tempest or force majeure, which could not be foreseen or overcome by the contractor, or to any act or omission on the part of persons acting in any capacity on behalf of the Municipality.
- 15.35 If the delivery of the supplies or the rendering of the service is likely to be delayed or is in fact being delayed on account of any of the reasons mentioned in paragraph 12.34, full particulars of the circumstances shall be reported forthwith in writing to the Municipality and at the same time the contractor shall indicate the extension of the delivery period which is desired.
- 15.36 The Municipality may, in its sole discretion, upon receipt of a written request from the contractor setting out the relevant circumstances for any delay or failure to meet the date of delivery in the contract, extend the time of delivery to a date determined by it, provided that such extension shall not relieve the contractor from any penalty payable in terms of the contract or liability for any damages, costs, loss or charges incurred by the Municipality due to such delay.

Remedies in the case of death, sequestration, liquidation or judicial management

15.37 In the event of –

- (a) the death of a contractor; or
- (b) the provisional or final sequestration of her/his estate; or
- (c) her/his cession or transfer of a contract without the approval of the Municipality; or
- (d) the surrender of her/his estate; or
- (e) her/his reaching a compromise with her/his creditors; or
- (f) the provisional or final liquidation of a contractor's company; or
- (g) the placing of its affairs under judicial management,

The Municipality may, without prejudice to any other rights it may have, exercise any of the following options:

- (i) Cancel the contract and accept any of the offers which were submitted originally with that of the contractor or any offer subsequently received to complete the contract. In such a case the estate of the contractor shall not be relieved from liability for any claim which has arisen or may arise against the contractor in respect of supplies not delivered or work not carried out by her/him under the contract and the Municipality shall have the right to hold and retain all or any of the securities and retention moneys held by it at the date of the aforesaid occurrence until such claim has been satisfied; or
- (ii) allow the executor, trustee, liquidator or judicial manager, as the case may be, for and on behalf of and at the cost and expense of the estate of the contractor to carry on with and complete the contract; or
- (iii) For and on behalf of and at the cost and expense of the estate of the contractor, it carry on with and complete the contract and in that event the Municipality may take over and utilise, without payment, the contractor's tools, plant and materials in whole or in part until the completion of the contract.

15.38 Should the Municipality elect to act in terms of paragraph 15.37(iii) it shall give notice of its requirements to the executor, trustee, liquidator or judicial manager of the contractor's estate and should the said executor, trustee, liquidator or judicial manager fail within 14 days of the dispatch of such notice to make provision to the satisfaction of the Municipality for the fulfilment of such requirements, or should no executor, trustee, liquidator or judicial manager be appointed within 14 days of the occurrence mentioned in paragraph 15.37, the Municipality may apply any remedy open to it in terms of the contract as if a breach thereof had taken place.

15.39 Should the Municipality act in terms of paragraph 12.37(iii) the contractor must leave the premises immediately and may not occupy such premises on account of retention or any other right.

Contractor's liability

- 15.40 In the event of the contract being cancelled by the Municipality in the exercise of its rights in terms of legislation or this code, the contractor shall be liable to pay to the Municipality any losses sustained and/or additional costs or expenditure incurred as a result of such cancellation and the Municipality shall have the right to recover such losses, damages or additional costs by means of set-off from moneys due or which may become due in terms of the contract or any other contract, or from a guarantee provided for the due fulfilment of the contract and, until such time as the amount of such losses, damages or additional costs has been determined, to retain such moneys or guarantee or any deposit as security for any loss which the Municipality may suffer or have suffered.
- 15.41 The contractor may be held responsible for any consequential damages and loss sustained which may be caused by any defect, latent or otherwise, in the goods supplied, work executed or service rendered or if the goods, work or service as a result of such defect, latent or otherwise, does not conform to any condition or requirement of the contract.

Price lists

- 15.42 Price lists which are part of a contract shall not be amended without the approval of the Municipality.

Firm prices

- 15.43 If a contract is awarded on the basis of firm prices and during the contract period –
- (a) any duty, levy or tax (excluding any anti-dumping and countervailing duties or similar duties), is introduced in terms of any legislation, or
 - (b) any such duty, levy or tax is legally changed or abolished,

The said prices shall be adjusted accordingly.

Non-firm prices

- 15.44 In respect of any factors which demonstrably have an influence on the production cost of the goods, the cost of executing the work or the rendering cost of the service for which non-firm prices have been offered, price adjustments which become effective during the contract period may be allowed with effect from the date of the change in cost and founded on the actual direct change in the cost as used in the calculation of the tender price, in addition to those provided for in paragraph 15.43.
- 15.45 Where the contractor her-/himself is the manufacturer of the goods or the provider of the service, or where she/he is the accredited agent of the manufacturer or the provider, evidence in support of the price adjustments claimed in terms of paragraph 15.44 shall be produced on demand.
- 15.46 As an alternative to paragraph 15.45 the bidder may specify a formula on the bid form provided for this purpose for the purpose of adjusting prices in accordance with published

indices. However, the adjustment formula shall provide for a minimum fixed element of at least 15% of the price which shall not be subject to adjustment.

- 15.47 Where the contractor is not the manufacturer of the supplies or the provider of the service, or where she/he is not the accredited agent of the manufacturer or the provider, any price adjustment shall be based on the increase or reduction to the contractor in the net cost of the goods on which the bid price was based. When any such increase or reduction in costs occurs, the contractor shall submit copies of the quotation or price list with reference to which she/he calculated her/his bid prices, as well as the revised quotation or price list on which her/his claim is based.

Rates of exchange

- 15.48 Where the whole or a portion of the bid price may be affected by the revaluation of currencies or any fluctuation in the rate of exchange, the bidder shall, in accordance with the bid requirements, state in her/his bid the amount to be paid in foreign currencies or to be remitted abroad, as well as the rate of exchange applied in the conversion of that amount into South African currency in calculating the bid price, and if the contract is completed within the contract period, any increase or reduction in the relevant amount as a result of any fluctuation in the rate of exchange or revaluation of currencies shall, irrespective of whether the price is firm or not, be for the account of the Municipality, subject to the following conditions:

- (a) Where payment to the contractor is to be made in the Republic and she/he is required to remit part or the entire amount abroad, the contract amount in South African currency will be paid to the contractor less, or plus, an amount, as specified on the contractor's invoice and supported by the necessary proof, representing any change in the exchange rate –
 - (i) which may have occurred between the date of conversion to South African currency as reflected in the bid documents and the date of the invoice, provided that the invoice date is within 10 days of the date of delivery or shipment; and
 - (ii) any further fluctuation in the rate of exchange which may occur between the invoice date and the actual date of remittance abroad, shall be paid by the Municipality to the contractor or by the contractor to the Municipality only if the further fluctuation in the exchange rate is more than 1% and if the remittance is made within 10 days of the date of the warrant voucher issued in payment.
- (b) Where it is required of the contractor to remit part or the entire amount abroad before she/he can invoice the Municipality and this is indicated in her/his offer and subsequently separately substantiated, the date of such remittance will be regarded as the date in respect of which the adjustments in terms of paragraph (a) are to be made.
- (c) All rate of exchange claims shall be accompanied by the following documentary evidence (failure to comply with this condition may delay or invalidate claims):

- (i) In the case of paragraph (a), a copy of the relevant invoice from the foreign supplier.
 - (ii) In the case of paragraph (b), a copy of the relevant invoice from the foreign supplier for reconciliation with the bank remittance voucher and a copy of the bank remittance voucher.
 - (iii) If amounts that are not proper to a specific order are included in the remittance abroad, documentary proof or a certificate of audit that substantiates the inclusion of the amount.
- (d) No adjustment shall be done in respect of any amount or percentage of the bid price which was remitted abroad and which exceeds the amount which, as contemplated in this paragraph is indicated in the offer for that purpose.
- (e) When the amount remitted abroad constitutes a larger or smaller amount or percentage of the bid price than that indicated for that purpose in the bid and the contractor, as a result thereof obtains a financial benefit, such benefit shall devolve upon the Municipality and shall, where applicable, be brought into consideration in computing any claim for compensation.

15.49 If it is not a condition of bid that the amount which the contractor will have to pay abroad and the relevant rate of exchange at which the amount was converted to South African currency should be indicated in the offer, price adjustments in respect of fluctuations in the rate of exchange shall be effected only when a devaluation or a revaluation of currencies occurs and satisfactory documentary proof is submitted: Provided that the Municipality may in such cases cancel the contract and make other arrangements for obtaining the supplies.

15.50 In the case of period contracts, the bid price referred to in paragraphs 12.48 and 12.49 shall refer to the relevant contracted prices for each consignment separately.

Price adjustments: Documentary proof and period for claims

15.51 An adjustment in price shall cover only the period between the closing date of offers and the final delivery date in terms of the contract.

15.52 Documentary proof or a certificate of audit, issued and signed by a registered chartered accountant external to the business of the contractor, in substantiation of the price adjustments claimed and the effect thereof on the contract price shall be submitted by the contractor together with her/his claim, to the satisfaction of the Municipality.

15.53 Claims against the Municipality shall, unless otherwise authorised by the Municipality, be proved to the satisfaction of the Municipality as soon as possible but in any case not later than the following:

- (a) In the case of period contracts: 90 days after the change in cost or the date of advice of acceptance of the offer, whichever date is the later, in which case the prices may be backdated to the date of change in cost. If a claim is received after 90 days, the prices will be backdated only to the date on which the claim was proved to the satisfaction of the Municipality.

- (b) In the case of non-period contracts: 90 days from the date on which the firm contractual delivery period expired if the contractual delivery period was adhered to. If he does not claim within 90 days, the contractor shall forfeit her/his claim to a price adjustment unless otherwise decided by the Municipality.

15.54 In cases where a price adjustment is in favour of the Municipality such favourable difference shall on demand be paid forthwith by the contractor to the Municipality or the Municipality may deduct such amounts from moneys (if any) which may otherwise be due to the contractor in regard to goods, work or services which she/he delivered, executed or rendered or is to deliver, execute or render in terms of the contract or any other contract or any other amount which may be due to her/him.

15.55 If delivery takes place within the contracted delivery period, the contract price ruling at date of delivery shall apply. Deliveries shall not be withheld for the purpose of benefiting from price increases.

Payment of duties, levies and taxes

15.56 A contractor for any project who is not based in the Republic, or who is based in the Republic but makes purchases for the contract outside the Republic, is responsible for paying all relevant duties, levies and taxes which may be due on the importation of the purchases into the Republic and she/he indemnifies the Municipality against any liability for the payment of such duties, levies and taxes. If so required by the Chief Financial Officer, the contractor concerned shall –

- (a) indicate the gross value of the relevant purchases; and
- (b) Furnish proof that all such duties, levies and taxes have been paid.

Stamp duty, bank charges, etc.

15.57 The contractor is responsible for stamp duty, bank charges, bank interest and other like charges in respect of a contract.

Royalties and patent rights

15.58 The contractor is responsible for all expenses and other liabilities in regard to royalties, patent rights, trade marks or other protected rights in respect of goods supplied by her/him to the Municipality and she/he indemnifies the Municipality against any claims which may arise in connection with such rights.

15.59 The contractor shall at any time furnish, on request, adequate security to the satisfaction of the Chief Financial Officer for the payment of all costs including attorney and client costs in cases where proceedings are instituted against the Municipality and/or its officers or employees in respect of alleged breach of patent rights, trade marks or any other protected rights.

Surety

15.60 Unless the Municipality determines otherwise and it is so stated in the bid documents, an offer for the execution of work, shall be subject to the provision by the contractor of acceptable surety obtained from approved financial institutions and insurance companies, for due execution of the work to the Municipality, the amount of which is commensurate with the risk.

15.61 The amount of the surety required shall be specified in the tender documents, which amount shall not be less than the amounts indicated in the following table –

Value of contract	% surety
Above R 1,5m	10%
Between R 500,000 and R 1,5m	5%
Between R 200,000 and R 500,000	2,5%
Below R 200,000	No surety required

15.62 The surety required shall consist of –

- (a) a guarantee by a banking institution registered in terms of the Banks Act, 1990 (Act No. 94 of 1999), or an insurer doing insurance business, or cash, negotiable government stock, a security bond or in the case of service contracts, two or more acceptable sureties; or
- (b) Such other form of security as the Municipality approves.

15.63 A surety supplied in terms of paragraph 12.60 shall remain in force until the contract has been completed to the satisfaction of the Municipality.

Retention

15.64 The value and retention periods must be stipulated in the bid documents and the following table will form a guide-line only. The degree of risk must be considered when setting retentions.

Category	Nature of contract	% retention required	Period of retention
Large	Construction or building	10%	12 Months
Large, medium or small	Supply, install and commission	10%	Retain until successful commissioning
Medium	Construction or building	5%	6 months
Small	Construction or building	2,5%	6 months

Micro	Construction or building	1%	3 months
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Right to procure outside of a contract

15.65 The Municipality reserves the right to procure outside of a contract such goods and services as may be required by the circumstances if –

- (a) an emergency situation or unforeseen circumstances arises and the contractor is unable to affect delivery when required to do so by the Municipality, irrespective of the delivery date agreed to in the contract; or
- (b) if the contractor's services are not readily available.

15.66 The Municipality may, in its sole discretion, reduce the quantity of the goods to be purchased under the contract or the scope of work in terms of the contract in the case of a service, without any liability on its part, with the quantity of the goods or services purchased or acquired in terms of paragraph 15.65.

15.67 No provision in a contract shall be deemed to prohibit the obtaining of goods or services from a Government department or another Municipality.

Amendment of contracts

15.68 No agreement to amend or vary a contract or order or the conditions, stipulations or provisions thereof shall be valid and of any force and effect unless such agreement to amend or vary is entered into in writing and signed by the contracting parties. Any waiver of the requirement that the agreement to amend or vary shall be in writing, shall also be in writing.

CHAPTER 16

ETHICS AND COMBATING FRAUD AND CORRUPTION IN SUPPLY CHAIN MANAGEMENT

Introduction

16.1 The Municipality conducts its business in a fair and honest manner and expects its officials, suppliers, prospective suppliers and other role-players in the supply chain management process to uphold the values of fairness and integrity.

16.2 Officials and other role players involved in the Municipality’s supply chain management process –

- (a) are in a position of trust;
- (b) have a duty at all times to act in the public interest;
- (c) are accountable in public for their actions and decisions;
- (d) may not perform their functions, exercise their powers or discharge their duties in a manner that they or any other person unlawfully or improperly gain any form of compensation, payment, gratuity or other form of compensation or reward or advantage from any person, including a supplier or prospective supplier;
- (e) must ensure that they perform their functions, exercise their powers and discharge their duties efficiently, effectively and with integrity, in accordance with the relevant legislation, policies and guidelines;
- (f) must ensure that the Municipality's resources are administered responsibly;
- (g) must be fair and impartial in the performance of their functions, the exercise of their powers and the discharge of their duties;
- (h) may at no time afford any undue preferential treatment to any group or individual or unfairly discriminate against any group or individual; and
- (i) may not abuse the power and authority vested in them.

16.3 Any official of the Municipality who is involved in the supply chain management process must at all times comply with the provisions of this policy and code and the provisions and prescripts of any related legislation.

Employees and councillors not to accept quotations and bids for delivery

16.4 No employee or councillor of the Municipality may accept any offer for delivery or promise delivery of an offer on behalf of any person except in the normal course of her/his duties.

Remedies in the case of suspected corruption or improper conduct by suppliers

16.5 If the Municipal Manager has reasonable suspicion that –

- (a) a supplier, in relation to obtaining a contract, or a contractor, in relation to executing a contract, promised or caused to be promised, offered or given to a councillor or an employee of the Municipality any bribe, commission, gift, loan, advantage or any other consideration whatsoever; or
- (b) a supplier or a contractor or any enterprise or person with whom a supplier or contractor is actively associated or, where the supplier or contractor is a company or partnership, any manager, director or any person who wholly or partly exercises or may exercise control over such a company or partnership,

has acted fraudulently or in bad faith or in any improper manner in obtaining or executing a contract with the Municipality; or

- (c) if the entity mentioned in paragraph 16.2(b) in conducting her/his business, has contravened or neglected to comply with statutory requirements and as a result thereof has been found guilty of a criminal offence; or
- (d) a supplier, in relation to obtaining a contract, or a contractor, in relation to executing a contract, has or has caused to be promised, offered or given to the Municipality or a cause, organisation, person or body supported by the Municipality or a councillor or an official any sponsorship

The Municipal Manager shall -

- (i) In the case of a supplier ignore any of her/his offers without first advising her/him thereof; and
- (ii) in the case of a contractor, cancel the contract without prejudice to any other remedies that the Municipality may have.

16.4 The Municipal Manager shall immediately report –

- (a) any alleged transgression of paragraph 16.3(a) to (c), inclusive, or any suspicion of fraud in terms thereof to the South African Police Services; and
- (b) Any promised, offered or granted sponsorship in terms of paragraph 16.2(d) to the National Treasury.

Duties of councillors and employees in relation to bid committees and person authorised to procure goods and services on behalf of the Municipality

16.5 No councillor or employee of the Municipality may –

- (a) in any manner interfere with the activities of a bid committee;
- (b) in any manner whatsoever attempt to coerce or encourage any member of a bid committee to vote in a particular manner on any matter before the committee concerned;
- (c) obstruct or attempt to obstruct or delay the implementation of any decision of a bid committee or a person authorised to procure goods and services on behalf of the Municipality;
- (d) may not use her/his position for private gain or to improperly benefit another person; or
- (e) In any manner whatsoever attempt to coerce or encourage any person authorised to procure goods and services on behalf of the Municipality to accept any particular offer?

Restriction from submitting offers

- 16.6 The Municipal Manager may resolve that no offer from the supplier concerned shall be considered during such period as she/he may stipulate, if the Municipal Manager is of the opinion that a supplier -
- (a) has amended or withdrawn an offer after the closing time for receipt of offers but before she/he has been notified of its acceptance; or
 - (b) has failed to sign a contract or to provide security within the period stipulated in the conditions of contract or offer, or such extended period as the Municipal Manager may allow, when required to do so; or
 - (c) fails or has failed to comply with any of the conditions of a contract or performs or has performed unsatisfactorily under a contract; or
 - (d) has failed to respond to written notices sent to her/him; or
 - (e) Who has concluded a contract has promised, offered or given a bribe, or has acted in respect thereof in a fraudulent manner or in bad faith or in any other improper manner.
- 16.7 The Municipal Manager may at any time amend or rescind any restriction contemplated in paragraph 16.6.
- 16.8 Any restriction imposed on any supplier by the Municipal Manager may at the discretion of the Municipal Manager also be made applicable to any other enterprise or to any partner, manager, director or other person who wholly or partly exercises or has exercised or may exercise control over the enterprise of the supplier and with which enterprise or person the supplier is or was, in the opinion of the Municipal Manager, actively associated.
- 16.9 For the purpose of paragraphs 16.6 to 16.8 the expression "supplier", in respect of any restriction, shall also include an employee or agent of such supplier.
- 16.10 Where the Municipal Manager imposes a restriction regarding the consideration of offers from a supplier or amends or rescinds such restriction, it may inform any other public purchasing authority as she/he may determine of her/his resolution relative to such restriction or the rescission or amendment thereof and request such authorities to take similar steps.
- 16.11 Whenever it comes to the attention of the Municipal Manager that any other purchasing authority has taken a decision similar to that contemplated in paragraph 16.5 in respect of a supplier, she/he may resolve that a similar restriction be imposed on the supplier concerned in respect of contracts with the Municipality.

Applicability of Codes of Conduct

- 16.12 The Codes of Conduct for Councillors and for Employees incorporated in Schedules 1 and 2 of the Local Government: Municipal Systems Act 2000 (Act No 32 of 2000) respectively, apply with the necessary changes required by the context, to persons involved in the Municipality's supply chain management activities and system.

Further ethical rules

16.13 An employee of the Municipality or other role-player involved in the Municipality's supply chain management system and activities -

- (a) must treat all suppliers and potential suppliers equitably;
- (b) may not use her/his position for private gain or to improperly benefit another person;
- (c) must in writing declare to the Municipal Manager details of any reward, gift, favour, hospitality or other benefit whatsoever promised, offered or granted to her/him or any of her/his close family members, partners or associates;
- (d) must in writing declare to the Municipal Manager details of any private or business interest that she/he or any of her/his close family members, partners or associates may have or obtain in any acquisition or disposal or any contract of the Municipality;
- (e) must immediately withdraw from participating in any manner whatsoever in any acquisition or disposal process or in the award of a contract in which she/her or her/his close family member, partner or associate has any private or business interest; and
- (f) must immediately report to her/his departmental head or the Municipal Manager any suspicion that a supplier has transgressed paragraph 16.2 or that a colleague or other role-player involved in the Municipality's supply chain management activities and system has acted in a corrupt, fraudulent, unfair or irregular manner or has breached any rule in terms of this Chapter.

16.14 Any declaration to be made in terms of this chapter by the Municipal Manager must be made to the Executive Mayor.

16.15 The Municipal Manager or the Executive Mayor, as the case may be, must ensure that any declaration made in terms of this Chapter is recorded in a register kept by the Municipal Manager for this purpose.

Conflict of interest

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

- (a) must declare any business, commercial and financial interests or activities undertaken for financial gain that may raise a possible conflict of interest;
- (b) should not place him/herself under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties; and
- (c) Must refrain from taking improper advantage of their previous office after leaving their official position.

Accountability and reporting obligation

- 16.17 An official must immediately report to the Municipal Manager any alleged irregular conduct in the supply chain management system which that person may become aware of, including –
- (a) any alleged fraud, corruption, favouritism or unfair conduct;
 - (b) any alleged contravention of the policy on inducements, rewards, gifts and favours to municipalities or municipal entities, officials or other role players; and
 - (c) Any alleged breach of this Chapter.
- 16.18 The Municipal Manager must record any report or declarations made to the Municipal Manager in terms of paragraph 16.17 in a register which she/he must keep for this purpose. Any declarations made by the Municipal Manager must be made to the Executive Mayor who must ensure that such declaration is recorded in the register.
- 16.19 Only the Municipal Manager or an official who has the authority to decide on the awarding of a contract in terms of Chapter 5 have the authority to commit the Municipality to any transaction for the procurement of goods and/or services.
- 16.20 All transactions regarding the acquisition of any goods or services or the disposal of any assets must be recorded and accounted for in the appropriate manner. Nobody may make a false or misleading entry into any accounting or other record regarding the acquisition of goods or services or the disposal of any asset for any reason whatsoever.

Confidentiality

- 16.21 Nobody may disclose to an unauthorised party any confidential information of the Municipality or its providers, unless -
- (a) ordered to do so by a Court or another competent tribunal;
 - (b) required by legislation; or
 - (c) It is necessary to do so in defence of the disclosing party's rights.

Generally prohibited conduct

- 16.22 No person shall -
- (a) interfere with the supply chain management system of the municipality;
 - (b) amend or tamper with any offer after its submission;
 - (c) Engage in any combative practice.

Inducements, rewards, gifts and favours

- 16.24 No supplier or prospective supplier, or a recipient or prospective recipient of assets of the Municipality disposed or to be disposed of, may directly or indirectly, promise, offer or grant –
- (a) any inducement or reward to the Municipality for or in connection with the award of a contract; or
 - (b) Any reward, gift, favour or hospitality to –
 - (i) Any official; or
 - (ii) Any other role player involved in the implementation of this policy.
- 16.25 The Municipal Manager must promptly report any alleged contravention of paragraph 16.24 to the National Treasury. The National Treasury may list the particulars of the offending person, and any representative or intermediary through which such person is alleged to have acted, in the National Treasury's database of persons prohibited from doing business with the public sector.
- 16.26 Paragraph 16.24 does not apply to gifts less than R350 in value.

Sponsorships

- 16.27 The Municipal Manager must promptly disclose to the National Treasury and the Provincial Treasury any sponsorship promised, offered or granted, whether directly or through a representative or intermediary, by any person who is –
- (a) a supplier or prospective supplier of goods or services to the Municipality; or
 - (b) A recipient or prospective recipient of assets of the Municipality disposed or to be disposed of.

Contract variation

- 16.28 The Municipality accepts that there are valid reasons that may require variation of a particular contract due to the appointed contractor encountering conditions that were not ascertainable at the time of bidding, which will prevent work being carried out to specification. Such variations may be required due to -
- (a) changes in the scope of the original works, such as altered design, extended construction works or extended service requirements; and
 - (b) Difficulties encountered in fulfilling the original specifications of the contract or latent conditions.
- 16.29 In order to reduce the opportunity to exaggerate additional costs incurred due to a contract variation, the Municipal Manager shall ensure that written procedures are adopted and implemented regarding -

- (a) the authorisation of contract variations, cost increases and contract payments; and
- (b) The effective monitoring and recording of the nature and scope of contract variations once approved.

Site inspections during contract execution

16.30 The Municipality realises that site inspections are important for construction contracts to ensure that the Municipality minimises the risk of contractors performing substandard work, which can represent a considerable cost to the Municipality. In order to reduce these risks -

- (a) each person carrying out site inspections on behalf of the Municipality shall record such details of each site inspection she/he carries out in a site inspection diary as the Municipal Manager may prescribe;
- (b) the relevant departmental head shall ensure that the bid and contract documentation of each contract clearly identify the stages during the contract execution at which compulsory site inspection must be carried out, such as prior to a major concrete pour; and
- (c) the relevant contract or project manager shall ensure that site inspections are carried out in terms of the contractual provisions.

Secondary employment

16.31 The Municipality shall not enter into a contract for the supply of goods, the provision of services or the execution of work involving an employee of the Municipality in another capacity than as an employee of the Municipality.

Dealing with former staff and councillors

16.32 The Municipality shall not enter into a contract for the supply of goods, the provision of services or the execution of work involving an employee who has left the employ of the Municipality within one year after she/he left the employ of the Municipality.

16.33 Whenever an employee of the Municipality who was involved in the evaluation of an offer or awarding of a contract leaves the service of the Municipality and becomes involved with the contractor before the contract has been completed, the Municipality shall have the right, without prejudice to any other remedies that the Municipality may have, to -

- (a) cancel the contract and appoint another supplier to complete the contract; or
- (b) Cancel the contract and sue the contractor for any damages or costs the Municipality may have suffered or incurred as a consequence of cancelling the contract.

