

MATJHABENG LOCAL MUNICIPALITY



SUPPLY CHAIN MANAGEMENT POLICY AND RPOCEDURES MANUAL

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1. DEFINITIONS

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

“Abuse” in terms of the Municipality’s Supply Chain Management System means conduct by an official or person that is tantamount to:

1. fraud;
2. corruption;
3. favoritism;
4. unfair, irregular and unlawful practices;
5. misrepresentation on information submitted for the purposes of procuring a contract with the municipality; misrepresentation regarding the supplier’s B-BEE status level of contributor, expertise and capacity to perform in terms of a contract procured via the supply chain management system;
6. breach of a contract procured via the supply chain management system;
7. failure to comply with the supply chain management system; or
8. and any other conduct referred to under the heading of” Combatting Abuse of the Supply Chain Management System”.

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

“Adjudication points” means the points for price and points for B-BBEE contribution referred to in the Preferential Procurement Regulations, 2017 and the Preferential Procurement section of this policy, also referred to as “evaluation points”;

“Affected person” means a person whose rights may be materially and or adversely affected if the Municipal Manager takes any of the steps contemplated in this policy in order to combat abuse of the Supply Chain Management System;

“Alternative Bid” means a bid which is submitted in accordance with clauses 145 and 146 and which materially or substantially deviates from the specification and/or bid conditions;

“Alternative Bidder” means a bidder, identified at the time of awarding a bid, that will be considered for award should the contract be terminated for any reason whatsoever

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

“Appropriate steps” as contemplated in regulation 38(1)(b)(i) of the Supply Chain Management Regulations, means the registering of an affected person on the Municipality’s Register of Tender and Contract Defaulters for a period not exceeding 5 (five) years and include the actions listed in Regulation 38(1)(d), (e), (f) and (g) of the Supply Chain Management Regulations;

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

“Accounting Officer” must mean the Municipal Manager, or Acting Municipal Manager, of the Matjhabeng Municipality as per section 60 of the MFMA. In the case of Municipal Entities-Must mean the Chief Executive Officer or Acting Chief Executive Officer as per section 93 of the MFMA.

“Amendment” must mean a change made to the value of the contract beyond the contract authority and/or the duration of the contract beyond the contract authority and/or scope changes in the contract and/or contracting arrangements beyond the contracting allowances. An amendment may be a minor amendment or a major amendment;

“Appeal Authority” must mean an independent and impartial person appointed by the Accounting Officer in terms of Regulation 50 of the Local Government Municipal Supply Chain Regulations;

“Applicant” must mean a Department of Matjhabeng Municipality;

“Award” must mean the acceptance of a bid or proposal;

“B-BBEE” must mean broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;

“B-BBEE Status Level of Contributor” must mean 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;

“Blacklisting Authority” must mean the Blacklisting Committee;

“Blacklisting Period” must mean the period for which the blacklisted person is barred from participation in the procuring processes of the Municipality;

“Blacklisting” must mean the act of disqualifying a person or an entity from participating in or continuing to participate in the procurement process of the Matjhabeng Municipality;

“Capital Assets” are all assets with a life cycle of greater than one year and above the capitalization threshold (where applicable). For example, this would include property, plant and equipment (infrastructure network, furniture, motor vehicles, computer equipment, etc.), intangible assets, and investment property.

“Chief Financial Officer” must mean the Deputy Municipal Manager: Treasury, or Acting Deputy Municipal Manager: Treasury, of the Matjhabeng Municipality;

“Competitive bid” must mean a bid in terms of a competitive bidding process;

“Competitive bidding process” must mean a competitive bidding process referred to in paragraph 12 (1) (d) of this policy;

“Contingency” must mean an amount included in the contract authority to cover the cost of unforeseen circumstances and must be used in line with respective industry norms and standards. This percentage must be appropriately motivated and approved at contract approval stage via the Bid Specification Committee, or Bid Adjudication Committee (where appropriate);

“Contract” must mean a legally binding agreement between the Municipality and the Contractor for the latter to provide goods, services, engineering and construction works, or professional services in return payment by the former;

“Contract Authority” must mean the total contract award value as approved, or supported, by the Bid Adjudication Committee. This is inclusive of escalations and the normal contingency allowance for variations under the general conditions of contract, and shall be taken from the amount approved at the Bid Specification Committee, or Bid Adjudication Committee;

“Contract Manager” must mean the delegated official to manage and oversee a contract;

“Contract Period” must mean the duration of the contract as set out in the contract;

“Contractor” must mean any person, body, or legal entity that is under contract to the Municipality for the performance of the contract. A Tenderer whose tender has been accepted becomes a Contractor;

“Control” must mean the possession and exercise of legal authority and power to manage the assets, goodwill and daily operations of a business and the active and continuous exercise of appropriate managerial authority and power in determining the policies and directing the operations of the business;

“competitive bidding process” means a competitive bidding process referred to in paragraph 12 (1) (d) of this Policy;

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

“Day(s)” must mean, unless otherwise specified, calendar days. Days must be calculated by excluding the first day and including the last day;

“Delisting” must mean the removal of a person from the Matjhabeng Municipality database of blacklisted persons after the period of blacklisting has expired;

“Disabled” must mean in respect of a natural person, a permanent impairment of a physical, intellectual, or sensory function which results in restricted, or lack of, ability to perform an activity in the manner, or within the range, considered normal for a human being;

“Eligibility Documents” must mean:

(a) A valid Tax Clearance certificate or Tax Compliance Status with a PIN number issued by the South African Revenue Service and Municipal Fee Declarations and certificates certifying that the bidder has no undisputed commitments for municipal fees due to any municipality or overdue for a prescribed period;

(b) declarations by tenderers certifying the correctness of information and certifying validity of authority to act (Regulation 14 of the Preferential Procurement Policy Framework Act 5 of 2000);

(c) certificates declaring details of Private or business interests in terms of Regulation 46(e) of the Supply Chain Management Regulations;

(d) proof of registration with the CIDB (Construction Industry and Development Board), where applicable;

(e) proof of Registration of a Company, close Corporation, Co-operative or any other document requiring formal registration;

(f) any partnership agreement, or agreement of Joint Venture, Memorandum of Articles of a Company, Association Agreement or any other agreement establishing a business entity;

(g) a statement setting out details of work undertaken in the Government/public sector/ organs of state in the past five years, including particulars of persons who assessed the work and who can be contacted to verify completion/ non completion of the contract;

(h) audited financial statements where applicable, or books of account; and/ or

(i) any other document prescribed by law or specifically requested by the Matjhabeng Municipality.

“Executive Director” must mean a partner in a partnership, a Manager of a company established in terms of the Companies Act, 1973 (Act 61 of 1973) and the new Companies Act, 2008 (No. 66 of 2008) or a member of a close corporation registered in terms of the Close Corporation Act, 1984 (No. 69 of 1984) who, jointly and severally with their other partners, co-directors or co-members, as the case may be, bears the risk of business and takes responsibility for the management and liabilities of the partnership, company, or close corporation;

“Exempted Micro Enterprise” must mean a bidder with an annual total revenue of R10 million or less (in terms of the Broad-Based Black Economic Empowerment Act);

“Final award” must mean in relation to bids or quotations submitted for a contract, means the final decision on which bid or quote to accept;

“Formal written price quotation” must mean quotations referred to in paragraph 12 (1) (c) of this policy and shall include any offer to purchase immovable property;

“Fronting” must mean claiming preference points, status or goals of any of the target groups listed in the Matjhabeng Municipality’s Targeted Procurement Policy and/or tendering documents where such claim is false;

“Goods” must mean both movable and immovable property and real rights therein;

“formal written price quotation” means quotations referred to in paragraph 12 (1) (c) of this Policy;

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

(a) a member of –

(i) any municipal council;

(ii) any provincial legislature; or

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

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

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

(d) an employee of any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No.1 of 1999);

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

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

“Improper Practice” must include, but not be limited to:

(a) fronting;

(b) misrepresentation on eligibility documents or Application forms or any other returnable document which contains information which will have a material bearing on the award;

- (c) attempting to bribe or bribing an official by monetary or non-monetary inducement or attempt to influence an official directly or indirectly involved with the procurement process, in order obtain a tender or retain a tender or withdraw from a tender;
- (d) deliberately omitting information, or misrepresenting information which could have a bearing on the award of a tender;
- (e) committing of fraud or extortion in relation to the bidding process;
- (f) obtaining information on the contents of other bids in the same tender which one would not ordinarily be entitled to in terms of the Promotion of Access to Information Act (PAIA) No. 2 of 2000, which information is in the possession and under the control of the Municipality;
- (g) collusive tendering;
- (h) Restrictive horizontal and vertical Practices as defined by the Competition Act, 1998 (No. 89 of 1998);
- (i) committing an exclusionary act as defined by the Competition Act,1998 (No. 89 of 1998); and
- (j) any other activity which is not specifically set out in this definition, but constitutes an unlawful or unfair/ improper business practice;

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

“list of accredited prospective providers” means the list of accredited prospective providers which the Matjhabeng Local Municipality must keep in terms of paragraph 14 of this policy and a MFMA Circular 81 – CSD;

“other applicable legislation” means any other legislation applicable to municipal supply chain management, including –

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

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

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

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

“written or verbal quotations” means quotations referred to in paragraph 12(1)(b) of this Policy.

“In the service of the state” must mean:

- (a) a member of any municipal council, any provincial legislature or the National Assembly of the National Council of Provinces;
- (b) a member of the board of directors of any municipal entity;
- (c) an official of any Municipality or Municipal entity;
- (d) an employee of any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act;
- (e) a member of the accounting authority of any national or provincial public entity; and
- (f) an employee of Parliament or a provincial legislature.

The Minister of Finance has specifically exempted non-executive board members of a Municipal entity from the prohibition for being in the service of the state but only in relation to supply chain awards by a municipal entity that they do not serve on.

An official or employee means a full-time employee, and excludes any person employed on a part time basis or a person earning a stipend, provided that such person be verified and cleared in terms of conflicts of interest by the **Ethics Committee**;

“Infrastructure” must mean:

- (a) immovable assets which are acquired, constructed or which results from construction operations or
- (b) movable assets which cannot function independently from purpose built immovable assets.

“Long term contract” must mean a contract with a duration period exceeding one year;

“List of accredited prospective providers” must mean the list of accredited prospective providers which a municipality or municipal entity must keep in terms of paragraph 14 of this policy;

“Local Content/Resources” must mean where preference points shall be allocated in terms of the location of the enterprise where applicable in the following order of preference: Matjhabeng Municipality Area (MMA); Free State (FS); South Africa (SA);

“Major Amendment” must mean an amendment to a contract which is not a minor amendment;

“Manufacturer” must mean a firm that operates or maintains a factory or establishment that produces on its premises materials or supplies required by the Prime Contractor for the performance of the Contract;

“Military Veteran”: must mean any South African Citizen who-

- (a) rendered military service to any military organizations, statutory and non-statutory, which were involved on sides of South Africa’s Liberation war from 1960 to 1994;
- (b) served in the Union Defense Force before 1960;
- (c) became a member of the new South African National Defense Force after 1994.

“Minor Amendment” must mean a change made to the value of the contract beyond the contract authority and where the change is up to 20% of the original contract authority for construction related goods, services and/or infrastructure projects. A change of only up to 15% of the original contract authority relating to goods and/or services is allowed to be considered a minor amendment”;

“Municipality” must mean the Matjhabeng Municipality or any municipal entity, whichever is applicable;

“Non-Performance” must mean default on a contract in the public sector by willfully or negligently:

- (a) Failing to perform at all;
- (b) Failing to complete work timeously without good reason;
- (c) Delivering defective performance, i.e., poor workmanship or substandard materials;
- (d) Being in breach of a material term of the contract;
- (e) Failing to achieve a specified contract participation goal or performance target as set out in the tender document/s, and
- (f) despite being given written notice to remedy non-performance.

“Other applicable legislation” must mean any other legislation applicable to municipal supply chain management, including, but not limited to:

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

“Owned” must mean having all the customary incidents of ownership, including the right of disposition, and sharing all the risks and profits commensurate with the degree of ownership interests, as demonstrated by an examination of the substance, rather than the form of ownership arrangements;

“Preferred bidder” must mean the most responsive and recommended bidder but who’s tender and award has not been confirmed”

“Person” must mean a person including a juristic person and tenderer, supplier, service provider, contractor and business entity must have a corresponding meaning;

“Prime Contractor” must mean a contractor who contracts with the Municipality as the principal or main contractor or as a joint venture partner to such contractors, to provide goods, services and works;

“Priority population group” must mean black individuals who fall into population groups that were not offered a franchise in the national elections before or after the introduction of the 1984 tri-cameral parliamentary system and only received a franchise during 1994”.

“Project Authority” must mean the authority to incur expenditure on the project as budgeted for and approved by Council;

“Qualifying Small Enterprise” must mean any enterprise with annual total revenue of between R10 million and R50 million.

“Regulation” must mean the Local Government: Municipal Supply Chain Management Regulations promulgated under General Notice 868 of 2005 dated 31 May 2005, as amended from time to time;

“Reporting Officer” must mean a delegated official who monitors the performance of a contractor;

“Restrictive Horizontal Practice” must have the same meaning as set out in the Competitions Act 89 of 1998;

“Restrictive vertical Practice” must have the same meaning as set out in the Competitions Act 89 of 1998;

“Senior manager” must mean any official of the Matjhabeng Municipality with the title Senior Manager, Deputy Head, Head, Deputy Municipal Manager, Municipal Manager, or who in either of these positions in an official acting capacity or the designated office which may supersede the title of “senior manager”;

“Service Provider” must mean a contractor;

“Sole Supplier” must mean that there exist one service provider or supplier manufacturer in the market, with sole distribution rights and/or patent rights.

“SMMEs” must mean Small, Medium and Micro Enterprises as defined in the National Small Business Act 102 of 1996;

“Supplier” must mean a firm that:

- (a) owns, operates or maintains a store, warehouse or other establishment in which materials or supplies are bought, kept in stock and regularly sold to the public in the usual course of business and
- (b) engages as its principal business, and in its own name, in the purchase and sale of the products;

“The Act” must mean the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);

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

“Unsolicited Bid” must mean any proposal/concept received by an institution outside its normal procurement process that has not been a solicited bid (a submission that must be innovative, unique and provided by a sole supplier).

“Variation” must mean a change to a provision/s in a contract, excluding the changes referred to in amendments in the definition of this policy;

“Works” must mean engineering and construction works;

“Written or verbal quotations” must mean quotations referred to in paragraph 12(1)(b) of this policy; and

“Youth” must mean South African citizens between the ages of 18 and 35;

2. POLICY STATEMENT

2.1 Introduction

Section 111 of the MFMA requires each municipality and municipal entity to adopt and implement a supply chain management policy, which gives effect to the requirements of the Act.

In addition, the PPPFA requires an Organ of State to determine its Preferential Procurement Policy and to implement it within the framework prescribed. This requirement is given effect to in the Preferential Procurement section of this Policy.

2.2 Desired Outcomes

The desired outcome of this Policy is to provide a mechanism to ensure sound, sustainable and accountable supply chain management within the municipality, whilst promoting black economic empowerment, which includes general principles for achieving the following socio-economic objectives:

- a) to stimulate and promote local economic development in a targeted and focused manner;
- b) to promote resource efficiency and reduce the negative environmental impact of daily operations of the municipality;
- c) to facilitate creation of employment and business opportunities for the people of Matjhabeng with particular reference to B-BBEE;
- d) to promote the competitiveness of local businesses;
- e) to increase the small business sector access, in general, to procurement business opportunities created by Council;
- f) to implement e-Procurement as an alternative to a manual process, to enhance efficiency and service delivery;
- g) to support green procurement initiatives as far as is reasonably possible.

This Policy will also strive to ensure that the objectives for uniformity in supply chain management systems between organs of state, in all spheres, is not undermined and that consistency with national economic policy on the promotion of investments and doing business with the public sector is maintained.

2.3 Regulatory Context/Policy Objectives

The objectives of this Policy are:

- a) to give effect to section 217 of the Constitution of the Republic of South Africa by implementing a system that is fair, equitable, transparent, competitive and cost effective;

- b) to comply with all applicable provisions of the MFMA including the Municipal Supply Chain Management Regulations published under GN868 in Government Gazette 27636 30 May 2005 and to comply with any National Treasury Circulars/Guidelines specifically adopted by Council, in terms of the MFMA;
- c) to ensure consistency with all other applicable legislation and any regulations pertaining thereto, including:
- the Preferential Procurement Policy Framework Act;
 - the Broad-Based Black Economic Empowerment Act;
 - the Construction Industry Development Board Act;
 - the Local Government: Municipal Systems Act; and
 - the Promotion of Administrative Justice Act.
 - the Promotion of Access to Information Act.

2.4 Oversight

Section 117 of the MFMA prohibits councillors from being a member of a bid committee or any other committee evaluating or approving quotations or bids nor may a Councillor attend any such meeting as an observer.

Council, however, has an oversight role to ensure that the Municipal Manager implements this Supply Chain Management Policy.

The Executive Mayor must provide general political guidance over the fiscal and financial affairs of the Municipality and must monitor and oversee the exercise of responsibilities assigned to the Municipal Manager and chief financial officer in terms of the MFMA.

For the purposes of such oversight, the Municipal Manager shall, within 10 (ten) days of the end of each quarter, submit a report on the implementation of this Policy to the Executive Mayor and, within 30 days of the end of each financial year, shall submit a similar such report to Council.

In addition, if any serious and material problems arise in relation to the implementation of this Policy, the Municipal Manager shall immediately report to Council accordingly.

All such reports shall be made public in accordance with section 21A of the Municipal Systems Act.

2.5 Compliance with Ethical Standards

In order to create an environment where business can be conducted with integrity and in a fair and reasonable manner, this Policy will strive to ensure that the Municipal Manager and all representatives of

the Matjhabeng Municipality involved in supply chain management activities shall act with integrity and in accordance with the highest ethical standards.

All officials or role players involved in the implementation of the Supply Chain Management Policy shall adhere to the code of conduct of municipal staff contained in schedule(s) of the Municipal Systems Act, and this Policy's Code of Ethical Standards.

1.1 Application of Policy

1.1.1 This Policy applies to:

- a) the procuring of goods or services, including construction works and consultant services;
- b) the disposal by the Municipality of goods no longer needed, excluding land
- c) the selection of suppliers to provide assistance in the provision of municipal services otherwise than in circumstances where chapter 8 of the Municipal Systems Act applies; or
- d) the selection of external mechanisms referred to in section 80 (1) (b) of the Municipal Systems Act for the provision of municipal services in circumstances contemplated in section 83 of that Act.
- e) the procurement of goods and services under a current contract secured by another organ of state, provided that the relevant supplier has agreed to such procurement.

1.1.2 Unless specifically stated otherwise, this Policy does not apply if the Municipality contracts with another organ of state for:

- a) the provision of goods or services to the Municipality;
- b) the provision of a municipal service, or assistance in the provision of a municipal service; or
- c) any other contractual agreements between organs of state for whatever reasons

1.1.3 A report shall be submitted to the appropriate delegated authority seeking authority to contract with another organ of state.

2.6 The policy provides for the following supply chain management systems:

2.6.1 Demand Management System;

2.6.2 Acquisition Management System;

2.6.3 Logistics Management System;

2.6.4 Disposal Management System;

2.6.5 Risk Management System;

2.6.6 Performance Management System.

These systems must be adhered to in all supply chain management activities undertaken by the Municipality.

2.7 Delegations

2.7.1 The Municipal Manager has the statutory power to delegate or sub-delegate to a staff member any power conferred on the Municipal Manager in terms of the MFMA and the Supply Chain Management Regulations relating to supply chain management.

2.7.2 No decision-making in terms of any supply chain management powers and duties may be delegated to an advisor or consultant who is not a Municipal official.

2.8 Competency

2.8.1 The Municipal Manager shall ensure that all persons involved in the implementation of this Policy meet the prescribed competency levels, and where necessary, shall provide relevant training.

2.8.2 The training of officials involved in implementing this Policy shall be in accordance with any National Treasury circulars / guidelines on supply chain management training.

2.9 Supply chain management unit

The Municipality has established a Supply Chain Management Department to assist the Municipal Manager to implement this Policy.

2.10 Communication with the municipality

All correspondence with regard to this Policy shall be addressed to the Manager: Supply Chain Management.

2.12 Availability of supply chain management policy

A copy of this Policy and other relevant documentation is available on the Municipality's website.

2.11 e-PROCUREMENT

The implementation and use of an e-Procurement system is at the sole discretion of the Director: Supply Chain Management.

2.12 Payment terms for goods and services

- 2.12.1 Payment of invoices will be made within 30 days of receiving the relevant invoice or statement, unless otherwise prescribed for certain categories of expenditure or specific contractual requirements in accordance with any other applicable policies of the Municipality.
- 2.12.2 More frequent payment to suppliers is not a right in terms of this policy. A supplier may submit a fully motivated application in this regard to the Manager Expenditure or their delegated authority for consideration. Requests for more frequent payments will be considered at the sole discretion of the delegated authority.
- 2.12.3 Notwithstanding anything contained above, the Municipality shall not be liable for payment of any invoice that pre-dates the date of delivery of any goods or services, or the date of certification for construction works.

3. SUPPLY CHAIN MANAGEMENT POLICY

3.1 Implementation of policy

All officials and other role players in the supply chain management system of the Matjhabeng Local Municipality must implement this Policy in a way that –

- a) gives effect to –
 - (i) section 217 of the Constitution; and
 - (ii) Part 1 of Chapter 11 and other applicable provisions of the Act;
- b) is fair, equitable, transparent, competitive and cost effective;
- c) complies with –
 - (i) the Regulations; and
 - (ii) any minimum norms and standards that may be prescribed in terms of section 168 of the Act;
- d) is consistent with other applicable legislation;
- e) does not undermine the objective for uniformity in supply chain management systems between organs of state in all spheres; and
- f) is consistent with national economic policy concerning the promotion of investments and doing business with the public sector.

3.2 Application of policy

This Policy applies when the Matjhabeng Local Municipality –

- a) procures goods or services;
- b) disposes goods no longer needed;
- c) selects contractors to provide assistance in the provision of municipal services otherwise than in circumstances where Chapter 8 of the Municipal Systems Act applies; or
- d) selects external mechanisms referred to in Section 80 (1) (b) of the Municipal Systems Act for the provision of municipal services in circumstances contemplated in Section 83 of that Act. This policy, except were provided otherwise, does not apply in respect of the procurement of goods and services contemplated in Section 110 of the Act, including:
 - (i) water from the Department of Water Affairs or a public entity, another municipality or a municipal entity; and
 - (iii) electricity from Eskom or another public entity, another municipality or a municipal entity.

3.3 Adoption and amendment of the supply chain management policy

3.1.1 The Accounting Officer must:

- a) at least annually review the implementation of this policy, by way of a revised policy document and/or annual report on the implementation of the policy; and
- b) when the Accounting Officer considers it necessary, submit proposals for the amendment of this policy to the council.

3.1.2 If the Accounting Officer submits a draft policy to the Council that differs from the model policy, the Accounting Officer must ensure that such draft policy complies with the Regulations. The Accounting Officer must report any deviation from the model policy to the National Treasury and the relevant provincial treasury.

3.1.3 When amending this supply chain management policy, the need for uniformity in supply chain practices, procedures and forms between organs of state in all spheres, particularly to promote accessibility of supply chain management systems for small businesses must be taken into account.

3.1.4 The Accounting Officer of a municipality must in terms of section 62(1)(f)(iv) of the Act take all reasonable steps to ensure that the municipality has and implements this supply chain management policy.

3.1.5 All MFMA Circulars issued by National Treasury from time-to-time are applicable within this policy where practical.

3.4 Supply chain management unit

The municipality has established a Supply Chain Management Department to assist the Municipal Manager to implement this Policy.

3.5 Communication with the municipality

All correspondence with regard to this Policy shall be addressed to the Manager: Supply Chain Management

3.6 Availability of supply chain management policy

A copy of this Policy and other relevant documentation is available on the municipality's website.

4. DELEGATION OF SUPPLY CHAIN MANAGEMENT POWERS AND DUTIES

- 4.1 The council hereby delegates all powers and duties to the accounting officer which are necessary to enable the accounting officer –
- a) to discharge the supply chain management responsibilities conferred on accounting officers in terms of Chapter 8 Or 10 of the Act and this Policy
- 4.2 to maximize administrative and operational efficiency in the implementation of this Policy(c) to enforce reasonable cost-effective measures for the prevention of fraud, corruption, favoritism and unfair and irregular practices in the implementation of this Policy; and
- 4.3 to comply with his or her responsibilities in terms of section 115 and other applicable provisions of the Act.
- 4.4 Sections 79 and 106 of the Act apply to the sub delegation of powers and duties delegated to an accounting officer in terms of subparagraph (1).
- 4.5** The accounting officer may not subdelegate any supply chain management powers or duties to a person who is not an official of Matjhabeng Local Municipality or to a committee which is not exclusively composed of officials of the Matjhabeng Local Municipality.
- 4.6 This paragraph may not be read as permitting an official to whom the power to make final awards has been delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in paragraph 26 of this Policy.

5. SUB DELEGATIONS

- 5.1 The accounting officer may in terms of section 79 or 106 of the Act subdelegate any supply chain management powers and duties, including those delegated to the accounting officer in terms of this Policy, but any such sub delegation must be consistent with subparagraph (2) of this paragraph and paragraph 4 of this Policy.
- 5.2 No supply chain management decision making powers may be delegated to an advisor or consultant
- 5.3 The power to make final award
- 5.3.1 above R10 million (VAT included) may not be subdelegated by the accounting officer;
 - 5.3.2 above R2 million (VAT included), but not exceeding R10 million (VAT included), may be subdelegated but only to –
 - 5.3.2.1 the chief financial officer;
 - 5.3.2.2 a senior manager; or
 - 5.3.2.3 a bid adjudication committee of which the chief financial officer or a senior manager is a member; or

5.3.3 not exceeding R2 million (VAT included) may be subdelegated but only to –

5.3.3.1 the chief financial officer;

5.3.3.2 a senior manager;

5.3.3.3 a manager directly accountable to the chief financial officer or a senior manager;

5.3.3.4 or a bid adjudication committee.

5.4 An official or bid adjudication committee to which the power to make final awards has been subdelegated in accordance with subparagraph (2) must within five days of the end of each month submit to the official referred to in subparagraph (4) a written report containing particulars of each final award made by such official or committee during that month, including–

5.4.1 the amount of the award;

5.4.2 the name of the person to whom the award was made; and

5.4.3 the reason why the award was made to that person.

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

5.5.1 to the accounting officer, in the case of an award by –

5.5.1.1 the chief financial officer;

5.5.1.2 a senior manager; or

5.5.1.3 a bid adjudication committee of which the chief financial officer or the senior manager is a member or

5.5.1.4 to the chief financial officer or the senior manager responsible for the relevant bid, in the case of an award by a manager referred to in subparagraph

5.5.1.5 a bid adjudication committee of which the chief financial officer or a senior manager is not a member.

5.6 Subparagraphs 5.3 to 5.5 of this policy do not apply to procurements out of petty cash.

5.7 This paragraph may not be interpreted as permitting an official to whom the power to make final awards has been subdelegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in paragraph 23 of this Policy.

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

6. OVERSIGHT ROLE OF COUNCIL

The council reserves its right to maintain oversight over the implementation of this Policy.

For the purposes of such oversight the Accounting Officer must –

6.1 within 30 days of the end of each financial year, submit a report on the implementation of this Policy to the council of the Matjhabeng Local Municipality; and

- 6.2 whenever there are serious and material problems in the implementation of this Policy, immediately submit a report to the council.
- 6.3 The accounting officer must within 10 days after the end of each quarter, submit a report on the implementation of the supply chain management policy to the mayor
- 6.4 Such report must be made public

7. TRAINING OF SUPPLY CHAIN MANAGEMENT OFFICIALS

- 7.1 The training of officials involved in implementing this Policy should be in accordance with any Treasury guidelines on supply chain management training.
- 7.2 All staff who attended training shall complete the attendance register and be issued with certificates of attendance, whether the training is internal or external.

8. DEMAND MANAGEMENT SYSTEM

8.1 Introduction

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

8.2 Major Activities

- 8.2.1 Demand management is the beginning of the supply chain management process and the major activities associated with identifying demand are:
 - 8.2.1.1 establishing requirements;
 - 8.2.1.2 determining needs; and
 - 8.2.1.3 deciding on appropriate procurement strategies.
- 8.2.2 Demand management accordingly shall involve the following activities:
 - 8.2.2.1 understanding the future needs;
 - 8.2.2.2 identifying critical delivery dates;

- 8.2.2.3 identifying the frequency of the need;
- 8.2.2.4 linking the requirement to the budget;
- 8.2.2.5 conducting expenditure analyses based on past expenditure;
- 8.2.2.6 determining requirements (including the internal capacity to implement),
- 8.2.2.7 conducting commodity analyses in order to check for alternatives; and
- 8.2.2.8 conducting industry analysis

9. ACQUISITION MANAGEMENT SYSTEM

9.1 Introduction

- 9.1.1 The objectives of this acquisition management system are to ensure:
 - 9.1.1.1 that goods and services, including construction works and consultant services are procured by the Municipality only in accordance with the authorised procedures incorporated herein;
 - 9.1.1.2 that expenditure on goods and services, including construction works and consultant services is incurred in terms of an approved budget;
 - 9.1.1.3 that the threshold values of the different procurement procedures are complied with;
 - 9.1.1.4 that bid documentation, evaluation and adjudication criteria, and general conditions of contract are in accordance with the requirements of relevant legislation including, the PPPFA and its Regulations, and any conditions of the CIDB Act and its Regulations where applicable; and
 - 9.1.1.5 that procurement circulars/guidelines issued by the National Treasury and specifically adopted by Council are taken into account.

9.2 Application

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

9.3 Compliance with Legislative Requirements

- 9.3.1 Compliance with all legislative requirements not related to the supply chain management system must be adhered to by the Line Departments of the municipality.

9.4 Compliance with Other Procedures

- 9.4.1 Compliance with other procedures not related to the supply chain management system such as project selection, feasibility, justification and approval processes, planning approvals and budget approvals must be adhered to by the Line Manager.

10. THE MUNICIPALITY'S DATABASE (Annexure Form)

- 10.1 The Municipality's Supplier Database is the database which lists the details of all suppliers who have registered in order to do business with the Municipality.
- 10.2 The Municipal Manager shall ensure that the Municipality's Supplier Database is updated at least quarterly and shall at least once per year, through newspapers commonly circulating locally, the website of the Municipality, and any other appropriate ways, invite prospective suppliers of goods and services, construction works and consultant services to register on the Municipality's Supplier Database.
- 10.3 Prospective suppliers shall however be allowed to submit applications for registration and amendments for listing on the Municipality's Supplier Database at any time.
- 10.4 The listing criteria for suppliers are as indicated on the Supplier Registration Application and only those suppliers that have fully complied with these requirements will be registered.
- 10.5 The registration process for the submission of e-Procurement bids is a separate process administered through a web-based portal in addition to registration on the Municipality's Supplier Database.
- 10.6 The Municipal Manager shall disallow the registration of any prospective supplier on the Municipality's Supplier Database who does not comply with the requirements of the Supplier Registration Application.
- 10.7 The Municipal Manager shall disallow the registration of any prospective supplier whose name appears on the National Treasury's Database of Restricted Suppliers and/or Register for Tender Defaulters and who is therefore prohibited from doing business with the public sector.
- 10.8 Bidders who are not registered on the Municipality's Supplier Database are not precluded from submitting bids, but must however register when called upon to do so.
- 10.9 All persons forming part of a Joint Venture or Consortium must comply with the requirements as stipulated in this policy.

11. NATIONAL TREASURY'S WEB BASED CENTRAL SUPPLIER DATABASE (CSD)

- 11.1 In addition to the requirements of the Municipality's Supplier Database, it is a requirement for all Suppliers to be registered on the National Treasury Web Based Central Supplier Database (CSD) that can be accessed at <https://secure.csd.gov.za>.

- 11.2 The CSD is the national standardised and centralised electronic supplier database administered by the National Treasury which provides information to an organ of state.
- 11.3 Prospective suppliers shall be allowed to submit applications for registration and amendments for listing on the CSD at any time and agree to the terms and conditions of the CSD.
- 11.4 Bidders who are not registered on the CSD are not precluded from submitting bids, but must however register when called upon to do so.
- 11.5 Prospective suppliers must notify the Municipality immediately upon receipt of their CSD Reference Number (MAAA....) for this to be captured onto the Municipality Supplier Database.

12. COMBATING ABUSE OF THE SUPPLY CHAIN MANAGEMENT SYSTEM

- 12.1 The Municipal Manager provides measures for the combating of abuse of the supply chain management system and is able to:

12.1.1 take all reasonable steps to prevent such abuse;

- 12.2 investigate any allegations against an official, or other role player, of abuse and when justified, to:

12.2.1 take appropriate steps against such official or other role player; or

12.2.2 report any alleged criminal conduct to the South African Police Service or any other recognised authority;

- 12.3 check the National's Treasury's Database of Restricted Suppliers and Register for Tender Defaulters prior to awarding any contract to ensure that no recommended bidder, or any of its directors is listed as a person prohibited from doing business with the public sector.

- 12.4 The steps referred to in clause 57 above which the Municipal Manager may take include:

12.4.1 reject any bid from a bidder:

12.4.1.1 if any municipal rates and taxes or municipal service charges owed by the bidder, or any of its directors, to the Municipality or any of the Municipality's municipal entities, or any other municipality or municipal entity, are in arrears for more than three months; or

12.4.1.2 who during the last five years has failed to perform satisfactorily on a previous contract with the Municipality or its municipal entities or any other organ of state after written notice was given to that bidder that performance was unsatisfactory;

- 12.5 reject a recommendation for the award of a contract if:

12.5.1 the recommended bidder, or any of its directors has committed any abuse of the supply chain management system in competing for the particular contract

12.5.2 cancel a contract (and enforce all contractual remedies) awarded to a person if:

12.5.2.1 the person committed any abuse of the supply chain management system during the bidding process or the execution of the contract;

12.5.2.2 an official or other role player committed any corrupt or fraudulent act during the bidding or in the execution of the contract that benefited that person;

12.5.2.3 a material irregularity vitiates the procurement process leading to the conclusion of the contract, rendering the procurement process and the conclusion of the resulting contract unfair, inequitable, non-transparent, uncompetitive or not cost-effective, provided the Municipal Manager

12.5.2.4 affords the person a reasonable opportunity to make representations on whether the contract should be cancelled; and

12.5.2.5 takes into account all relevant considerations in exercising his discretion whether to cancel the contract, including the following factors (none in itself necessarily determinative):

- a) the commercial consequences of cancellation for the parties to the contract;
- b) the extent of the parties' reliance on the lawfulness of the procurement process, the award of the tender, and the conclusion of the contract;
- c) the degree to which the successful bidder is implicated in the irregularity invoked for cancelling the contract, or has been an innocent victim of irregularity attributable to public officials or third parties;
- d) any adverse consequences for the general public or to the public interest consequent on the cancellation of the contract;
- e) the extent and duration of the contract concerned;
- f) whether the Municipality is likely to conclude a similar agreement with another person within a specific time frame;
- g) the extent to which the agreement has been executed;
- h) the urgency of the services to be delivered or supplied in terms of the contract;
- i) whether extreme costs will result from cancellation; and
- j) any other factor which, in the opinion of the Municipal Manager, is relevant to the cancellation of the contract.

12.6 automatically reject the bid of any bidder or any of its directors who:

- 12.6.1 abused the supply chain management system of the Municipality or its municipal entities, or has committed any improper conduct in relation to this system;
- 12.6.2 has been convicted of fraud or corruption during the past five years;
- 12.6.3 willfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years;
- 12.6.4 has been listed on the National Treasury's Register for Tender Defaulters in terms of the Prevention and Combating of Corrupt Activities Act, 12 of 2004;
- 12.6.5 has been listed on the National Treasury's Database for Restricted Suppliers as a person prohibited from doing business with the public sector;
- 12.6.6 has been found guilty of contravening the Competition Act; and/or
- 12.6.7 any other basis listed in the Supply Chain Management Policy.
- 12.6.8 invalidate any recommendations or decisions that were unlawfully or improperly made, taken or influenced, including recommendations or decisions that were made or in any way influenced by:
 - 12.6.8.1 Councillors in contravention of item 5, 6 or 9 of the Code of Conduct for Councillors set out in Schedule 1 of the Municipal Systems Act; or
 - 12.6.8.2 Municipal officials in contravention of item 4, 5 or 8 of the Code of Conduct for Municipal Staff Members set out in Schedule 2 of the Municipal Systems Act;
- 12.6.9 list a person or any of its representatives (if applicable) on the Municipality's Register of Tender and Contract Defaulters (subject to the procedures and for periods as described in this Policy)
- 12.7 The Municipal Manager, or the Director: Supply Chain Management, must inform the National and Provincial Treasury of any actions taken in terms of clauses above.
- 12.8 Any action against and/or listing of a person in terms of clause 59 shall, at the discretion of the Municipal Manager, also be applicable to any other enterprise or any Manager or other person who wholly or partly exercises or exercised or may exercise control over the enterprise of the first mentioned person, and with which enterprise or person the first-mentioned person, is, or was actively associated.
- 12.9 The Municipal Manager shall revoke access to the e-Procurement system in the event that the supplier is restricted in terms of the Supply Chain Management Policy.
- 12.10 The procedures applicable to the application of the measures that are available to the Municipal Manager for the combating of abuse of the supply chain management system is contained in the Municipality of Matjhabeng 's Abuse System and Procedure.

13. APPOINTMENT OF OBSERVER

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

14. CONTRACTS HAVING BUDGETARY IMPLICATIONS BEYOND THREE FINANCIAL YEARS (SECTION 33 OF MFMA)

- 14.1 The Municipality may only enter into a contract that will impose financial obligations beyond the three years covered in the annual budget for that financial year if section 33 of the MFMA has been fully complied with.

15. PROUDLY SOUTH AFRICAN CAMPAIGN

- 15.1 The Municipality supports the Proudly South African Campaign and may, where appropriate, aside from stipulating minimum local content thresholds determined by the Department of Trade and Industry in respect of designated sectors, determine minimum thresholds in respect of other sectors as well

16. SPECIALISED FORMS OF PROCUREMENT

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

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

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

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

16.3 *Acquisition of Banking Services*

16.3.1 Subject to section 33 of the MFMA, any contract for the provision of banking services:

16.3.1.1 shall be procured through a competitive bidding process;

16.3.1.2 shall be consistent with section 7 of the MFMA; and

16.3.1.3 may not be for a period longer than five years.

16.3.2 The process for procuring a contract for banking services must commence at least nine months before the end of an existing contract.

16.3.3 The closure date for the submission of bids for banking services may not be less than 60 days from the date on which the advertisement is placed in newspaper commonly circulating locally.

16.3.4 Bids shall be restricted to banks registered in terms of the Banks Act, 94 of 1990.

16.4 *Acquisition of IT Related Services*

16.4.1 The Municipal Manager may request that the State Information Technology Agency (SITA) to assist with the acquisition of IT related goods or services through a competitive bidding process in which case the parties must enter into a written agreement to regulate the services provided by, and the payments to be made to, the SITA.

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

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

16.5 *Acquisition of Goods Necessitating Special Safety Arrangements*

16.5.1 Goods, other than water, which necessitate special safety arrangements (for example, flammable products, poisons), may not be acquired in excess of immediate requirements unless there is sound financial justification therefore.

16.5.2 Where the storage of goods, other than water in bulk is justified, the Municipal Manager may authorise such storage and the decision must be based on sound reason including total cost of ownership and cost advantages for the Municipality.

16.6 *Public-Private Partnerships*

- 16.6.1 Part 2 of Chapter 11, section 120 of the MFMA applies to the procurement of public-private partnership agreements. Section 33 also applies if the agreement will have multi-year budgetary implications for the Municipality within the meaning of that section.

16.7 *External Mechanisms for Municipal Service Delivery*

- 16.7.1 The principles contained, including the procurement mechanisms, in Sections 76 to 81 Of the Municipal Systems Act applies when the Municipality elects to supply any municipal services through any external mechanisms. Section 33 of the MFMA also applies if the agreement will have multi-year budgetary implications for the Municipality within the meaning of that section.

16.8 *List of Accredited Prospective Suppliers (systems report)*

- 16.8.1 The Municipal Manager shall ensure that a list of accredited prospective suppliers of goods and services is kept, for the procurement requirements of the Municipality through any applicable bidding processes.
- 16.8.2 The list of accredited prospective suppliers refers to suppliers who are accredited to do business with the Municipality in respect of particular commodities, services or construction.
- 16.8.3 The Manager: Supply Chain Management will determine the procedure for the procurement of goods and services through written and formal written price quotations (up to and including R200'000) when using the List of Accredited Suppliers in order to promote ongoing competition amongst providers, including by inviting providers to submit quotations on a rotation basis
- 16.8.4 The list of accredited prospective suppliers must be compiled per commodity and per type of service. The listing criteria for accredited prospective suppliers are as set out in clause 46 above, along with any additional criteria the Municipality may stipulate from time to time as it relates to the relevant commodity or type of service.
- 16.8.5 This list must be updated at least quarterly to include any additional prospective suppliers and any new commodities or types of service. Prospective suppliers shall, however, be allowed to submit applications for listing at any time.
- 16.8.6 The provisions above shall also apply to suppliers listed on the list of accredited prospective suppliers.

17. ADVERTISEMENTS, NOTICES AND COMMUNICATIONS TO LOCAL COMMUNITY

- 17.1 When anything must be notified by Council through the media to the local community the procurement of such notices, advertisements or media campaigns must be done (where possible) in accordance with the applicable official procurement process. Where it is impractical or

impossible to follow the official procurement process or where the services are available from a single provider only, then the deviation process as contained in clause 59 will be applicable.

18. COMMUNITY BASED SUPPLIERS

- 18.1 The Manager: Supply Chain Management may request quotations directly from Community Based Suppliers in a specific area or from a specific community for the procurement of goods and services for amounts less than R30 000 (including construction works) in accordance with procedures as determined by the Manager: Supply Chain Management from time to time.
- 18.2 The Manager: Supply Chain Management shall compile and update a list of community-based suppliers in conjunction with Local Economic Development Unit of the Municipality.
- 18.3 The Manager: Supply Chain Management and the LED Manager shall conduct, on an annual basis a Local Economic Development Summit to address the outcomes of the community-based procurement, new developments in SCM Policies and the Details of the Procurement Plan of the ensuing year.

19. RANGES OF PROCUREMENT

Goods and services, including construction works and consultant services shall be procured through the range of procurement processes set out below.

19.1 Competitive Bids

- 19.1.1 Competitive bidding shall be followed where the estimated transaction value exceeds R200 000, or for any contract exceeding one year in duration, excluding procurement through deviation procedures as per SCM Regulation 36.

19.2 Framework Agreement Bids

- 19.2.1 The municipality shall follow framework agreements for the supply of goods and services or construction works that is of an ad-hoc or repetitive nature for a predetermined period of time whether awarded to a single supplier or the establishment of panels requiring secondary competitive procedures.

19.3 Formal Written Price Quotations

- 19.3.1 Where the estimated transaction value exceeds R10 000 and is less than or equal to R200 000.

19.4 *Written Price Quotations*

19.4.1 Where the estimated transaction value exceeds R250 and is less than or equal to R10 000.

19.4.2 Note that the Municipal Manager has, in terms of this policy, reduced the threshold value for petty cash purchases to R250.00.

19.5 *Petty Cash Purchases*

19.5.1 Where the transaction value is less than or equal to R250.00

19.6 *Procurement of Consulting Services*

19.6.1 Where the estimated value of fees exceeds R200 000 or where the duration of the appointment will exceed one year, a competitive bidding process shall apply.

19.6.2 Where the estimated value of fees is less than or equal to R200 000 and the duration of the appointment will be less than one year, a selection process as described in this Policy, as amended from time to time, shall be applied.

19.6.3 Consulting services may also be procured as Framework Bids in accordance with the conditions set out in this Policy.

20. REDUCTION IN THRESHOLD VALUES

20.1 The Municipal Manager may:

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

20.2 direct that:

20.2.1 written price quotations be obtained for any specific procurement of a transaction value lower than R2 000;

20.2.2 formal written price quotations be obtained for any specific procurement of a transaction value less than R10 000; or

20.2.3 a competitive bidding process be followed for any specific procurement of a transaction value lower than R200 000.

21. DELIBERATE SPLITTING OF ORDERS

21.1 The provision of goods, services or construction works may not deliberately be split into parts, or items of a lesser value, merely to avoid complying with the requirements of this policy.

22. GENERAL CONDITIONS APPLICABLE TO BIDS AND QUOTATIONS

22.1 The Municipality may not consider a bid or quote unless the bidder who submitted the bid or quote:

22.1.1 has furnished the Municipality with that bidder's:

- a) full name;
- b) identification number or company or other registration number; and
- c) tax reference number;
- d) a valid tax clearance certificate and a SARS Compliance Status Pin and
- e) VAT registration number, if any;

22.1.2 has attended a compulsory site inspection/briefing session, where applicable;

22.2 The provider is in the service of the state, or has been in the service of the state in the previous twelve months;

22.3 If the provider is not a natural person, whether any of the directors, managers, principal shareholders or stakeholders is in the service of the state, or has been in the service of the state in the previous twelve months; or

22.4 whether a spouse, child or parent of the provider or of a director, manager, shareholder or stakeholder referred to in other clauses herein is in the service of the state, or has been in the service of the state in the previous twelve months.

22.5 Irrespective of the procurement process, the Municipality may not make any award above R15 000, to a person whose tax matters have not been declared by the SARS to be in order.

22.6 Before making an award, the Municipality must verify the bidder's tax compliance status. Where the recommended bidder is not tax compliant, the bidder should be notified of the non-compliant status and be requested to submit to the Municipality, within 7 working day, written proof from SARS that they have made arrangement to meet their outstanding tax obligations. The proof of tax compliance submitted by the bidder must be verified by the Municipality via CSD or e-Filing. The Municipality should reject a bid submitted by the bidder if such bidder fails to provide proof of tax compliance within the timeframe stated herein.

22.7 Irrespective of the procurement process followed:

22.7.1 the Municipality is prohibited from making an award to a person

- 22.7.2 who is in the service of the state;
- 22.7.3 if the person is not a natural person, of which any director, manager or principal shareholder or stakeholder is in the service of the state;
- 22.7.4 who has been in the service of the Municipality during the twelve months after the Municipality employee has left the employ of the Municipality;
- 22.7.5 if the person is not a natural person, of which any director, manager or principal shareholder or stakeholder has been in the service of the Municipality during the twelve months after the Municipality employee has left the employ of the Municipality;
- 22.7.6 or an entity who has employed a former Municipality employee who was at a level of **T15 or higher** at the time of leaving the Municipality's employ and involved in any of the Municipality's bid committees for the bid submitted, if:
- a) the Municipality employee left the Municipality's employment voluntarily, during a period of twelve (12) months after the Municipality employee has left the employ of the Municipality;
 - b) the Municipality employee left the Municipality's employment whilst facing disciplinary action by the Municipality, during a period of twenty-four (24) months after the Municipality employee has left the employ of the Municipality, or any other period prescribed by applicable legislative provisions, after having left the Municipality's employ; or
 - c) who is an advisor or consultant contracted with the Municipality whose prior or current obligations creates any conflict of interest or unfair advantage; and?
- 22.7.7 the Municipality reserves its rights not to make an award, revoke an award already made or cancel a contract where the implementation of the contract may result in reputational risk or harm to the Municipality as a result of (inter alia):
- a) reports of poor governance and/or unethical behaviour;
 - b) association with known family of notorious individuals;
 - c) poor performance issues, known to the Municipality;
 - d) negative social media reports; and
 - e) adverse assurance (e.g., due diligence) report outcomes.
- 22.8 The Municipal Manager shall ensure that the notes to the annual financial statements of the Municipality disclose particulars of any award above R2000 to a person who is a spouse, child or parent of a person in the service of the state, or who has been in the service of the state in the previous twelve months, including4:
- 22.9 Awards can be made to close family members in terms of SCM Regulation 45 (**Related party transaction register Annexure**)

- 22.9.1 the name of the person;
- 22.9.2 the capacity in which the person is in the service of the state; and
- 22.9.3 the amount of the award.

23. COMPETITIVE BIDS

23.1 *General*

- 23.1.1 Competitive bids must be called for any procurement of goods or services, construction works, or consultant services above a transaction value of R200 000, or for any contract exceeding one year in duration.
- 23.1.2 When determining transaction values, a requirement for goods or services, construction works or consultant services consisting of different parts or items must as far as possible be treated and dealt with as a single transaction.
- 23.1.3 Within the context of preferential procurement, one of the strategies to encourage and assist entry into Local Government procurement by emerging businesses is to simplify and/or standardise bid/contract documentation wherever possible.
- 23.1.4 To this end, the Municipality will prepare a suite of standard documentation and, where appropriate, simplified bid/contract documents for use in the Municipality's procurement process as and where applicable.
- 23.1.5 Where standard bid/contract documentation is prescribed in terms of legislation (the CIDB Standard for Uniformity, for example) such standard documentation must be used for the procurement of goods, services and/or construction works, as applicable.

23.2 *Bid Specifications*

- 23.2.1 Bid specifications must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services.
- 23.2.2 Bid specifications must take account of any accepted standards such as those issued by South African National Standards, the International Standards Organisation, or any authority accredited or recognised by the South African National Accreditation System with which the equipment or material or workmanship should comply.
- 23.2.3 Bid specifications shall, where possible, be described in terms of performance required rather than in terms of descriptive characteristics for design.
- 23.2.4 Bid specifications may not create trade barriers in contract requirements in the forms of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labelling of conformity certification.

- 23.2.5 Bid specifications may not make any reference to any particular trade mark, name, patent, design, type, specific origin or producer, unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the words “or equivalent”.
- 23.2.6 Bid specifications must be approved by the Municipal Manager or his delegated authority prior to publication of the invitation for bids.
- 23.2.7 Where specifications are based on standard documents available to bidders, a reference to those documents is sufficient.

23.3 Bid Specification Committee

- 23.3.1 All bid specifications and bid documentation must be compiled by an ad-hoc bid specification committee constituted for each tender or procurement activity.
- 23.3.2 The Bid Specification Committee shall be comprised of at least two Municipality officials as members, consisting of an appointed Chairperson and a responsible technical official. The Supply Chain Management Practitioner serves in an advisory capacity. No bid committee meeting shall proceed without an SCM practitioner. Disagreements on the advice provided by the Supply Chain Management Practitioner must be dealt with in terms of the Rule of Order for Bid Committees and be recorded accordingly.
- 23.3.3 Where appropriate, a representative of Internal Audit and/or Legal Services and/or other specialist advisors (internal or external) may form part of this committee.
- 23.3.4 **Green procurement** should be considered for all specifications of goods, services and construction works.
- 23.3.5 In the development of bid specifications, innovative mechanisms should be explored to render the service or product more resource and energy efficient.
- 23.3.6 The Municipal Manager, or his delegated authority, shall, taking into account section 117 of the MFMA, appoint the members of the Bid Specification Committees.
- 23.3.7 No person, advisor or corporate entity involved with the bid specification committee, or Manager of such corporate entity, may bid for any resulting contracts.
- 23.3.8 Bid Specification Committee meetings must be conducted in accordance with the applicable Terms of Reference and Guide and Rules of Order for Members of the Municipality of Matjhabeng Bid Committees.

23.4 Compilation of Bid Documentation

- 23.4.1 If the bid relates to construction works as contemplated by the Construction Industry Development Board Act, then the requirements of that Act must be taken into account in the bid documentation together with any Circulars published by National Treasury and the National

Treasury Standard for Infrastructure Delivery Management System (*SIPDMS*) to the extent adopted by Council.

- 23.4.2 General conditions of contract and supply chain management circulars / guidelines of the National Treasury in respect of goods and services must be taken into account when compiling bid documents.
- 23.4.3 Bid documentation must clearly indicate the terms and conditions of contract, specifications, criteria for evaluation and adjudication procedures to be followed where applicable, and include where site inspections are compulsory.
- 23.4.4 Appropriate penalties should be specified for failure to comply with specific terms and conditions of all contracts.
- 23.4.5 An appropriate contract and/or delivery period should be specified for all contracts.
- 23.4.6 The requirements of the preferential procurement section of this Policy must be clearly set out in the bid documentation.
- 23.4.7 The bid documentation and evaluation criteria shall not be aimed at hampering competition, but rather to ensure fair, equitable, transparent, competitive and cost-effective bidding, as well as the protection or advancement of persons, or categories of persons, as embodied in the preferential procurement section of this Policy.
- 23.4.8 The bid documentation must require a bidder to furnish the following:
- a) the bidder's full name;
 - b) the identification number or company or other registration number;
 - c) the bidder's Municipality Supplier Database Registration Number;
 - d) the bidder's National Treasury Central Supplier Database Registration Number;
 - e) the bidder's tax reference number and VAT registration number, if any; and
 - f) a valid tax clearance from the South African Revenue Services stating that the bidders tax matters are in order and the bidder's SARS Tax Compliance Status PIN.
- 23.4.9 Bid documentation must stipulate that disputes must be settled by means of mutual consultation, mediation (with or without legal representation), adjudication or, as a final measure, in a court of South African law.
- 23.4.10 A provision for the termination/cancellation of the contract in the case of non- or under-performance must be included in the bid documentation.
- 23.4.11 Unless otherwise indicated in the bid documents, the Municipality shall not be liable for any expenses incurred in the preparation and/or submission of a bid.

23.4.12 Bid documentation must state that the Municipality shall not be obliged to accept the lowest bid, any alternative bid or any bid

23.4.13 Unless the Municipal Manager otherwise directs bids are invited in the Republic only.

23.4.14 Laws of the Republic shall govern contracts arising from the acceptance of bids.

23.4.15 Where the acquisition in question is likely to involve an imported component, which will be subject to foreign exchange rate adjustments, the bid documentation must specify that the supplier take out a forward exchange contract in order to fix the Rand based price as soon as possible after the award.

23.4.16 Bid documentation must compel bidders to declare any conflict of interest they may have in the transaction for which the bid is submitted.

23.4.17 The bid documentation must require bidders to disclose:

- a) whether he or she is in the service of the state, or has been in the service of the state in the previous twelve months;
- b) if the bidder is not a natural person, whether any of its directors, managers, principal shareholders or stakeholder is in the service of the state, or has been in the service of the state in the previous twelve months; or
- c) whether a spouse, child or parent of the bidder or of a director, manager, shareholder or stakeholder referred to in the clause above.
- d) is in the service of the state, or has been in the service of the state in the previous twelve months.

23.4.18 Bid documentation must:

- a) require bidders to complete, sign and submit, together with their bid, a certificate of independent bid determination;
- b) stipulate that if it is found that the certificate of independent bid determination is not true and complete in every respect, that the bid may be rejected/declared non-responsive;
- c) Bid documentation for consultant services must require bidders to furnish the Municipality with particulars of all consultancy services, and any similar services (to the services being bid for) provided to an organ of state in the last five years.

23.4.19 Bid documentation for consultant services must ensure that copyright in any document produced, and the patent rights or ownership in any plant, machinery, item, system or process designed or devised by a consultant in terms of an appointment by the Municipality, shall vest in the Municipality.

23.4.20 Bid documentation must state that the responsibility for registration and verification on the Municipality's Supplier and National Treasury's Central Supplier Databases rests solely with the bidder.

23.5 Bids exceeding R10 million

- 23.5.1 If the estimated value of the transaction exceeds R10 million, the bid documentation must require the bidders to furnish:
- 23.5.1.1 if the bidder is required by law to prepare annual financial statements for auditing, their audited annual financial statements –
 - 23.5.1.2 for the past three years, or
 - 23.5.1.3 since their establishment if established during the past three years,
- 23.5.2 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,
- 23.5.3 particulars of any contracts awarded to the bidder by an organ of state during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract, and
- 23.5.4 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.

23.6 Alternative bids

- 23.6.1 Alternative bids can be submitted **provided that an acceptable bid**, which complies with the bid conditions and specifications and submitted strictly in accordance with the bid documents, is also submitted.
- 23.6.2 An alternative bid shall be submitted on a separate complete set of bid documents or in accordance with such conditions as may be set out in the bid document and shall be clearly marked “Alternative Bid” to distinguish it from the acceptable bid referred to above.
- 23.6.3 All acceptable bids (excluding alternative bids) shall first be evaluated in accordance with the bid conditions and ranked in terms of the preference point system described in the Preferential Procurement section of this policy. Only the alternative of the highest ranked acceptable bid (that is, submitted by the same bidder) may be considered, and if appropriate, recommended for award.
- 23.6.4 Alternative bids of any but the highest ranked acceptable bid, shall not be considered.
- 23.6.5 If the alternative bid of the highest ranked acceptable bid is considered to have merit, then the alternative bid shall be ranked along with all of the acceptable bids received.

23.6.6 An alternative of the highest ranked acceptable bid that is priced higher than the first ranked bid may be recommended for award, provided that the ranking of the alternative bid is higher than the ranking of the next ranked acceptable bid.

23.6.7 The Municipality will not be bound to consider alternative bids.

23.7 *Public invitation for competitive bids*

23.7.1 On completion of the bid specification process the Municipality shall publicly invite bids.

23.7.2 Bid invitation shall be by notice published in the media and / or any electronic platform that may be applicable or suitable.

23.7.3 The notice shall, as soon as possible after the publication contemplated above, be posted on official notice boards designated by the Municipal Manager.

23.7.4 The notice may require payment of a non-refundable bid fee by bidders wanting to collect bid documents. This bid fee shall be determined by the Manager: Supply Chain Management from time to time.

23.7.5 The notice contemplated by clause 23.7.4 above shall specify:

23.7.6 the title of the proposed contract and the bid or contract reference number;

23.7.7 such particulars of the contract as the Municipality deems fit;

23.7.8 the date, time and location of any site inspection, if applicable;

23.7.9 the place where the bid documentation is available for collection and the times between which bid documentation may be collected;

23.7.10 that bids may only be submitted on the bid documentation provided by the Municipality;

23.7.11 Where activity schedules or bills of quantities are to be submitted as part of the bid documentation, printed schedules, in the same format as those issued, will be accepted.

23.7.12 the non-refundable bid fee payable, if any;

23.7.13 the place where bids must be submitted;

23.7.14 the closing date and time for submission of bids; and

23.7.15 the appropriate CIDB contractor grading for construction work.

23.7.16 The notice shall further state that all bids for the contract must be submitted in a sealed envelope on which it is clearly stated that such envelope contains a bid and the contract title and contract or bid reference number for which the bid is being submitted.

23.7.17 Bid documentation shall be available for collection until the closing date of bids.

23.7.18 Where bids are downloadable from the municipality's website or national treasury's e-tender website (www.e-tender.gov.za) or from government gazette of advertised tenders, this option will be indicated and the costs of download shall be borne by the bidding supplier

23.8 Issuing of bid documents

23.8.1 Bid documents and any subsequent notices may only be issued by officials designated by the Manager: Supply Chain Management from time to time.

23.8.2 Details of all prospective bidders who have been issued with bid documents must be recorded by the issuing office but shall remain confidential for the duration of the bid period.

23.8.3 Details of prospective bidders must, wherever possible, include the full name of the person drawing documents, a contact person, a contact telephone and fax number and a postal and email address.

23.9 Site Inspections/Bid Clarification Meetings

23.9.1 Site inspections/clarification meetings in respect of bids exceeding R200 000 will, in general, not be compulsory. A site inspection/clarification meeting may be made compulsory with the approval of the Manager: Supply Chain Management. If required, the minimum bid period can be extended by at least 7 (seven) days with the approval of the Director: Supply Chain Management (refer to clauses 190 to 192 in this regard).

23.9.2 If site inspections/clarification meetings are to be held, full details must be included in the bid notice, including whether or not the site inspection/ clarification meeting is compulsory, and shall be physical or virtual.

23.9.3 Where site inspections/clarification meetings are made compulsory, the date for the site inspection/clarification meeting shall be at least **14 (fourteen) days** after the bid has been advertised,

23.9.4 Where the clarification meeting shall be virtual, the application that will be used must be stipulated and a clear procedure for the obtaining of meeting logging details be explained in the tender advert, as well as contact person and details for such information

23.9.5 If at a site meeting/clarification meeting, any additional information is provided or clarification of vague points is given, such additional information or clarification must be conveyed to all bidders in accordance *with clauses 23.9.1 to 23.9.4 of this Policy*.

23.10 Two-stage (Prequalification) Bidding Process

- 23.10.1 In a two-stage (prequalification) bidding process, bidders are first invited to prequalify in terms of predetermined functionality criteria, without being required to submit detailed technical proposals (where applicable) or a financial offer.
- 23.10.2 In the second stage, all bidders that qualify in terms of the predetermined functionality criteria will be shortlisted and invited to submit final technical proposals (where applicable) and/or a financial offer.
- 23.10.3 This process may be applied to bids for large complex tenders of a specialist or long-term nature or where there is legislative, design, technological and/or safety reasons to restrict bidding to firms who have proven their capability and qualification to meet the specific requirements of the bid, including tenders where it may be undesirable to prepare complete detailed technical specifications or long-term contracts with a duration exceeding three years.
- 23.10.4** The notice inviting bidders to pre-qualify must comply with the provisions of public invitation for competitive as per clause 23.7 of this policy.
- 23.10.5 Once bidders have pre-qualified for a particular tender, they shall be given a minimum of 7 (seven) days to submit a final technical proposal (where applicable) and/or a financial offer.

23.11 Two Envelope System

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

23.12 Validity Periods

- 23.12.1 The period for which bids are to remain valid, irrevocable and open for acceptance must be indicated in the bid documents.
- 23.12.2 Bids shall remain valid for acceptance for **a period of twelve (12) months after the expiry** of the original validity period, unless the Municipality is notified in writing of anything to the contrary by the bidder.
- 23.12.3 The validity of bids may be further extended by a period of not more than six months subject to mutual agreement and administrative processes and upon approval by the Municipal Manager.

23.13 Contract Price Adjustment

- 23.13.1 In general, if contract periods do not exceed twelve (12) months, the bid shall be a fixed price bid and not subject to contract price adjustment. A Bid Specification Committee may however request approval from Director: Supply Chain Management to allow contract price adjustment for contract periods less than twelve (12) months. In such instances an appropriate contract price adjustment formula must be specified in the bid documents.

23.13.2 For all contract periods exceeding twelve (12) months in duration, contract price adjustment will be applicable. An appropriate contract price adjustment formula must be specified in the bid documents.

23.13.3 If as a result of an award of a contract beyond the original tender validity period, the contract execution will be completed beyond a period of twelve (12) months from the expiry of the original tender validity period, then the contract may be subject to contract price adjustment for that period beyond such twelve (12) months. An appropriate contract price adjustment formula will be determined by the Director: Supply Chain Management if such was not included in the bid documents.

23.13.4 If as a result of any extension of time granted the contract execution will be completed beyond a period of twelve (12) months from the expiry of the original tender validity period, then contract price adjustment may apply to that period beyond such twelve (12) months. An appropriate contract price adjustment formula will be determined by the Director: Supply Chain Management if such was not included in the bid documents.

23.13.5 If the award of a contract is delayed beyond the original tender validity period any additional conditions proposed by any bidder may be considered provided it is reasonable and does not prejudice any other bidder.

23.14 Contracts providing for Compensation Based on Turnover

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

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

23.15 Provisional Sums and Prime Cost or Sub-Contract Allowances

23.15.1 Provision for monetary allowances shall as far as possible be avoided. Where these are unavoidable, the total value of such allowances shall not exceed 20% of the total estimated value of the tender unless otherwise approved by the Manager: Supply Chain Management.

23.15.2 Where monetary allowances in excess of R300 000 in respect of provisional sums or prime cost items have been included in the bid documents, and where the work or items to which the sums relate are to be executed/supplied by sub-contractors/suppliers, then one of the following processes, as determined by the Bid Specification Committee, shall be followed in respect of these allowances:

23.15.2.1 An **open competitive bidding process** in which bid documents are prepared by the Responsible Agent in consultation with and to the approval of the supplier, invitations to bid are advertised in the media, and whereby the **selected sub-contractor/supplier** is chosen by

the Responsible Agent together with the supplier from the responses received. The supplier must satisfy him/herself that the selected sub-contractor/supplier can meet the requirements of the sub-contract/supply agreement, and assumes the risk for the performance of the sub-contractor/supplier. The supplier may, on reasonable grounds, elect not to employ a particular sub-contractor/supplier.

23.15.2.2 A **two-stage selection process**, whereby the Responsible Agent will advertise (in the media) for expressions of interest from suitably qualified sub-contractors/suppliers. From the responses received, the Responsible Agent and the supplier, in conjunction, shall compile a list of at least three (unless less than three responses were received) suitable sub-contractors/suppliers who will then be asked to submit prices for the works/items required. The supplier will assume the risk for the performance of the **selected sub-contractor/supplier** identified through this process.

23.15.2.3 A **nominated process**, whereby the Municipality instructs the supplier to appoint a particular (typically specialist) sub-contractor/supplier. In this process the sub-contractor/supplier is a **nominated sub-contractor/supplier**, and the risk is transferred from the supplier to the Municipality. The use of this process must therefore be motivated to, and approved by, the Director: Supply Chain Management prior to its implementation.

23.15.3A preference point system (as described later in this policy) must be applied in respect of the processes described in clauses above.

23.15.4When monetary allowances of less than R300 000 have been included in the bid documents, and where the work or items to which the sums relate are to be executed/supplied by sub-contractors/suppliers, the supplier must be required to request a minimum of three written quotations for approval by the Responsible Agent.

23.16 *Samples*

23.16.1Where samples are called for in the bid documents, samples (marked with the bid and item number as well as the bidder's name and address) shall be delivered separately (to the bid) to the addressee mentioned in the bid documents.

23.16.2Bids may not be included in parcels containing samples.

23.16.3If samples are not submitted as required in the bid documents or within any further time stipulated by the Municipality in writing, then the bid concerned may be declared non-responsive.

23.16.4Samples shall be supplied by a bidder at his/her own expense and risk. The Municipality shall not be obliged to pay for such samples or compensate for the loss thereof, unless otherwise specified in the bid documents, and shall reserve the right not to return such samples and to dispose of them at its own discretion.

23.16.5If a bid is accepted for the supply of goods according to a sample submitted by the bidder, that sample will become the contract sample. All goods/materials supplied shall comply in all respects to that contract sample.

23.17 Closing of Bids

- 23.17.1 Bids shall close on the date and at the time stipulated in the notice.
- 23.17.2 For bids for goods and services the bid closing date must be at least 14 (fourteen) days after publication of the notice.
- 23.17.3 For bids for construction works the bid closing date must be at least 21 (twenty-one) days after publication of the notice.
- 23.17.4 Notwithstanding the above, if the estimated contract value exceeds R10 million, or if the contract is of a long-term nature with a duration period exceeding one year, then the bid closing date must be at least 30 (thirty) days after publication of the notice.
- 23.17.5 For banking services, the bid closing date must be at least 60 (sixty) days after publication of the notice.
- 23.17.6 For proposal calls using a two-envelope system, the bid closing date must be at least 30 (thirty) days after publication of the notice.
- 23.17.7 The bid closing date may be extended by the Director: Supply Chain Management if circumstances justify this action, provided that all bidders that have drawn bid documents are notified of this decision in accordance with clauses 197 to 199 below, and that the notice to this effect is attached to all bid documents subsequently issued. Any amendment to the bid closing date shall also be published on the Municipality's official website.
- 23.17.8 The Municipal Manager may determine a closing date for the submission of bids which is less than any of the periods specified in clauses 23.17.1 to 23.17.7 above, but only if such shorter period can be justified on the grounds of urgency or emergency or any exceptional case where it is impractical or impossible to follow the official procurement process.

23.18 Communication with bidders before bid closing

- 23.18.1 The Bid Specification Committee may, if necessary, authorise communication with bidders prior to bids closing.
- 23.18.2 Any communication authorised by the Bid Specification Committee, which has implications of consequence for all tenderers, shall be in the form of a written notice issued to all bidders by the Manager: Supply Chain Management, or his/her nominee, by either e-mail, facsimile, or registered post as appropriate. A copy of the notice together with a transmission verification report/proof of posting shall be kept for record purposes.
- 23.18.3 Notices should be issued at least one week prior to the bid closing date, where possible.
- 23.18.4 Notwithstanding a request for acknowledgement of receipt of any notice issued, the bidder will be deemed to have received such notice if the procedures in clause 198 have been complied with.

23.19 Submission of Bids

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

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

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

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

23.19.5 No bids forwarded by email, telegram, facsimile or similar apparatus shall be considered unless:

- a) the bid documentation specifically provides for this method of submission;
- b) in the event of photostat copies of bids or facsimiles which are submitted in the prescribed manner will be considered, provided the original Forms of Bid/Offer can be shown to have been posted or couriered prior to the close of bids.

23.19.6 Electronic bids ***will not be accepted***, unless the bid documentation specifically provides for this method of submission, either for the entire bid or any portion thereof.

23.19.7 Clauses 23.19.1 to 23.19.4 above shall not apply to bids submitted through the e-procurement system.

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

23.19.9 No person may amend or tamper with any bids or quotations after their submission. Where an e-Procurement system is used, the system must ensure that bids cannot be altered or tampered with after submission by the bidder.

23.20 Late Bids

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

23.10.2 A late bid shall not be admitted for consideration and shall be returned to the bidder upon request.

24. OPENING OF BIDS

24.1 *Procedures for the opening of bids*

- 24.1.1 At the specified closing time on the closing date the applicable bid box shall be closed.
- 24.1.2 The bid box shall be opened in public as soon as practical after the closing time.
- 24.1.3 Immediately after the opening of the bid box, all bids shall be opened in public.
- 24.1.4 The official opening the bids shall read out, where possible, the name of the bidder, the amount of the bid and the preference indicated.
- 24.1.5 Where an e-Procurement system is used, the bid information described in clause 23.17 above shall be published on the Municipality's official website as soon as practical after the closing time.
- 24.1.6 All rates, with the exception of rates only bids, and proprietary information are confidential and shall not be disclosed.
- 24.1.7 As soon as a bid or technical proposal has been opened:
- 24.1.8 the bid/proposal shall be stamped with the official stamps, and endorsed with the opening official's signature;
- 24.1.9 the name of the bidder and the bid sum shall, where possible, be recorded in a bid opening record kept for that purpose; and
- 24.1.10 the responsible official who opened the bid shall forthwith place his/her signature on the bid opening record.
- 24.1.11 Bids found to be inadvertently placed in the incorrect bid box will be redirected provided that the applicable bids either closed on the same day at the same time, or are still open.
- 24.1.12 Bids received in sealed envelopes in the bid box without a bid number or title on the envelope will be opened at the bid opening and the bid number and title ascertained. If the bid was in the correct bid box it will be read out. If the bid is found to be in the incorrect bid box, it will be redirected provided that the applicable bids either closed on the same day at the same time, or are still open. If the bid closes at a later date, the bid will be placed in a sealed envelope with the bid number and title endorsed on the outside, prior to being lodged in the applicable box. The Municipality however disclaims any responsibility for seeing that the bid is in fact lodged in the correct box.
- 24.1.13 The official opening the bids shall record, in the bid opening record:
- 24.1.14 any action taken in terms of clauses 23.1.11 and 23.1.12 above;
- 24.1.15 any unsealed bids received.

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

- 24.2.1 If a two-envelope system is followed, only the technical proposal will be opened at the bid opening.
- 24.2.2 The unopened envelope containing the financial proposal shall be stamped and endorsed with the opening official's signature, and be retained by him/her for safekeeping.
- 24.2.3 When required the financial offers/bids corresponding to responsive technical proposals, shall be opened by the opening official in accordance with clauses in paragraph 24.1 above.
- 24.2.4 All bidders who submitted responsive technical proposals must be invited to attend the opening of the financial offers/bids.
- 24.2.5 Envelopes containing financial offers/bids corresponding to non-responsive technical proposals shall be returned unopened along with the notification of the decision of the Bid Adjudication Committee in this regard (clause 26.2).
- 24.2.6 After being recorded in the bid opening record, the bids/technical proposals shall be handed over to the official responsible for the supervision of the processing thereof and that official shall acknowledge receipt thereof by signing the bid opening record.
- 24.2.7 Where an e-Procurement system is used, the names of the bidders that have submitted proposals shall be published on the Municipality's official website as soon as practical after the closing time.
- 24.2.8 When the financial offers/bids are opened they shall be published on the Municipality's official website as soon as practical thereafter, and all bidders shall be notified accordingly.

25. BID EVALUATION

25.1 *Bid Evaluation Committee*

- 25.1.1 An ad-hoc or term-based appointed Bid Evaluation Committee shall be constituted for each tender or procurement activity or duration of the appointment term to evaluate bids received.
- 25.1.2 The Municipal Manager, or his delegated authority, shall, taking into account section 117 of the MFMA, appoint the members of the Bid Evaluation Committees.
- 25.1.3 The Bid Evaluation Committee shall be comprised of at least two Municipality officials as members, consisting of an appointed Chairperson (who may be the same person as the Chairperson of the Bid Specification Committee) and a responsible technical official. The Supply Chain Management Practitioner serves in an advisory capacity. No bid committee meeting shall proceed without an SCM practitioner. Disagreements on the advice provided by

the Supply Chain Management Practitioner must be dealt with in terms of the Rule of Order for Bid Committees and be recorded accordingly.

- 25.1.4 A representative of Internal Audit and/or Legal Services may form part of this committee where necessary as well as other internal/external experts/specialists. As relevant to the content of the tender, relevant internal/external specialists must be included in an advisory capacity to the Bid Evaluation Committee.
- 25.1.5 Where the scoring of functionality forms part of a bid process, each member of the Bid Evaluation Committee must individually score functionality. The individual scores must then be interrogated and calibrated if required where there are significant discrepancies. The individual scores must then be added together and averaged to determine the final score.
- 25.1.6 Bid Evaluation Committee meetings must be conducted in accordance with the applicable Terms of Reference and Guide and Rules of Order for Members of the Municipality of Matjhabeng 's Bid Committees.

25.2 Bid Evaluation

- 25.2.1 The Responsible Agent may carry out a preliminary assessment of all bids received and may submit an assessment report to the Bid Evaluation Committee for consideration.
- 25.2.2 The Bid Evaluation Committee may, if necessary, authorise communication with bidders prior to the award of the tender. Any communication authorised by the Bid Evaluation Committee shall be in the form of a written request for clarification, on any matter affecting the evaluation of the bid offer or that could give rise to ambiguity in the subsequent contract that does not change or affect their competitive position or the substance of their offer, issued to the applicable bidders by the Manager: Supply Chain Management in writing using any means as appropriate. A copy of the notice together with a transmission verification report/proof of posting shall be kept for record purposes.
- 25.2.3 The Bid Evaluation Committee shall consider the bids received and shall note for inclusion in the evaluation report, a bidder:
 - 25.2.3.1 who is barred or prohibited from participating in a bid process in terms of abuse of this Policy;
 - 25.2.3.2 who has failed to submit a Certificate of Independent Bid determination, either with the bid, or within such time for submission stated in the Municipality's written request to do so?
 - 25.2.3.3 whose bid does not comply with the general conditions applicable to bids and quotations of this Policy;
 - 25.2.3.4 whose bid is not in compliance with the specification;
 - 25.2.3.5 whose bid does meet the minimum score for functionality, if applicable;
 - 25.2.3.6 whose bid is not in compliance with the terms and conditions of the bid documentation;

- 25.2.3.7 who is not registered and verified on the Municipality's Supplier and National Treasury's Central Supplier Databases;
 - 25.2.3.8 who, in the case of construction works acquisitions, does not comply with the requirements of the CIBD Act regarding registration of contractors;
 - 25.2.3.9 whose tax matters are not in order, and
 - 25.2.3.10 who, or any of its directors, has any undisputed municipal rates, taxes or municipal service charges in arrears for more than three months?
- 25.2.4 Bids shall be evaluated according to the following as applicable:
- 25.2.4.1 bid price, including VAT (corrected if applicable and considering all unconditional discounts where applicable),
 - 25.2.4.2 the unit rates and prices,
 - 25.2.4.3 the bidder's ability to execute the contract,
 - 25.2.4.4 any qualifications to the bid,
 - 25.2.4.5 the bid ranking as determined by the adjudication points allocated to the bid in accordance with the formulas as set out in the Preferential Procurement Section of this Policy,
 - 25.2.4.6 the financial standing of the bidder,
 - 25.2.4.7 any other criteria specified in the bid documents.
- 25.2.5 Where a two-stage (prequalification) bidding process has been followed, the minimum requirements for prequalifying, as well as the bidders' compliance or scoring in respect thereof, must be included in the report to the Bid Adjudication Committee making a recommendation for award (one report to the Bid Adjudication Committee is required, only once the second stage evaluation has been completed)
- 25.2.6 The Bid Evaluation Committee shall check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not in arrears.
- 25.2.7 An alternative bid may be considered subject to clauses 23.6 of this policy.
- 25.2.8 If a bidder submits a fully motivated request in writing, after the closing of bids, that his/her bid be withdrawn, then such a request may be considered and reported in the bid evaluation report for decision by the Bid Adjudication Committee.
- 25.2.9 Adjudication points calculated in terms of the preference point system described in this policy must be rounded off to the nearest two decimal places.
- 25.2.10 The responsive bid that scores the highest number of adjudication points must be recommended for acceptance unless objective criteria, in addition to those specific goals contemplated in

section 2 of the PPPFA, justify the acceptance of another bid. Such objective criteria include whether the recommended bidder:

- 25.2.10.1 has not demonstrated that it has the necessary resources and skills required to fulfil its obligations in terms of the bid document;
- 25.2.10.2 poses any material risk to the Municipality;
- 25.2.11 is a supplier to whom notice has been served regarding abuse of the supply chain management system?
- 25.2.12 If two or more bidders score an equal number of adjudication points, the recommended bidder shall be the one scoring the highest number of preference points for B-BBEE.
- 25.2.13 When functionality is part of the evaluation process and two or more bids have scored equal points, including equal preference points for B-BBEE, the recommended bidder shall be the one scoring the highest score for functionality.
- 25.2.14 If two or more bids are equal in all respects, the Bid Evaluation Committee shall draw lots to decide on the recommendation for award, or may, in the case of goods and services, recommend splitting the award proportionately, where applicable.
- 25.2.15 All disclosures of a conflict of interest in respect of the recommended bidder shall be considered by the Bid Evaluation Committee and shall be reported to the Bid Adjudication Committee.

25.3 *Recommendation to Bid Adjudication Committee*

- 25.3.1 The Bid Evaluation Committee shall submit a report, including recommendations regarding the award of the bid, the nomination of an alternative bidder, or any other related matter, to the Bid Adjudication Committee for award.
- 25.3.2 In the event that a contract is not concluded after an award has been made by the Bid Adjudication Committee, the Bid Evaluation Committee may reconsider all remaining bids received and may submit further reports to the Bid Adjudication Committee for consideration.
- 25.3.3 In the event that a contract is terminated during the execution thereof, the Bid Evaluation Committee may submit a report to the Bid Adjudication Committee recommending the award, or non-award, of the contract to the alternative bidder. Should any revised terms, rates or conditions be negotiated, a report detailing these must be submitted to the Bid Adjudication Committee.

26. BID ADJUDICATION

26.1 *General*

- 26.1.1 The Municipality shall not be obliged to accept any bid and accordingly reserves the right to not make any final award or, when an alternative bidder has been nominated, not to make an award to such a bidder.

- 26.1.2 For goods and services bids, the Municipality shall have the right to accept the whole bid or part of a bid or any item or part of an item or accept more than one bid.
- 26.1.3 The Bid Adjudication Committee may accept non-compliance with mandatory procedures or conditions, but only if such non-compliance is not material.

26.2 Bid Adjudication Committee

- 26.2.1 The Bid Adjudication Committee shall comprise at least four senior managers, and shall include:
 - 26.2.1.1 the Chief Financial Officer or a Manager designated by the Chief Financial Officer;
 - 26.2.1.2 at least one senior supply chain management practitioner of the Municipality; and
 - 26.2.1.3 a technical expert in the relevant field who is an official of the Municipality, if the Municipality has such an expert.
- 26.2.2 The Municipal Manager shall appoint the members and chairperson of the Bid Adjudication Committee. If the chairperson is absent from a meeting, the members of the committee who are present shall elect one of the committee members to preside at the meeting.
- 26.2.3 Neither a member of a Bid Evaluation Committee, nor an advisor or person assisting such committees, may be a member of a Bid Adjudication Committee.

26.3 Adjudication and award

- 26.3.1 The Bid Adjudication Committee shall **consider the report and recommendations** of the Bid Evaluation Committee and make a final award or make another recommendation to the Municipal Manager on how to proceed with the relevant procurement including not making an award.
- 26.3.2 The Bid Adjudication Committee may make an award to a preferred bidder(s), pursuant to the Municipal Manager, or his delegated representative, successfully negotiating with the preferred bidder(s) in terms of **clause 2.6.7 of this Policy**.
- 26.3.3 In the event that a contract is not concluded after an award has been made by the Bid Adjudication Committee, the Bid Adjudication Committee may consider any further recommendations made by the Bid Evaluation Committee in a subsequent report.
- 26.3.4 In the event that a contract is terminated during the execution thereof, the Bid Adjudication Committee may consider any recommendations made by the Bid Evaluation Committee in a subsequent report for the award of the contract, or non-award, to the alternative bidder.
- 26.3.5 The Municipal Manager may, at any stage of the bidding process, refer any recommendation made by the Bid Evaluation or Bid Adjudication Committee back to that committee for reconsideration of the recommendation.

26.4 Approval of Bid not Recommended

26.4.1 If a Bid Adjudication Committee decides to award a bid other than the one recommended by the Bid Evaluation Committee, the Bid Adjudication Committee must, prior to awarding the bid:

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

26.4.1.2 check in respect of the preferred bidder that it has the necessary resources and skills required to fulfil its obligations in terms of the bid document.

26.4.1.3 notify the Municipal Manager.

26.4.2 The Municipal Manager may:

26.4.2.1 after due consideration of the reasons for the deviation ratify or reject the decision of the Bid Adjudication Committee referred to in clause 26.4.1.1 above.

26.4.2.2 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 consideration.

26.4.3 If a bid other than the one recommended in the normal course of implementing this Policy is approved, then the Municipal Manager must, in writing and within ten (10) working days, notify the Auditor-General, the Provincial Treasury and the National Treasury of the reasons for deviating from such recommendation.

26.4.4 The requirement of clause 26.4.3 does not apply if a different bid was approved in order to rectify an irregularity.

26.5 Right of Appeal

26.5.1 In terms of Section 62 of the Municipal Systems Act, a person whose rights are affected by a decision taken by the Municipality may appeal against that decision by giving written notice of the appeal and reasons to the Municipal Manager within 21 days of the date of receipt of the notification of the decision.

26.5.2 Bid documents must state that any appeal in terms of clause 26.5 must be submitted to the Municipal Manager at the address stated, and must contain the following:

- a) must be in writing;
- b) reasons for the appeal;
- c) the way in which the appellant's rights have been affected;
- d) the remedy sought by the appellant; and

- e) a copy of the notification advising the person of the decision.

26.6 *Notification of Decision*

- 26.6.1 The successful and unsuccessful bidders shall be notified in writing once a Final Award has been made.
- 26.6.2 The successful bidder shall, in addition, be advised of the 21-day appeal period, and be notified that no rights accrue to him/her until the bid is formally accepted in writing.
- 26.6.3 Where a preferred bidder has been identified and is referred to the Municipal Manager by the Bid Adjudication Committee in order to authorize the negotiation of the final terms of a contract in terms of clause 274 below, the preferred bidder shall be notified of its preferred bidder status.
- 26.6.4 Every notification of decision shall be faxed or sent via electronic mail to the address chosen by the bidder, with a copy of proof of transmission kept for record purposes, or shall be delivered by hand, in which case acknowledgement of receipt must be signed and dated on a copy of such notification and kept for record purposes.

26.7 *Negotiations with Preferred Bidders*

- 26.7.1 A report, setting out the preferred bidder(s) identified through a competitive bidding process, shall be submitted by the Bid Evaluation Committee to the Bid Adjudication Committee for approval
- 26.7.2 The Municipal Manager may authorise the negotiation of the final terms of a contract, including the authority to terminate such negotiations, with bidders identified through a competitive bidding process as preferred bidders provided that such negotiation:
 - 26.7.2.1 does not allow any preferred bidder a second or unfair opportunity;
 - 26.7.2.2 is not to the detriment of any other bidder; and
 - 26.7.2.3 does not lead to a higher price than the bid as submitted.
- 26.7.3 Minutes of such negotiations must be kept for record purposes.
- 26.7.4 If negotiations fail to result in acceptable contract terms, the Municipal Manager, or the person authorised in terms of clause 274, may terminate the negotiations and invite the next ranked bidder(s) for negotiations. The original preferred bidder(s) should be informed of the reasons for termination of the negotiations. Once negotiations have been terminated, they may not be re-opened. If negotiations eventually fail with the tenderer scoring the third highest points, the tender must be cancelled.

26.8 *Cancellation and re-invitation of Bids*

- 26.8.1 A bid may be cancelled, prior to the award of the contract, if:

- 26.8.1.1 due to changed circumstances, there is no longer a need for the goods, services or construction works requested;
 - 26.8.1.2 funds are no longer available to cover the total envisaged expenditure;
 - 26.8.1.3 no acceptable bids are received;
 - 26.8.1.4 there is a material irregularity in the tender process; or
 - 26.8.1.5 if negotiations have failed with the tenderers up to and including the tenderer scoring the third highest points where the prices offered is not market related.
- 26.8.2 If it becomes necessary to cancel or re-advertise formal bids, then a report to this effect shall be submitted to the Bid Adjudication Committee for decision. A tender may only be cancelled for a second time with the prior approval of the relevant treasury. Such approval must be attached to the report submitted to the Bid Adjudication Committee.
- 26.8.3 If a bid has been cancelled, then all bidders must be notified in writing.
- 26.8.4 A decision to cancel a bid in terms of clause 26.8 above must be published in the media in which the original bid invitation was advertised.
- 26.8.5 It is not necessary to notify original bidders when calling for new bids, which will be advertised in accordance **with clause 23.7 above**.
- 26.8.6 Unless no acceptable bids have been received, no bid may be re-advertised before the Bid Adjudication Committee has resolved to cancel the original bid, and all bidders have been notified accordingly.

27. EXPANSION OR VARIATION IN CONTRACT PERIOD OR CONTRACT SUM (INCREASE IN CONTRACT SUM OR PERIOD)

- 27.1 Any expansion or variation of the contract, contract period or contract value must be submitted to and approved by the delegated authority in compliance with the latest directive in this regard as issued by the Municipal Manager.
- 27.2 Such expansion can be in terms of MFMA Section 116, MFMA NT Circular 72 or terms and conditions for contract amendment, variation of scope or contingencies.

28. FRAMEWORK AGREEMENT BID

28.1 General

- 28.1.1 It is permissible to invite bids for the supply of goods and services or construction works that is of an ad-hoc or repetitive nature, for a predetermined period of time (commonly referred to as a framework agreement bid).
- 28.1.2 The period of a framework agreement that is of repetitive nature for services that the Municipality has an obligation to provide on an ongoing basis for the duration of the resulting contract(s), cannot extend beyond the three years covered in the annual budget for the financial year in which the contract is entered into, unless all related legislative and procedural processes are complied with. The period of a framework agreement that is of an ad hoc nature cannot exceed a period of thirty-six (36) months from the commencement of the contract unless all related legislative and procedural processes are complied with.
- 28.1.3 The general acquisition procedure for framework agreement bids shall comply with procedures contained in the acquisition management system of this Policy.
- 28.1.4 The method by which the price will be determined must be stated in the bid documentation. The detailed formulation of the calculations that will determine the financial offer must be agreed to by the Bid Specification Committee prior to the advertisement of the bid.
- 28.1.5 The Rand value that will determine the applicable preference system for framework agreement bids in terms of clause 430 will be the estimated overall value of the tender.
- 28.1.6 Bid documentation shall state that the acceptance of framework agreement bids will not impose any obligation on the Municipality to avail itself of the goods and services or construction works offered by the bidders.
- 28.1.7 Bid documentation shall state the processes by which allocations will be made arising from any resulting contract.
- 28.1.8 Material for repairs and maintenance can be purchased on a framework agreement bid where circumstances warrant it.
- 28.1.9 Additional items included in a framework agreement bid by any bidder which are clearly not an alternative to any of the items specified shall not be considered.
- 28.1.10 Orders for goods may be raised up until the expiry of the framework agreement bid, provided that the goods can be delivered within 30 days of expiry of the framework contract.
- 28.1.11 The orders referred to are the purchase orders created on the Municipality's FINANCIAL SYSTEM. Responsible agents should therefore not commence with any process in respect of a term bid if it is not going to be possible to raise a FINANCIAL SYSTEM purchase order before the term bid expires.

28.1.12 All orders, other than for goods in terms of clause 28.1.10., must be completed prior to the expiry of the framework contract period.

28.1.13 Upon request, the Director: Supply Chain Management may approve the use of existing framework agreements by other departments in accordance with the Municipality's procedures

28.2 *Evaluation and Adjudication of Framework Agreement Bids*

28.2.1 The process for considering framework agreement bids shall be in terms of the evaluation and adjudication procedures as described in the bid documents and in accordance with the principles contained in this Policy.

28.2.2 Subsequent to award, where different selections of items are required in terms of the same framework agreement bid and it is not possible or practical to separate orders for different items from different suppliers then a selection process will have to be carried out in respect of each application by the Responsible Agent. Individual orders will then be placed (or contracts awarded) on the basis of the highest total adjudication points received, per application.

28.2.3 If the selected supplier, in terms of the selection process specified in the framework agreement bid documentation, is unable to provide the required goods, services or construction works at the required time and confirms as such in writing then the bidder with the next highest adjudication points shall be selected. If after a contract is awarded, or an order is placed in terms of a framework agreement bid, the supplier fails to supply the goods or service required, then the remedies in terms of the contract shall apply.

29. FORMAL WRITTEN QUOTATIONS

29.1 *General*

29.1.1 Where the Municipality intends to enter into any contact which is for the supply of any goods or services, or the execution of any construction work which involves or is likely to involve a transaction value over R10 000 and up to R200 000, then a minimum of three written quotes shall be obtained from providers who are suitably qualified and experienced, having the necessary resources, and who are registered on the Municipality's Supplier Database, and if applicable, are listed on the List of Accredited Prospective Suppliers in accordance with clauses 16.8. Quotations may be obtained from providers who are not listed on the Municipality's Supplier Database, provided that such providers must meet the listing criteria referred to in this Policy.

29.1.2 The Municipality may request and accept formal written price quotations in electronic format.

29.1.3 A preference point system, as described in the preferential procurement section of this Policy, must be applied to all such quotations in excess of R30 000. The Director: Supply Chain Management may determine the appropriate preferential procurement pre-qualification criteria applicable to such bids.

- 29.1.4 Any request for a formal written quotation which is likely to be in excess of R30 000 must be advertised for at least 7 (seven) days on the Municipality's official website and an official notice board as applicable.
- 29.1.5 Notwithstanding clause 29.1.1, if quotations have been invited on the Municipality's official website, no additional quotes need to be obtained should the number of responses be less than three.
- 29.1.6 If it is not possible to obtain at least three written quotations, the reasons must be recorded and approved by the Director: Supply Chain Management who must, within three days of the end of the month, report to the Chief Financial Officer on any approvals given during that month in this regard. (*Template for the recording of less than 3 quotes*)
- 29.1.7 The names of the potential providers and their written quotations must be recorded.

29.2 *Quotation Documentation*

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

29.3 *Validity Periods*

- 29.3.1 The provisions of clauses 23.12 of this Policy shall apply *mutatis mutandis* with regard to quotations.

29.4 *Quotation prices*

- 29.4.1 In general, all quotations should be submitted on a fixed price basis (not subject to contract price adjustment). Only in exceptional circumstances may contract price adjustment be applied.

29.5 *Submission of Quotations*

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

29.6 *Closing of Quotations*

- 29.6.1 Quotations shall close on the date and at the time stipulated on the request for quotations.
- 29.6.2 The closing date for quotations less than or equal to R30 000 in value must be at least 2 (two) days after publication of the request for quotations This period may be shortened upon approval by the Manager: SCM.

29.6.3 The closing date for quotations greater than R30 000 in value must be at least 7 (seven) days after publication of the request for quotations.

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

29.7 *Opening of Quotations (where lodged in a quotation box)*

29.7.1 The provisions of clause 24 of this Policy shall apply with regard to quotations that are required to be lodged in a quotation box.

29.8 *Consideration and Acceptance of Quotations*

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

29.8.2 Note that the Municipal Manager has, in terms of **clause 29** of this policy, determined that all quotations be dealt with as formal written price quotations.

29.8.3 Where the Municipality intends to procure any goods or services, which involves a transaction value over R2 000 and up to R10 000, written price quotations shall be obtained from at least three different providers preferably from, but not limited to, providers whose names appear on the Municipality's Supplier Database, and if applicable, are listed on the List of Accredited Prospective Suppliers in accordance with **clause 16.8**. Quotations may be obtained from providers who are not listed on the Municipality's Supplier Database, provided that such providers must meet the listing criteria referred to in this Policy.

29.8.4 The Municipality may request and accept written price quotations in electronic format.

29.8.5 If it is not possible to obtain at least three written quotations, the reasons must be recorded and approved, prior to proceeding with the procurement, by the Manager: Supply Chain Management who must, within three days of the end of the month, report to the Chief Financial Officer on any approvals given during that month in this regard.

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

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

30. PETTY CASH PURCHASES

30.1 *General (Petty Cash Reconciliation)*

- 30.1.1 Where there is a need to purchase any goods or services using a petty cash system, which involves a transaction value up to R2 000.00, the Municipality's Procedures and Guidelines for Petty Cash Purchases shall be adhered to.
- 30.1.2 Note that the Municipal Manager has, in terms of clause 96 of this policy, reduced the threshold value for petty cash purchases to R250.00
- 30.1.3 The delegated departmental official responsible for petty cash must compile monthly reconciliation report for the Chief Financial Officer, which must include the total amount of petty cash purchases for that month and receipts and appropriate documents for each purchase.

31. APPOINTMENT OF CONSULTANTS

31.1 *General*

- 31.1.1 In the procurement of consulting services cognisance should be taken of any circulars / guidelines that have been adopted by Council and the requirements of all statutory bodies and councils relevant to such services.

31.2 *Procurement Process of over R200 000.00*

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

31.3 *Procurement of up to R200 000.00*

- 31.3.1 Where the estimated value of the fees is less than or equal to R200 000 and the duration of the appointment is less than one year, the selection of a consultant to provide the required service shall follow a written price quotation or a formal written price quotation procedure as described in this Policy.
- 31.3.2 A preference point system, as described in the preferential procurement section of this Policy, must be applied to such quotations.

32. DEVIATION FROM PROCUREMENT PROCESSES

32.1 *General*

- 32.1.1 The Municipal Manager may dispense with the official procurement processes established by this Policy, and procure any required goods or services through any convenient process, which may include direct negotiation, but only in respect of:
- a) any contract relating to an emergency where it would not be in the interests of the Municipality to invite bids,
 - b) any goods or services which are available from a single provider only,
 - c) the acquisition of animals for zoos, or
 - d) the acquisition of special works of art or historical objects where specifications are difficult to compile; or
 - e) any other exceptional circumstances where it is impractical or impossible to follow the official procurement process, including, but not limited to:
 - (i) any purchase on behalf of the Municipality at a public auction sale;
 - (ii) any contract in respect of which compliance therewith would not be in the public interest;
 - (iii) ad-hoc repairs to plant and equipment where it is not possible to ascertain the nature or extent of the work required in order to call for bids;
 - (iv) in the event of a major system failure; or
 - (v) in the event where the delivery of a municipal service would be significantly restricted.
- 32.1.2 The Municipal Manager may ratify any minor breaches of the procurement processes, by an official or committee acting in terms of delegated powers or duties, which are purely of a technical nature.
- 32.1.3 The Municipal Manager may condone a deviation from the procurement processes, provided that such deviation is limited to the circumstances referred to in clause 32.1.1 (e)
- 32.1.4 The reasons for all deviations shall be recorded and reported by the Municipal Manager to Council at the next Council meeting, and shall be included as a note to the annual financial statements.
- 32.1.5 Any procurement activity approved in terms of a deviation process must be formalised in a written contract which describes the terms and conditions of contract as well as the scope of work or services, or the specification, as applicable.

32.2 *Single-source Selection*

- 32.2.1 National Treasury Guidelines provide for single-source selection in exceptional cases for consulting services. The justification for single-source selection must be examined in the context of the overall interests of the Municipality and the project.
- 32.2.2 Single-source selection may be appropriate only if it presents a clear advantage over competition:
- 32.2.2.1 For services that represent a natural continuation of previous work carried out by the consultant, and continuity of downstream work is considered essential;
 - 32.2.2.2 where rapid selection is essential;
 - 32.2.2.3 for very small appointments;
 - 32.2.2.4 when only one consultant is qualified, or has experience of exceptional worth for the project.
 - 32.2.2.5 For repairs of fleet and/or equipment where standardization is necessary or original genuine parts are necessary
- 32.2.3 The reasons for single-source selection must be fully motivated in a report and approved by the Bid Adjudication Committee prior to conclusion of a contract, provided that if the award is for an amount of R200 000 or less, such award shall be approved by the Director: Supply Chain Management.
- 32.2.4 Consultant appointments approved in terms of a single-source selection process must be formalised in a written contract which describes the terms and conditions of contract, as well as the scope of services required

32.3 *Emergency Dispensation*

- 32.3.1 The conditions warranting Emergency dispensation should include the existence of one or more of the following:
- 32.3.1.1 the possibility of human injury or death;
 - 32.3.1.2 the prevalence of human suffering or deprivation of rights;
 - 32.3.1.3 the possibility of damage to property, or suffering and death of livestock and animals;
 - 32.3.1.4 the interruption of essential services, including transportation and communication facilities or support services critical to the effective functioning of the Municipality as a whole;
 - 32.3.1.5 the possibility of serious damage occurring to the natural environment;

32.3.1.6 the possibility that failure to take necessary action may result in the Municipality not being able to render an essential community service; and

32.3.1.7 the possibility that the security of the state could be compromised.

32.3.2 The prevailing situation, or imminent danger, should be of such a scale and nature that it could not readily be alleviated by interim measures, in order to allow time for the formal procurement process. Emergency dispensation shall not be granted in respect of circumstances other than those contemplated in clause above.

32.3.3 The procurement procedure to be followed in an emergency situation shall be determined by the Municipal Manager.

32.4 Procurement during uncertain times and during the pandemic

32.4.1 It is expected from the Accounting Officer to give guidance on procurement strategies to followed during times of uncertainty, disaster and during pandemic circumstances

32.4.2 Such procurement strategy shall be informed by internal guidelines as per the Disaster Management Policy of the Municipality or National Disaster Guidelines as published from time to time

32.4.3 In the case of disaster caused by natural causes such as floods, a normal deviation procedure will be followed under emergency (SCM Reg.36)

32.4.4 In cases of pandemic, National Guidelines for the procurements of goods and service aimed at placing the disaster or pandemic situation under control shall be adhered, The Accounting Officer and the CFO will continuously brief the Supply Chain Management Team on the guidelines and the execution plan of such guidelines.

32.4.5 Such procurement under emergency, disastrous or pandemic situations may result in unforeseen and unavoidable expenditure, as such compliance with MFMA Section 29 is a requirement. According to this section, Council must approve such procurement and budget within sixty (60) days

33. UNSOLICITED BIDS

33.1 The Municipality is not obliged to consider any unsolicited bids received outside of the normal bidding process.

33.2 The Municipality may only consider an unsolicited bid if the following have been complied with:

- 33.2.1 the product or service offered in terms of the bid is a demonstrably or proven unique innovative concept;
- 33.2.2 the product or service offered will be exceptionally beneficial to, or have exceptional cost advantages for, the Municipality;
- 33.2.3 the person or entity that made the bid is the sole provider of the product or service; and
- 33.2.4 the reasons for not going through the normal bidding processes are found to be sound by the Municipal Manager. In this regard a report must be submitted to the Municipal Manager seeking approval to take the unsolicited bid process further.
- 33.3 If the Municipal Manager considers the unsolicited bid worthy of pursuing, the decision to consider such bid shall be made public in accordance with section 21A of the Municipal Systems Act together with:
- 33.3.1 reasons as to why the bid should not be open to other competitors;
- 33.3.2 an explanation of the potential benefits for the Municipality were it to accept the unsolicited bid; and
- 33.3.3 an invitation to the public and other potential suppliers to submit their written comments within thirty (30) days of the notice being published.
- 33.4 Details of the unsolicited bid, together with any written comments received pursuant to clause 33.3 as well as any responses from the bidder, shall be submitted to the Provincial and National Treasury for comment.
- 33.5 The unsolicited bid **shall then be submitted to the Bid Adjudication Committee**, together with any written comments submitted by the public and any written comments or recommendations of the provincial or National Treasury, for consideration.
- 33.6 The Bid Adjudication Committee may award the bid in respect of any amount.
- 33.7 Any meeting of the Bid Adjudication Committee to consider an unsolicited bid shall be open to the public.
- 33.8 If any recommendations of the Provincial or National Treasury are rejected or not followed, the Municipal Manager shall submit to the Auditor-General, the Provincial Treasury and the National Treasury the reasons for rejecting or not following those recommendations. Such submission shall be made within 7 (seven) days of the decision to award the unsolicited bid. No contract committing the Municipality to the bid may be entered into or signed within 30 (thirty) days of the submission.

34. LOGISTICS MANAGEMENT SYSTEM

34.1 *Introduction*

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

34.2 *General Logistics*

34.2.1 *Placing of Orders*

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

34.2.3 All purchase orders will be captured on the Municipality's FINANCIAL SYSTEM exclusive of VAT.

34.2.4 Standing orders may be used in cases where longer term arrangements, necessitating interim payments, are required.

34.2.5 Purchase order approvals will be systems based and shall be authorized by the Procurement Section only.

34.2.6 In respect of goods and services no work shall commence or goods be delivered before an official order has been placed with the supplier.

34.2.7 The Municipality shall not be liable for payment for any goods delivered or services rendered in contravention of clause 34.2.1 above.

34.3 *Receiving of Goods*

34.3.1 Goods received will be captured on the Municipality's FINANCIAL SYSTEM via a Goods Received Note with reference to the relevant purchase order. Where applicable, the Treasury Department's Assets Section (for asset creation) and Insurance Section (for claims) will be informed of the purchase via the Municipality's FINANCIAL SYSTEM at the end of the procurement process, in terms of other applicable policies.

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

34.4 *Expediting orders*

34.4.1 The purchasing expeditor will be required to monitor and expedite outstanding purchase orders.

34.4.2 Reminder letters can be communicated automatically to suppliers based on the reminder levels (days before delivery due date) that are set in the purchase order.

34.5 *Transport Management*

34.5.1 The Municipality's fleet management policy must be adhered to at all times.

34.6 *Supplier Performance*

34.6.1 The FINANCIAL SYSTEM will **enable a system-based evaluation or manual evaluation**, based on the suppliers' performance with regard to certain pre-determined criteria.

34.6.2 This information will be available for future evaluation purposes, contract negotiations and regular feedback to the suppliers.

34.6.3 It is the responsibility of the User Department to capture supplier performance

34.6.4 The Manager: Supply Chain Management shall file and store all completed supplier performance forms for future reference purposes

34.6.5 Supplier performance report shall be submitted to the Manager: Supply Chain Management, at least at the end of the contract, or as when requested by the Chief Financial Officer or his/her delegate.

34.7 Stock Logistics

34.7.1 Valuation of Stock

34.7.1.1. Stock is valued on the weighted average costing method per plant and is VAT exclusive. Stock is valued in terms of the generally recognized accounting procedures as adopted by the Municipality.

34.7.2 Setting of Inventory Levels

34.7.2.1 Stock items shall be systematically replenished using the re-order point planning strategy.

34.7.2.2 Open reservations shall be taken into account during the replenishment run.

34.7.3 Issuing of Stock

34.7.3.1 Goods will be issued from stock with reference to reservations. Goods can be issued for consumption against internal orders, cost centres, projects and assets under construction.

34.7.4 Stock Replenishment

34.7.4.1 Purchase orders will be created, where applicable, with reference to replenishment requisitions in respect of term supply contracts for goods.

34.7.4.2 Replenishment requisition approvals will be systems based.

34.7.4.3 All replenishment will be effected via the Acquisition Management System.

34.8 Stores Management

34.8.1 The store's function shall be decentralised in different districts and will operate under the jurisdiction of the Supply Chain Management Department.

34.8.2 The Supply Chain Management Department must ensure proper financial and budgetary control; uphold the principle of effective administration, proper stock holding and control, product standardisation, quality of products and a high standard of service levels.

34.8.3 The Manager: Supply Chain Management will develop and implement appropriate stock management procedures.

34.8.4 The Chief Financial Officer is the only delegated authority to write off stock.

35. DISPOSAL MANAGEMENT SYSTEM

35.1 *Goal*

35.1.1 To give effect to:

35.1.1.1 Regulation 40 of the Supply Chain Management Regulations which requires an effective system for the disposal or letting of assets including unserviceable, redundant or obsolete assets, and

35.1.1.2 the Municipal Asset Transfer Regulations,

35.1.2 subject to sections 14 and 90 of the MFMA and any other applicable legislation.

35.1.3 As far as possible, assets to be disposed of must be made available to recycling. Disposal to landfill is not allowed unless no recycling options are available.

35.2 *Disposal Management System*

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

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

35.2.3 immovable property may:

- 35.2.3.1 be sold only at market related prices except when the public interest or the plight of the poor demands otherwise;
- 35.2.3.2 let only at market related rates except when the public interest or the plight of the poor demands otherwise and provided that all charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property are annually reviewed;
- 35.2.3.3 in the case of the free disposal of computer equipment, the provincial department of education must first be approached to indicate within thirty (30) days whether any of the local schools are interested in the equipment;
- 35.2.3.4 in the case of fire arms, the National Conventional Arms Control Committee must approve any sale or donation of firearms to any person within or outside the Republic.

35.3 *Transfer of assets or permanent disposal of assets and granting of rights*

- 35.3.1 Non-exempted capital assets shall be transferred or permanently disposed of strictly in accordance with Chapter 2 of the Municipal Asset Transfer Regulations and all other relevant Municipality Policies.
- 35.3.2 Exempted capital assets shall be transferred strictly in accordance with Chapter 3 of the Municipal Asset Transfer Regulations and all other relevant Municipality Policies.
- 35.3.3 The granting of rights (where sections 14 and 90 of the MFMA do not apply) by the Municipality, shall be executed strictly in accordance with Chapter 4 of the Municipal Asset Transfer Regulations and all other relevant Municipality Policies.

36. RISK MANAGEMENT SYSTEM

The risks pertaining to Supply Chain Management should at all times comply with the criteria laid down in the risk management policies of the Municipality.

36.1 *General*

- 36.1.1 Risk Management shall provide for an effective system for the identification, consideration and avoidance of potential risks in the Municipality's supply chain management system.
- 36.1.2 Managing risk must be part of the Municipality's philosophy, practices and business plans and should not be viewed or practiced as a separate activity in isolation from line managers.
- 36.1.3 Risk Management shall be an integral part of effective management practice.

36.2 *The Risk Management Process*

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

36.3 Key Principles

36.3.1 The key principles on managing risk in supply chain management include:

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

36.4 Guarantees for Due Performance

36.4.1 Performance guarantees for the procurement of goods and services (including consultant services) will not generally be required, but in exceptional circumstances, can be called for. Where required, the value of such guarantee shall be determined in consultation with the Director: Supply Chain Management.

36.4.2 The performance guarantees that may be required are as follows:

- 36.4.2.1 In respect of a Rand value less than or equal to R1 000 000: **waived** (that is, no performance guarantee is required);
- 36.4.2.2 In respect of a Rand value exceeding R1 000 000, but less than or equal to R10 000 000: **5%** of the bid sum;
- 36.4.2.3 In respect of a Rand value exceeding R10 000 000: **7%** of the bid sum;

36.4.3 For Framework Agreement Tenders the Bid Specification Committee must assess the Municipality's anticipated risk exposure at any given time during the contract execution and then, based on the clauses above, determine and specify the monetary value of the required performance guarantee;

36.4.4 unless otherwise provided for in the standard conditions of contract prescribed.

36.4.5 The value of a performance guarantee required may be varied with approval of the Director: Supply Chain Management.

36.4.6 An amount, equal to the value of the required performance guarantee, may be provided in cash (interest free) in accordance with the processes as prescribed by the delegated authority from time to time.

36.5 *Advance Payment Guarantees*

36.5.1 Advance payments in respect of specific materials or services may, where justified in accordance with rules determined by the Director: Supply Chain Management from time to time, be made to a supplier only upon submission by the supplier of an acceptable advance payment guarantee to the Municipality. No such advance payment guarantee may be accepted unless the authenticity thereof has been verified by the Municipality's Treasury Department.

36.5.2 Advance payments may not be used as a mechanism for providing a supplier with an interest free loan for working capital.

36.6 *Retention*

36.6.1 Retention in respect of the procurement of goods and services (including consultant services) will not generally be applied, but where required, can be called for. Where required, the value of retention to be deducted shall be determined in consultation with the Director: Supply Chain Management.

36.6.2 The value of retention to be deducted in respect of construction works contracts shall be as follows:

36.6.2.1 In respect of a Rand value less than or equal to R200 000: No retention is called for;

36.6.2.2 In respect of a Rand value exceeding R200 000, but less than or equal to R1 000 000: 10% of the value of work carried out with no limit, reducing by half for the duration of the defect's liability period;

36.6.2.3 In respect of a Rand value exceeding R1 000 000: 5% of the value of work carried out with no limit, reducing by half for the duration of the defect's liability period; unless otherwise provided for in the standard conditions of contract prescribed.

36.6.2.4 The value of retention to be deducted in respect of construction works may be varied with the approval of the Director: Supply Chain Management.

36.6.3 Where consultant services are to be completed at the end of the defect's liability period in respect of a construction contract, the value of this work (typically 5%) may be invoiced at the end of the construction period, but shall be held as retention until the completion of the service (typically, an end of defects liability period inspection and the preparation of the final account). Alternatively, the value of this work must be budgeted for in the following financial year.

36.6.4 Financial guarantees in lieu of retention is, in general, not acceptable. Any motivation for the acceptance of a retention guarantee must be approved by the Director: Supply Chain Management.

37. PERFORMANCE MANAGEMENT

37.1 The Municipal Manager must establish and implement an internal monitoring system in order to determine the basis of a retrospective analysis whether the authorised Supply Chain Management processes were followed and whether the objectives of this Policy were achieved.

37.2 Performance management shall accordingly be characterised by a monitoring process and retrospective analysis to determine whether:

37.2.1 value for money has been attained;

37.2.2 proper processes have been followed;

37.2.3 desired objectives have been achieved;

37.2.4 there is an opportunity to improve the process;

37.2.5 suppliers have been assessed and what that assessment is; and

37.2.6 there has been deviation from procedures and, if so, what the reasons for that deviation are.

37.3 The performance management system shall accordingly focus on, amongst others:

37.3.1 achievement of goals;

37.3.2 compliance to norms and standards;

- 37.3.3 savings generated;
- 37.3.4 cost variances per item;
- 37.3.5 non-compliance with contractual conditions and requirements; and
- 37.3.6 the cost efficiency of the procurement process itself.

38. CONTRACT MANAGEMENT

- 38.1 Contract management includes all activities and administrative duties associated with a contract that has arisen through one of the acquisition/procurement processes described in this policy.
- 38.2 Line departments are fully responsible for contract management and administration. Departmental Heads (Directors) shall be responsible to ensure that a contract manager who will be an internal official and is assigned to ensure the effective management of the contract. The contract manager will typically be the internal project manager assigned to the contract as a whole, but may also be a cost centre owner or other responsible official.
- 38.3 The contract manager's duties and powers shall be governed by the applicable conditions of contract, this Supply Chain Management Policy, any Policies, Frameworks and Procedures relating to contract management adopted by the Municipality and the general law.
- 38.4 Departmental Heads (Directors) shall ensure that contract managers are assigned to each contract within the Department Head's area of responsibility and, where possible, should ensure that such contract manager be involved from the earliest stages of the acquisition process.
- 38.5 Departmental Heads (Directors) shall further be responsible for ensuring that contract managers:
 - 38.5.1 take all reasonable steps to ensure that a contract procured through the provisions of this policy is properly enforced;
 - 38.5.2 are adequately trained so that they can exercise the necessary level of responsibility in the performance of their duties;

38.5.3 in administering a contract, adhere to applicable legislation and legal precedent, regulations, policy and formalised guidelines.

38.6 In discharging his duties, the contract manager shall:

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

38.6.2 ensure that contracts related to the procurement of goods and services are captured on the Municipality's FINANCIAL SYSTEM in the form of a price schedule when appropriate;

38.6.3 ensure that all original contract documentation is lodged with the Supply Chain Management Department for record purposes;

38.6.4 monitor, update and report, on a monthly basis, the cost status and delivery forecast of the contract and the performance of the supplier in order to ensure that all of the terms and conditions of the contract are met, including the supplier's obligations as regards preferential procurement, targeted labour and/or resources and local production and content, as applicable;

38.6.5 where necessary, take appropriate action where a supplier is underperforming or is in default or breach of the contract;

38.6.6 where appropriate, authorise payments due in terms of the contract by processing payment certificates (if applicable), and ensuring that the necessary Service Entry Sheets or Goods Received Notes are captured on the Municipality's FINANCIAL SYSTEM;

38.6.7 manage contract variation or amendment procedures in compliance with the latest directive in this regard as issued by the Municipal Manager and approved by the applicable delegated authority;

38.6.8 administer disputes where necessary, in terms of this policy and the applicable Conditions of Contract;

38.6.9 maintain adequate records in sufficient detail on an appropriate contract file to provide an audit trail;

38.6.10 ensure that contractual actions relating to supplier liquidation proceedings are correctly and timeously taken to ensure the Municipality's rights are protected and any negative impact on service delivery is mitigated, such options should include inter alia:

a) supplier proposal (via the liquidator) is deemed acceptable, by the relevant Executive Director, to the Municipality utilising the appropriate contractual mechanisms; or

b) cancelling the contract, as the liquidator proposed supplier is deemed unacceptable to the Municipality, and the Municipality appointing an alternate supplier (via appropriate procurement mechanisms);

38.6.11 act with care and diligence and observe all accounting and legal requirements; and

38.6.12 for construction contracts, ensure that all contract administrative requirements of the CIDB is complied with.

39. CODE OF ETHICAL STANDARDS

39.1 General

39.1.1 In addition to this Code of Ethical Standards, the codes of conduct for municipal councillors and municipal staff members, contained in the Municipal Systems Act, shall apply in the application of this Supply Chain Management Policy.

39.1.2 A code of ethical standards is hereby established for officials and all role players in the supply chain management system in order to promote:

39.1.2.1 mutual trust and respect; and

39.1.2.2 an environment where business can be conducted with integrity and in a fair and reasonable manner.

39.1.3 An official or other role player involved in the implementation of the supply chain management policy:

39.1.3.1 must treat all providers and potential providers equitably;

39.1.3.2 may not use his or her position for private gain or to improperly benefit another person;

39.1.3.3 may not accept any reward, gift, favour, hospitality or other benefit to a value of more than R350 directly or indirectly from any provider or potential provider including any close family member, partner or associate of that person;

39.1.3.4 notwithstanding clause 39.1.3.3 must declare to the Municipal Manager details of any reward, gift, favour, hospitality or other benefit promised, offered or granted to that person or to any close family member, partner or associate of that person;

39.1.3.5 must declare to the Municipal Manager details of any private or business interest which that person, or any close family member, partner or associate, may have in any proposed procurement or disposal process of, or in any award of a contract by, the Municipality;

39.1.3.6 must immediately withdraw from participating in any manner whatsoever in a procurement or disposal process or in the award of a contract in which that person, or any close family member, partner or associate, has any private or business interest;

39.1.3.7 must be scrupulous in his or her use of property belonging to the Municipality;

39.1.3.8 must assist the Municipal Manager in combating fraud, corruption, favoritism and unfair and irregular practices in the supply chain management system;

39.1.3.9 may not render any services in any capacity representing a supplier on any contracts the supplier may have with the Municipality for a period of (twelve) 12 months after having left the employment of the Municipality upon a decision in this regard by the delegated authority; and must 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, favoritism or unfair conduct;
- b) any alleged contravention of this policy; or
- c) any alleged breach of this code of ethical standards;
- d) any breach of the codes of conduct for municipal staff and for councillors.

39.1.4 Declarations must be recorded in a register which the Municipal Manager must keep for this purpose.

39.1.5 The Municipality has adopted the National Treasury's code of conduct for supply chain management practitioners and other role players involved in supply chain management. This code of conduct is binding on all officials and other role players involved in the implementation of the supply chain management policy.

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

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

40. INDUCEMENTS, REWARDS, GIFTS AND FAVOURS

- 40.1 No person who is a provider or prospective provider of goods or services, or a recipient or prospective recipient of goods disposed or to be disposed of may either directly or through a representative or intermediary promise, offer or grant:
- 40.2 any inducement or reward to the Municipality for or in connection with the award of a contract; or
- 40.3 any reward, gift, favour or hospitality to any official or any other role player involved in the implementation of the supply chain management policy.
- 40.4 The Municipal Manager must promptly report any alleged contravention of clause 413 to the National Treasury for considering whether the offending person, and any representative or intermediary through which such person is alleged to have acted, should be listed in the National Treasury's database of persons prohibited from doing business with the public sector.
- 40.5 Clause 40.3 does not apply to gifts less than R350 in value or gifts from a single source in any calendar year that does not exceed R350 in value.

41. SPONSORSHIPS, DONATIONS AND GRANTS

- 41.1 The Municipality may not give or receive any sponsorship, donation or grant which is not in terms of any *Council Policy or System of Delegations*.
- 41.2 The delegated authority must comply with all reporting requirements contained in these Policies and any other Regulations

42. OBJECTIONS AND COMPLAINTS

- 42.1 Persons aggrieved by decisions or actions taken in the implementation of this supply chain management system, may lodge **within fourteen (14) days** of the decision or action, a written objection or complaint against the decision or action.

43. RESOLUTION OF DISPUTES, OBJECTIONS, COMPLAINTS AND QUERIES

- 43.1 The Municipal Manager shall appoint an independent and impartial person not directly involved in the supply chain to assist in the resolution of disputes between the Municipality and other persons regarding:
- 43.1.1 any decisions or actions taken in the implementation of the supply chain management system; or
- 43.1.2 any matter arising from a contract awarded in the course of the supply chain management system; or

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

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

43.3 The person appointed must;

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

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

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

43.4.1 the dispute, objection, complaint or query is not resolved within 60 days; or

43.4.2 no response is forthcoming within 60 days.

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

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

44. PREFERENTIAL PROCUREMENT

44.1 *Introduction*

44.1.1 Where this Policy does not provide for a matter regulated by the Preferential Procurement Regulations, 2017 the provisions of the regulations will prevail in respect of a "tender" as defined in the regulations.

44.1.2 The following procurement strategies are addressed in this section:

44.1.2.1 the application of a preference point system for Exempted Micro Enterprises (EME), Qualifying Small Enterprises (QSE) and B-BBEE Contributors in terms of the Preferential Procurement Regulations, 2017.

44.1.2.2 the stipulation, in bid documentation, of minimum thresholds for local production and content in accordance with directives issued by the National Treasury and Department of Trade and Industry.

44.1.2.3 the unbundling of large projects, where appropriate, into smaller contracts to ensure that a spread of opportunities is made available to suppliers of various sizes.

- 44.1.3 the use of functionality/quality, where appropriate, in procurement processes in order to ensure that goods supplied are fit for purpose, or that a minimum level of experience and competence in respect of suppliers is attained.
- 44.1.4 the increase of employment opportunities by encouraging the use of labour-intensive technologies.
- 44.1.5 the targeting of labour and/or enterprises from specific areas within the boundaries of the Matjhabeng Municipal area.
- 44.1.6 Preferential procurement is further enhanced by provisions aimed at improved access to information, simplification of documentation, reduced performance guarantee requirements, reduced retention, reduced payment cycles in accordance with this Policy and good governance.

44.2 Aim

- 44.2.1 The aim of this section of the Municipality's Supply Chain Management Policy is to give effect to, and to ensure compliance with, all applicable legislation and national directives in respect of preferential procurement and broad-based black economic empowerment.

44.3 Performance Management

- 44.3.1 The level of B-BBEE contribution achieved by the Municipality through the application of this policy will be monitored in terms of the Supply Chain Management performance management system.

45. PREFERENTIAL PROCUREMENT SYSTEM

45.1 Key Principles

45.1 The key principles of this system are:

- 45.1.1 the application of an **80/20** preference point system for procurement (competitive bids or quotations) with a **Rand value of greater than R30 000 but less than or equal to R50 000 000;**
- 45.1.2 the application of a **90/10** preference point system for procurement (competitive bids) with a **Rand value greater than R50 000 000;**
- 45.1.3 if it is unclear which preference point system will be applicable, that either the 80/20 or 90/10 preference point system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system;
- 45.1.4 that bids may be declared non-responsive if:

- 45.1.4.1 they fail to meet any pre-qualifying criteria if stipulated in the bid documents;
 - 45.1.4.2 they fail to meet the minimum stipulated threshold for local production and content if stipulated in the bid documents;
 - 45.1.4.3 they fail to achieve compulsory subcontracting requirements if stipulated in the bid documents;
 - 45.1.4.4 they fail to meet objective criteria if stipulated in the bid documents;
 - 45.1.4.5 they fail to achieve a minimum qualifying score for functionality (quality) if indicated in the bid documents.
 - 45.1.4.6 The preference point system shall be used in the evaluation of responsive bids for the purposes of determining preferred/recommended bidders, and for the adjudication thereof.
- 45.1.5 The preference point system is not applicable to petty cash purchases.

45.2 Planning and stipulation of preferential procurement system

- 45.2.1 Prior to embarking on any procurement process, the Responsible Agent must properly plan for, and, as far as possible, accurately estimate the cost of the goods, services or construction works for which bids are to be invited.
- 45.2.2 The Bid Specification Committee shall, immediately prior to advertising, determine the appropriate preference point system to be used in the evaluation and adjudication of bids in accordance with clause 430 of this Policy, and shall ensure that such is clearly stipulated in the bid documentation.
- 45.2.3 The Municipality shall further determine whether:
 - 45.2.3.1 pre-qualification criteria are applicable to the tender, in which case the requirements as per this policy shall be followed;
 - 45.2.3.2 the goods or services which are to be procured, are in a designated sector for local production and content, shall be followed.;
 - 45.2.3.3 compulsory **subcontracting** is applicable to the tender, in which case the requirements of **Clauses 51** shall be followed;

45.3 Pre-qualification criteria for preferential procurement

- 45.3.1 If the Municipality decides to apply pre-qualifying criteria to advance certain designated groups, the Municipality must advertise the tender with a specific tendering condition that only one or more of the following tenderers may respond:
 - 45.3.1.1 a tenderer having a stipulated minimum B-BBEE status level of contributor;

45.3.1.2 an EME or QSE;

45.3.1.3 a tenderer subcontracting a minimum of 30% to:

- a) an EME or QSE which is at least 51% owned by black people;
- b) an EME or QSE which is at least 51% owned by black people who are youth;
- c) an EME or QSE which is at least 51% owned by black people who are women;
- d) an EME or QSE which is at least 51% owned by black people with disabilities;
- e) an EME or QSE which is at least 51% owned by black people living in rural or undeveloped areas or townships;
- f) a co-operative which is at least 51% owned by black people;
- g) an EME or QSE which is at least 51% owned by black people who are military veterans;
- h) an EME or QSE.

45.3.2 A tender that fails to meet any pre-qualifying criteria stipulated in the tender documents is an unacceptable tender and will be declared non-responsive.

46. EVALUATION OF BIDS ON FUNCTIONALITY (QUALITY)

46.1 Functionality/Quality

46.1.1 Functionality (otherwise known as quality) may be included in the bid evaluation process as a qualifying (eligibility) criterion.

46.1.2 If a bid is to be evaluated on functionality, this must be clearly stated in the invitation to submit a bid, and in the bid documentation.

46.1.3 The evaluation criteria for measuring functionality must be objective.

46.1.4 When evaluating bids on functionality the:

46.1.4.1 evaluation criteria for measuring functionality;

46.1.4.2 the points for each criterion and, if any, each sub-criterion;

46.1.4.3 the minimum qualifying score for functionality rounded off to the nearest two decimal places (if applicable),

46.1.4.4 must be clearly stipulated in the bid document.

46.1.5 The minimum qualifying score for functionality for a tender to be responsive must be determined separately for each tender. The norm for the minimum qualifying score for

functionality shall be **60%** of the total possible score. For more specialised or complex tenders the minimum score may, at the discretion of the Bid Specification Committee, be increased to up to **70%** of the total possible score. The setting of a minimum score any higher than **70%** of the total possible score must be motivated to, and approved by, the Director: Supply Chain Management prior to use and must not be unreasonably restrictive.

46.1.6 If a bid fails to achieve the minimum qualifying score for functionality as indicated in the bid document, it must be regarded as non-responsive, and be rejected (not considered any further in the evaluation process).

46.1.7 Bids that have achieved the minimum score for functionality, and passed any other responsiveness tests, must be evaluated further in terms of the preference point system prescribed below.

46.2 *Evaluation and Adjudication of Bids*

46.2.1 **General**

46.2.1.1 An 80/20 preference point system is stipulated for bids with a Rand value of greater than R30 000, but less than or equal to R50 000 000, and a 90/10 preference point system of procurement with a Rand value of greater than R50 000 000. If it is unclear which preference point system will be applicable, that either the 80/20 or 90/10 preference point system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system;

46.2.1.2 This means that either 80 or 90 points, depending on the Rand value of the bid, will be awarded to the person who offers the lowest price, and proportionately fewer points are awarded to those with higher prices. Either 20 or 10 points are then available as preference points for EME's, QSEs or B-BBEE contributors, as applicable.

46.2.1.3 Irrespective of the preference point system used, the following will be applicable:

- a) Points for preference must be awarded to Exempted Micro Enterprises, Qualifying Small Enterprises or to bidders having attained a B-BBEE status level of contributor in accordance Preferential Procurement Regulations, 2017.
- b) A tenderer failing to submit proof of B-BBEE status level of contributor or is a non-compliant contributor to B-BBEE may not be disqualified but may only score points for price and must be awarded zero points for preference.
- c) The points for preference scored by a bidder must be added to the points for price scored, in order to obtain the total number of adjudication points scored for each responsive bid. The points scored must be rounded off to the nearest two decimal places (if applicable).
- d) Subject to other clauses of this policy, the contract must be awarded to (and/or order placed with) the bidder that scores the highest total number of adjudication points.

- e) If the price offered by a tenderer scoring the highest points is not market related, the Municipality may not award the contract to that tenderer. The Municipality may however:
 - (i) negotiate a market related price with the tenderer scoring the highest points in accordance with clauses of this Policy, or cancel the tender;
 - (ii) if the tenderer does not agree to a market related price, negotiate a market related price with the tenderer scoring the second highest points in accordance with clauses other clauses of this Policy, or cancel the tender;
 - (iii) if the tenderer scoring the second highest points does not agree to a market related price, negotiate a market related price with the tenderer scoring the third highest points in accordance with clauses 273 to 276 of this Policy, or cancel the tender;
- 46.2.1.4 apply the foregoing principles to all written and formal written price quotations but upon the approval of Director: Supply Chain Management or his delegated official
- 46.2.1.5 If a market related price is not agreed as envisaged in clauses of this Policy, the Municipality must cancel the tender.
- 46.2.1.6 The criteria applicable to break any deadlock where tenderers score equal number of points, will be in accordance with clauses of this Policy.
- 46.2.1.7 The remedies for any breach detected for the submission of any false information by a bidder are contained in clause 58 of this Policy”.

47. CANCELLATION OF BIDS

- 47.1 The Municipality may cancel bids before the award of such bid in accordance with the procedures outlined in this policy.

48. THE 80/20 PREFERENCE POINT SYSTEM FOR THE PROCUREMENT (ACQUISITION) OF GOODS, SERVICES OR CONSTRUCTION WORKS UP TO A RAND VALUE OF R50 000 000

- 48.1 The following formula must be used to calculate the points out of 80 for price in respect of bids (including price quotations) with a Rand value of greater than R30 000 and up to a Rand value of R50 000 000 (all applicable taxes included):

$$P_s = 80 [1 - (P_t - P_{min})]$$

P_{min}

Where:

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

P_t = Price (corrected, if applicable, inclusive of VAT) of the bid under consideration; and

P_{min} = Price (corrected, if applicable, inclusive of VAT) of lowest responsive bid.

48.2 The nomenclature used in the formula above may be varied to comply with prescribed standard bid documentation, provided the formula itself is not varied.

48.3 The 90/10 Preference Point System for the Procurement (Acquisition) of Goods, Services or Construction Works with a Rand Value above R50 000 000.

48.4 The following formula must be used to calculate the points for price in respect of bids with a Rand value above R50 000 000 (all applicable taxes included):

$$P_s = 90 [1 - (P_t - P_{min})]$$

P_{min}

Where:

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

P_t = Price (corrected, if applicable, inclusive of VAT) of the bid under consideration; and

P_{min} = Price (corrected, if applicable, inclusive of VAT) of lowest responsive bid.

453. The nomenclature used in the formula above may be varied to comply with prescribed standard bid documentation, provided the formula itself is not varied.

49. EVIDENCE OF B-BBEE STATUS LEVEL

49.1 In order to qualify for preference points in terms of this Policy, bidders must submit documentary proof of their B-BBEE level of contribution in accordance with the applicable codes of good practice as specified in the tender documents.

49.2 The submission of such documentary proof must comply with the requirements of instructions and circulars / guidelines issued by the National Treasury and be in accordance with notices published by the Department of Trade and Industry in the Government Gazette.

49.3 Bidders who fail to submit the required documentary proof, or certified copies thereof, will be deemed to be non-compliant contributors.

49.4 Where specific sector charters have been gazetted in terms of the B-BBEE Act, bid documentation for procurement from within such sectors, must specify that only bidders verified, or who are Exempted Micro Enterprises or Qualifying Small Enterprises, in terms of the particular sector charter (or Code of Good Practice), will qualify for a preference. A status level of contributor in respect of generic Codes of Good Practice will not, in such circumstances, qualify for any preference.

49.5 Where no specific sector charter has been gazetted, the gazetted generic Codes of Good Practice will be applicable to all bidders in order to qualify for a preference.

49.6 For the purposes of transparency, bidders shall be required to indicate, in their bid submission, their B-BBEE status level of contribution.

49.7 Notwithstanding what is contained in the bid submission, preference points will be allocated during the bid evaluation process in accordance with the verified B-BBEE status level (or deemed status level) of contributor as at the closing date of the bid.

50. CONDITIONS RELATING TO THE GRANTING OF PREFERENCES

50.1 Bidders must, in the manner stipulated in the bid documentation, declare that:

50.1.1 the information provided is true and correct;

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

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

50.2 Only bidders who have completed and signed the necessary declarations may be considered for the granting of preference points.

50.3 The Bid Evaluation Committee must, when calculating prices, take into account any discounts which have been offered unconditionally.

50.4 A discount which has been offered conditionally must, despite not being taken into account for evaluation purposes, be implemented when payment is effected.

50.5 A trust, joint venture or co-operative will qualify for preference points for their B-BBEE status level of contributor as a legal entity, provided that the entity has submitted its verified B-BBEE status level certificate (or certified copy thereof) to the Municipality.

50.6 A trust or joint venture will qualify for preference points for their B-BBEE status level as an unincorporated entity, provided that the entity has submitted its consolidated B-BBEE scorecard as if it is a group structure and that such a consolidated B-BBEE scorecard is prepared for every separate bid. The consolidated B-BBEE scorecard must be submitted in the form of a certificate issued by an accredited verification agency (or a certified copy thereof).

50.7 A bidder may not be awarded points for B-BBEE status level of contributor if the bid documents indicate that such a bidder intends sub-contracting more than 25% of the value of the contract to any other person not qualifying for at least the points that the bidder qualifies for, unless the intended sub-contractor is an EME that has the capability and ability to execute the sub-contract.

50.8 A person awarded a contract may not sub-contract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level of contributor than the person concerned, unless the contract is sub-contracted to an EME that has the capability and ability to execute the sub-contract. Compliance with this particular requirement must be monitored by the Responsible Agent during the execution of the contract.

50.9 A person awarded a contract may only enter into a subcontracting arrangement with the approval of the Municipality.

50.10 If a service is required that can only be provided by tertiary institutions, such services must be procured through a bidding process from the identified tertiary institutions.

50.11 The tertiary institutions referred to in clause 470 above, must submit their B-BBEE status in terms of the specialized scorecard contained in the B-BBEE Codes of Good Practice.

50.12 If a service is required that can be provided by one or more tertiary institutions or public entities and enterprises from the private sector, the appointment of a supplier/ must be done by means of a competitive bidding process.

50.13 Public entities must submit their B-BBEE status in terms of the specialized scorecard contained in the gazetted B-BBEE Codes of Good Practice.

50.1 Local production and content

50.1.1 The Department of Trade and Industry may, in consultation with the National Treasury designate a sector, sub-sector or industry or product in accordance with the national development and industrial policies for local production and content, where only locally produced services or goods or locally manufactured goods meet the stipulated minimum threshold for local production and content taking into account economic and other relevant factors and stipulate a minimum threshold for local production and content. The National Treasury must inform the Municipality of any designations made through the issue of a circular.

50.1.2 In the case of designated sectors, such bids must be advertised with a specific condition of bidding that only locally produced goods or locally manufactured goods, meeting the stipulated minimum threshold for local production and content will be considered.

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

50.1.4 Where there is no designated sector, bids may include, as a specific condition of bidding, that only locally produced goods or locally manufactured goods with a stipulated minimum threshold for local production and content, will be considered, on condition that such prescript and threshold(s) are in accordance with the specific directives issued for this purpose by the National Treasury in consultation with the Department of Trade and Industry.

50.1.5 A person awarded a contract in relation to a designated sector, may not sub-contract in such a manner that the local production and content of the overall value of the contract is reduced to below the stipulated minimum threshold.

50.1.6 A bid that fails to meet the minimum stipulated threshold for local production and content is an unacceptable bid.

50.2 Subcontracting as condition of a bid

50.2.1 If feasible to subcontract for a contract above R30 million, the Municipality must apply subcontracting to advance designated groups.

50.2.2 If the Municipality applies subcontracting as a condition of a bid, the Municipality must advertise the bid with a specific bid condition that the successful bidder must subcontract a minimum of 30% of the value of the contract to:

- a) an EME or QSE;
- b) an EME or QSE which is at least 51% owned by black people;
- c) an EME or QSE which is at least 51% owned by black people who are youth;
- d) an EME or QSE which is at least 51% owned by black people who are women;
- e) an EME or QSE which is at least 51% owned by black people with disabilities;
- f) an EME or QSE which is at least 51% owned by black people living in rural or undeveloped areas or townships;
- g) a co-operative which is at least 51% owned by black people;
- h) an EME or QSE which is at least 51% owned by black people who are military veterans; or
- i) more than one of the categories referred to in this clause.

50.2.3 The Municipality must make available the list of all suppliers registered on a database approved by the National Treasury to provide the required goods or services in respect of the applicable designated groups mentioned in the preceding clause from which the bidder must select a supplier.

51 OTHER SPECIFIC GOALS

51.1 Unbundling Strategies

51.1.1 In order to encourage increased participation and the sustainable growth of the small business sector, the unbundling of larger projects into smaller, more manageable, contracts are encouraged.

51.1.2 Unbundling must however be considered in the context of:

- a) economies of scale being lost;
- b) abortive work becoming necessary;
- c) additional demands (not only financial) being placed on the Municipality's resources; and
- d) the risk of later phases not being completed as a result of budget cuts becoming necessary in the future.

- 51.1.3 Unbundling, and all of its associated implications, must therefore be carefully considered at the planning stage of any project and the budgets for, and design thereof, should be structured accordingly.
- 51.1.4 It is important to note that while it is the Municipality's policy to procure goods, services or construction works in the smallest practicable quantities, the practice of parceling such procurement in order to avoid complying with the requirements of the different range of procurement processes described in this policy is not permitted.

51.2 Increasing Employment Opportunities

- 51.2.1 One of the Municipality's key socio-economic objectives is to facilitate the creation of employment for the people of Matjhabeng.
- 51.2.2 Increasing employment opportunities through procurement may be achieved by specifying labour intensive technologies and/or methods of construction in the bid documents.
- 51.2.3 It is up to Responsible Agents to thoroughly investigate the options available in the above regard, to evaluate the positive versus negative impact of any proposals, and to specify labour intensive technologies and/or methods where appropriate.
- 51.2.4 All labour earning less than a threshold wage, determined in accordance with National Guidelines, that is employed for the provision of services or construction works for the Municipality, shall be reported in the prescribed format, on a monthly basis, to the Corporate EPWP Unit.
- 51.2.5 Expanded Public Works Programme: A national programme that aims to draw significant numbers of the unemployed into productive work.

51.3 Targeted Labour and/or Targeted Enterprises

- 51.3.1 The targeting of labour and/or enterprises from specific areas within the boundaries of the Matjhabeng Municipal area may be achieved, where appropriate, by specifying in the bid documents, a minimum level of participation (a contract participation goal) that must be achieved in respect of targeted labour and/or targeted enterprises in the performance of the contract.
- 51.3.2 Specified contract participation goals must be measurable and achievable, and the performance in respect of which must be monitored by the Responsible Agents during the execution of the contract.
- 51.3.3 Where a minimum contract participation goal has been specified in respect of targeted labour and/or enterprises, the supplier is obliged to meet that goal, and must be penalised if he or she does not.
- 51.3.4 Contract participation goals in respect of targeted labour and/or enterprises may not be introduced into the preference point system used for the evaluation of bids.

52. REMEDIES

52.1 Actions in Respect of Fraud

52.1.1 The Municipal Manager will act against a bidder or person awarded the contract upon detecting that the B-BBEE status level of contribution has been indicated or obtained on a fraudulent basis in terms of clauses 57 to 62 relating to the Abuse of this Supply Chain Management System.

52.1.2 Actions in Regard of Non-performance

52.1.2.1 The specific penalties referred to in this section of the SCM Policy will be applicable to breaches of the contractual conditions relating to preferential procurement that were found to be non-fraudulently committed. If any of these breaches are found to be fraudulently committed, the conditions relating to the Abuse of the Supply Chain Management System will be applicable.

52.1.2.2 If a successful bidder subcontracts a portion of the tender to another person without making such disclosure and obtaining approval from the Municipality, a penalty of up to 10% of the value of the contract will be imposed.

52.1.2.3 The penalty to be applied for sub-contracting more than 25% of the value of a contract to enterprises that do not qualify for at least the preference points that the prime supplier qualified for (unless the sub-contractors are Exempted Micro Enterprises) shall be as provided for in any prescribed standard contract documentation, failing which the following formula shall be stipulated:

$$\text{Penalty} = 0.5 \times E \quad E = \text{The value of work (excluding VAT), executed by sub-contractors that do not qualify for at least the preference points that the prime supplier qualified for, expressed as a percentage of } P^*, \text{ less 25\%}$$

(%) $\times P^*$ Where:

$$P^* = \text{Accepted bid sum less provisional sums, contingencies and VAT.}$$

52 GREEN PROCUREMENT

52.1 General

52.1.1 Eco-procurement, or green procurement, is procurement that takes into account environmental criteria when goods and services are purchased, so that the related environmental impact is minimised.

52.1.2 Eco- procurement aims to:

- a) encourage a decrease in energy and resource use;
- b) promote environmental best practice in terms of waste minimisation and management, water and energy efficiency and conservation, pollution reduction and socio-economic development; and
- c) encourage suppliers to change their behavior and to provide for environmental issues in the design, manufacture and disposal of their products.

52.1.3 The development of eco-procurement as part of the Matjhabeng Local Municipality SCM policy is supported.

52.1.4 In order to further develop an eco-procurement policy, a steering committee will be constituted that will work with the relevant stakeholders to identify and prioritise products/services for which specific environmental selection criteria will be developed.

52.1.5 The environmental criteria for the different products/services will become integrated into Supply Chain Management processes as they become adopted.

52.1.6 Training and communication will be undertaken with the relevant stakeholders to ensure their understanding of the specifications and how these translate into the adjudication of tender submissions

52.1.7 The questionnaire overleaf is an example of environmental criteria that may be considered for materials management suppliers.

52.2 Sample Questionnaire for Green Procurement

Manufacturing Phase			
<i>Can recycled materials been used in the product?</i>	Y/N		
<i>If the proportion of content made up by recycled materials is known, capture this information.</i>	(% content of product)		
Can the manufacturer take steps to avoid and minimise the generation of waste in the production of the goods?	List actions taken		
Can the manufacturer taken steps to minimise the use of energy in the production of the goods?	List actions taken		
Can the manufacturer taken steps to minimise the emissions of air pollutants in the production of the goods?	Y/N	(% content of product)	

Does the manufacturer use any hazardous substances in the product?	Y/N	If Y, list hazardous substances used	
Use Phase			
Can the product be reused (e.g., able to accept refills of ink)?	Y/N	Detail how it could be reused	
Does the product have an Energy Star rating? Is the product energy efficient?	Y/N	Supplier to compare energy efficiency with other similar products.	
Does the product come with a supplier guarantee of quality?	Y/N		
Does the product come with a maintenance plan?	Y/N		
Disposal Phase			
Can the product be recycled?	Y/N		
Has the supplier provided information on how he plans to dispose of the product?	Y/N		
Has he considered environmentally friendly options?	Y/N	List disposal options	
Where hazardous substances are used, has the supplier detailed how he plans to dispose of the product?	Y/N	List disposal options	

53 AMENDMENTS TO CONTRACTS – MFMA SECTION 116(3)

53.1 General

53.1.1 This section is applicable to all contracts and Circular 62 and Section 116(3) of the Act must be complied with in respect of amendments to contracts.

53.1.2 Section 116(3) of the Act states:

“A contract or agreement procured through the supply chain management policy of the municipality or municipal entity may be amended by the parties, but only after-

- a) The reasons for the proposed amendment have been tabled in the council of the municipality or, in the case of a municipal entity, in the council of its parent
- b) The local community-
 - (i) has been given reasonable notice of the intention to amend the contract or agreement; and
 - (ii) has been invited to submit representations to the municipality or municipal entity”

53.2 The Policy and Process for Major Amendments to Contracts:

53.2.1 Step 1

Step one (1) of the process is for the Line Department to submit a background memorandum to the Chief Financial Officer or his/her delegate, recommending approval of Major Amendments to a Contract before submission to the Council.

The contents of the report must contain:

- a) proof that the contract or agreement procured was through the supply chain management policy;
- b) proof that there a written contract in place;
- c) proof that the contract been monitored on a monthly basis in terms of Section 116(2)(b) of the Act
- d) proof that the contract been reported on in terms of Section 116(2)(d) of the Act;
- e) proof and motivation that the reasons for the proposed amendments are valid
- f) proof that drafts for Council has appropriate content;
- g) draft advert for the proposed amendments in terms of Section 116(3)(b)(i)&(ii) of the MFMA.
- h) There must be a consideration of Section 33 of the MFMA for contracts exceeding three years.

53.2.2 Step 2

Step 2 of the process is the submission of a Report to Bid Adjudication Committee recommending approval of Major Amendments to a Contract

The contents of the report must contain:

- a) proof that Steps 1 for Major Amendments have been followed, together with associated documentation; and
- b) results of advertising in terms of Section 116(3)(b)(i)&(ii) of the MFMA, and the results thereof showing representations received and the materiality and impact of these representations.
- c) Consideration must be made of Section 33 of the MFMA for contracts exceeding three years.
- d) Where the contract authority exceeds R10 million, or is a long-term contract, then final authority rests with the Accounting Officer.

53.3 The Policy and Process for Minor Amendments to Contracts

53.3.1 Step 1

Step1 entails the submission of a Report to the Bid Adjudication Committee recommending approval of Minor Amendments to a Contract.

The contents of the Report must contain:

- a) proof that the contract was procured through the supply chain management policy;
- b) proof that there is a written contract in place;
- c) proof that the contract been monitored on a monthly basis in terms of Section 116(2)(b) of the Act;
- d) proof that the contract been reported on in terms of Section 116(2)(d) of the Act;
- e) proof and motivation that the reasons for the proposed amendments are valid and do not exceed the thresholds for minor amendments.
- f) Consideration must be made of Section 33 of the MFMA for contracts exceeding three years.

- g) Minor amendments can only be considered if the total amended value does not exceed 20% of its original contract authority for construction related goods, services and/or infrastructure projects and 15% for all other goods and/or services of the original value of the contract.
- h) Where the contract authority exceeds R10 million, or is a long-term contract, then final authority rests with the Accounting Officer.

53.3.2 Step 2

Step 2 of the process is the submission of a Report to Council on the Minor Amendments to contracts, including reasons for the amendments.

- a) The report to be included as a separate annexure in the standard monthly reports on tender awards made, which are produced by the Head: SCM.
- b) (b) The Unit Heads overseeing the projects have the responsibility of ensuring that all applicable information is made available to SCM to adequately prepare these reports.

54 BLACKLISTING

54.1 Application of Policy to Blacklisted Persons

- a) Any blacklisting imposed on any person by the Blacklisting Committee will, at the discretion of the Municipality, also be applicable to any partner, manager, director or any other person who wholly or partly exercised, exercises or may exercise control over the business entity.
- b) If blacklisted persons attempt to re-organise themselves into new business entities, such new business entities will be precluded from tendering for work put out to tender by Matjhabeng Municipality.
- c) The onus is on the blacklisted person to advise their business associates that they have been blacklisted.
- d) The Blacklisting Committee, may at its discretion, blacklist such entity that may have a business relationship with the blacklisted person, depending on the level of complicity involved.

54.2 Grounds for Blacklisting

The following are grounds for blacklisting, including but not limited to: -

- a) committing an irregular practice/s as defined;

- b) failing to achieve a specified goal as stipulated in the tender document in terms of Regulation 15(1) of the Preferential Procurement Regulations;
- c) committing any offence as set out in Section 12 and 13 of the Prevention and Combating of Corrupt Activities Act No. 12 of 2004;
- d) persistent non-performance as defined, and as monitored in terms of the Performance Management Policy of the Municipality; and
- e) a conviction in respect of criminal related activity, by a competent Court of Law, for which the sentence is a term of imprisonment of not less than 6 months.

54.3 Procedures for Blacklisting

- (a) a Department within the Matjhabeng Municipality must be regarded as the Applicant.
- (b) all external complaints must be lodged with the Matjhabeng Municipal Manager of Supply Chain Management.

54.4 The Application

- a) the Applicant must apply on the prescribed forms which can be collected from the duly authorised department;
- b) the application form must make provision for the reasons for the application, which if not stated must render the application null and void and such application must not be considered; and
- c) the Applicant's application must be signed by the Head of that Department.

54.5 Application Processes

- a) In the case of Applications for Blacklisting pertaining to construction or works, and where non-performance (excluding failure to achieve specified goals) is claimed, the application is to be accompanied by proof that the contractor has been advised in writing of his non-performance and been given an opportunity to remedy his non-performance. A certificate issued by a registered Engineer or an internal report from a suitably qualified official confirming the non-performance must also be lodged;
- b) A final demand must be issued by the Accounting Office or duly authorised official requesting the contractor to perform not later than 14 days from the Notice;

- c) in the case of applications in respect of contracts, other than contracts mentioned in (4)(a), and applications alleging failure to achieve specified goals, a copy of all Notices served on the Contractor to perform must be attached to the Application; and
- d) the completed application form must be lodged with the authorised department.

54.6 Notification

- a) the Blacklisting Official must send out a notice to the person against whom the application is made.
- b) the notice must be sent by registered post or delivered by hand to the person concerned.
- c) the notice must set out the following:
 - (i) that an application for blacklisting of the respondent has been received by the Blacklisting Committee;
 - (ii) the basis of the blacklisting application, including any supporting documentation available at the time of writing;
 - (iii) that the respondent has a right to make written representations opposing the application for blacklisting against them furnishing reasons as to why he/she should not be blacklisted;
 - (iv) the time period within which the respondent is to respond in terms of subsection (c), must be at least 14 calendar days from the date of delivery of the notice; and
 - (v) the place for the delivery of the response.

54.7 Response

57.7.1 The Respondent must be expected in his response to indicate:

- a) whether or not he admits or denies the allegations; and
- b) the reasons for denial, if applicable, and the reasons why he should not be blacklisted.

58.7.2 The Respondent may attach supporting documentation to his or her response.

54.8 Decision

- a) The Blacklisting Official must make its determination based on the application and response received.
- b) All Blacklisted companies or individuals must be reported to National Treasury OCPO

54.9 Factors

- (a) If the Blacklisting Officer is satisfied that there are grounds to blacklist a person, the Accounting Officer is provided with all the information and must decide on the blacklisting period based on the merits of each matter.
- (b) The Accounting Officer may take into account the following:
 - (i) the seriousness of the offence;
 - (ii) previous similar conduct in bidding processes with Matjhabeng Municipality; other municipalities, other government departments or organs of state;
 - (iii) the hardship and/or inconvenience that has been occasioned by the persons conduct; and
 - (iv) other remedies which the Municipality may invoke.

54.10 Notification of Decision

- a) The Blacklisting Committee must advise the parties of its decision in writing within 5 days of the decision being made, by enclosing together with such notice, a copy of the Decision and reasons.
- b) The notification must contain the following information:
 - (i) the decision of the Accounting Officer
 - (ii) the effective date of the blacklisting and the date of expiration of the blacklisting;
 - (iii) the reasons for the decision; and
 - (iv) that the respondent has a right to request a review of the decision taken by the blacklisting authority to the appropriate Municipal Committee.

54.11 Register of Blacklisted Persons

54.11.1 The Supply Chain Management Unit must keep a register of all blacklisted persons.

54.11.2 The Register of Blacklisted Persons must be made available on the Municipality's website and updated on a monthly basis.

54.11.3 The National Treasury must be sent updated copies of the Blacklisting Register of the municipality on a monthly basis.

54.12 Uplifting of sanction

54.12.1 The Accounting Officer of his/her delegate, may amend or uplift any blacklisting which is imposed on a person if it is shown that there has been a material change in the circumstances giving rise to the decision to blacklist or where the decision was based on a material error.

54.12.2 An application for the uplifting of the blacklisting must be made by the blacklisted person

54.12.3 An application for uplifting may only be made after the blacklisted person has been blacklisted for at least two years from the effective date of the decision unless it can be shown that a material error occurred in the decision-making process of the Accounting Officer.

54.12.4 If an application to uplift a blacklisting is refused, the applicant is precluded from bringing a further application for a period of two years from the date of the refusal.

54.13 *Onus*

54.13.1 The onus is on the blacklisted person to ensure they are removed from the Matjhabeng Municipality's Website once the blacklisting period has expired or where the sanction is uplifted.

54.14

54.15 *Evaluation and review*

54.15.1 The Supply Chain Management Unit must together with the Accounting Officer undertake to evaluate and review this policy as least once a year, and recommend amendments to be made as they are deemed to be necessary. All amendments to this policy must be approved by the Council prior to the amendments being made.

55. MUNICIPALITY CONTRACTING WITH ANOTHER ORGAN OF STATE – MFMA SECTION 110

54.16 In terms of Section 110 (2) of the MFMA, Supply Chain Management Policies do not apply when services are provided by an Organ of State. A Municipal Entity will therefore qualify as an Organ of State and any other entity so formed will therefore not require compliance with SCM processes.

54.17 To ensure consistency in application and the appropriate controls are in place, however, it is required that all such approvals be made via the Bid Adjudication Committee, or authorised delegate. The Bid Adjudication Committee, or the authorised delegate, are to deal with approvals in order to ensure consistency in application of this paragraph and to ensure that the appropriate controls are in place.

56. SPECIAL DEVIATIONS FROM SCM POLICY

56.1 Certain procurements are to be treated as special deviations from the SCM process. This covers areas previously treated as 'Finance Payments' and the approved list is included as per the table below.

56.2 It is still necessary, however, to ensure effective controls. Therefore, prior approval must be sought from the CFO, Manager: SCM or designated official. Without evidence of such prior approval payments will not be authorized and be treated as irregular expenditure.

56.3 Quarterly reports are to be produced for the Accounting Officer on expenditure incurred, and/or to be incurred through a central register to be maintained by the SCM Unit.

Example	Special Deviations	Remarks	Authority
1.	Seminars and Conferences	Staff members attending function relating to their field of expertise and continued professional development.	International to be approved by City Manager. Others by delegated official.
2.	IT Software Licenses	Licenses for approved Software	Requires prior authority from both Head: SCM and CIO.
3.	Subscriptions - Newspapers, magazines etc.	Newspaper and magazine requirements for libraries and departments.	By delegated official.
4.	Advertising and Marketing	All Advertising and Marketing is done via the Communications Unit	DCM Governance & International Relations or Head Communications or Delegated Official. ***A report must be approved by EXCO
5.	Special Events	Co-Ordinating normal and special events is done via the Communications Unit	City Manager, DCM Governance & International Relations or Head Communications or Delegated Official. ***A report must be approved by EXCO
6.	Sponsorship and Partnering	Co-Ordinating all forms of Sponsorship and Partnering is done via the	City Manager, DCM Governance & International Relations or Head

Communications Unit. This is in addition to Section 48 of this policy.

Communications or Delegated Official. *A report must be approved by EXCO**

7. Hire of Venue

Staff members making use of specific venues relating to their field of Operations that involves the Communications Unit.

City Manager, DCM Governance & International Relations or Head Communications or Delegated Official. *A report must be approved by EXCO**

*Prior approval must be sought from the CFO, Head: SCM or designated official, **including Head Communications, were applicable.** Without evidence of such prior approval payments will not be authorized and be treated as irregular expenditure.*

Quarterly reports are to be produced for the Accounting Officer on expenditure incurred, and/or to be incurred through a central register to be maintained by the SCM Unit

POLICY AND PROCEDURES ANNEXURES

- i. Induction Attendance Register for Internal Staff
- ii. Supply Chain Management Regulations
- iii. Invitation to register on Municipal SCM Database
- iv. SMME Legislation
- v. Procurement Plan
- vi. Treasury Guidelines
- vii. Variation Order Template
- viii. Delegation Policy
- ix. Competency Regulations
- x. e-Procurement document
- xi. MBD Forms
- xii. Service Delivery through External Mechanisms (white paper)
- xiii. General Conditions of Contract
- xiv. Related Party Transactions Register
- xv. Register less than three (3) quotes
- xvi. Register of Bids Sold
- xvii. Bid Evaluation Scorecard
- xviii. Contract Management Policy
- xix. Contract Evaluation Template
- xx. Code of Ethics for SCM Practitioners
- xxi. Questionnaire for Environment Criteria
- xxii. Identification and Reporting of Unauthorised, Irregular, Fruitless and Wasteful Expenditure Policy

