ANNEXURE A

Revised Supply Chain Management Policy

January 2012

Table of Contents

DEFINITIONS

In this Supply Chain Management Policy, unless the context indicates otherwise,

"*adjudication points*" means the points referred to in the Preferential Procurement Regulations, 2001 and the Preferential Procurement section of this policy, also referred to as "evaluation points";

"*alienate*" means to sell, exchange or donate, irrespective of whether such sale, exchange or donation is subject to a suspensive or resolutive condition and "disposal", "alienation" or "allocation" has a corresponding meaning;

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

"allocation of land" means an occupational certificate or hostel occupational certificate or a permit issued by the Municipal Manager as accounting officer allowing a person to occupy a site or building set apart for a specific land use, for an indefinite, however, not permanent period;

"area of jurisdiction" means the municipal outer boundaries, determined by the Municipal Demarcation Board in terms of section 21, read with section 5 of the Local Government: Municipal Demarcation Act, 1998 (Act 27 of 1998), for the Municipality and identified in the demarcation notices as "FS204" and published in Provincial Gazette No. 185 of 28 September 2000 and Provincial Gazette No. 230 of 27 November 2000, or as later amended;

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

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

"bid" means a written offer in a prescribed or stipulated form in response to an invitation by the municipality for the provision of services, works or goods, through price quotations, advertised competitive bidding processes or proposals;

"*bidder*" means any person submitting a bid;

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

"categories of land" means a category of property or land determined by Council per resolution to distinguish between:

Assets in terms of section 14 of Act 56 of 2003, as prime land where the general public may have an interest in – and with effect from 1 December 2004, to be disposed off in terms of sections 111 and 112 of Act 56 of 2003, including the processes such as tenders or auctions; or

Assets earmarked for a specific use or development where the general public may not have a general interest in (RDP houses, etc.) – and with effect from 1 December 2004 to be disposed off in terms of sections 14, 112 and 113 of Act 56 of 2003 or by means of other types of competitive bidding and this policy;

"closing Time" means the time and day specified in the bid documents for the receipt of bids;

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

"competitive bid" means a bid in terms of a competitive bidding process;

"*competitive bidding process*" means a competitive bidding process referred to in Regulation 12 (1) (d) of the Supply Chain Management Regulations;

"*community based vendor*" means a supplier of goods, services and/or construction works who resides in a target area or community and who is registered as such on the Municipality's Supplier database;

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

"*construction works*" means any work in connection with:

the erection, maintenance, alteration, renovation, repair, demolition or dismantling of or addition to a building or any similar structure;

the installation, erection, dismantling or maintenance of a fixed plant;

the construction, maintenance, demolition or dismantling of any bridge, dam, canal, road, railway, sewer or water reticulation system or any similar civil engineering structure; or the moving of earth, clearing of land, the making of an excavation, piling or any similar type of work;

"*Construction Industry Development Board (CIDB) Act*": means the Construction Industry Development Board Act, 2000 (Act No. 38 of 2000) and includes the regulations pertaining thereto.

"*consultant*": means a person or entity providing services requiring knowledge based expertise, and includes professional service providers;

"*contract*": means the agreement that results from the acceptance of a bid by the municipality;

"*contractor*": means any person or entity whose bid or quote has been accepted by the Municipality;

"*contract participation goal*": means the amount equal to the sum of the value of work for which the prime contractor contracts to engage specific target groups in the performance of the contract, expressed as a percentage of the bid sum less provisional sums, contingencies and VAT;

"day(s)": means calendar days unless the context indicates otherwise;

"delegated Authority": means any person or committee delegated with authority by the Municipality in terms of the provisions of the Municipal Finance Management Act;

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

"*disability*": means, in respect of a 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 in the range considered normal for a human being;

"*disposal*" means to sell, exchange or donate, irrespective of whether such sale, exchange or donation is subject of a suspensive or resolutive condition and "alienate", "alienation" or "allocation" has a corresponding meaning;

"*electronic bulletin board*": means an electronic method of obtaining bids or quotations;

"*empowerment Indicator*": means a measure of an enterprise/business's contribution towards achieving the goals of government's Reconstruction and Development Program. This indicator will relate only to certain specific goals for the purposes of this Policy;

"*evaluation points*": also referred to as "Adjudication Points" (see above);

"*final award*": in relation to bids or quotations submitted for a contract, means the final decision on which bid or quote to accept;

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

"*formal written price quotation", "written price quotation", "quotation" or "quote"*: means a written or electronic offer to the Municipality in response to an invitation to submit a quotation;

"fronting" means a deliberate circumvention or attempted circumvention of the B-BBEE Act and the Codes of Practice. Fronting commonly involves reliance on data or claims of compliance based on misrepresentations of facts, whether made by the party claiming compliance or by any other person;

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

"*historically disadvantaged individual (HDI)*": means a South African citizen:

(a) who, due to the apartheid policy that had been in place, had no franchise in national elections prior to the introduction of the Constitution of the Republic of South Africa, 1983 (Act No 110 of 1983) or the Constitution of the Republic of South Africa, 1993 (Act No 200 of 1993) ("the Interim Constitution"); and/or

(b) who is a female; and/or

(c) who has a disability.

"*implementing agent*": means the decision maker/manager mandated by the Municipality to implement projects and invite bids/quotations for procurement of any nature.

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

"*in the service of the state*": means:

(a) a member of any municipal council, any provincial legislature or the National Assembly or the National Council of Provinces;

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

(c) an employee of any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1 of 1999;

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

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

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

"incentives" means with the exclusion of "prime land" that the Municipal Manager as accounting officer may consider specific incentives with regard to the alienation or disposal of municipal assets or municipal land for specific uses for identified categories of lower income groups in terms of his delegated powers and this policy;

"land uses" means land governed by conditions of establishment or –title, or in terms of the Vaal River Guide Plan, Township Establishment and Land Use Regulations (G.N.R 1897 / 1986) of Act 4 of 1984 (such as Zamedela, Refengkgotso and Metsimaholo townships) or Deeds of Transfer (such as Deneysville and Oranjeville) and prior to the approval of a town planning scheme (such as applicable in Sasolburg, Vaalpark and Roodia areas) and the scheme provisions must be substituted for such conditions in all cases where the conditions of title were altered to accommodate a new land use provided that where conditions of land occur in the scheme but not in the title deeds the scheme shall take precedence;

"leased asset" means a lease whereby the lessor conveys to the lessee in return for payment or series of payment the right to use an asset for an agreed period of time;

"leasehold site" means a lease whereby the lessor conveys to the lessee the right to use an asset for an agreed period of time in return for payment or series of payments ;

"lease" means an agreement by which the municipality as the registered owner of land or a building allows another party to use it for a specific period of time in return for payment;

"lease of municipal assets" means:

(b) that there is no transfer of ownership of an asset as a result of a sale or a permanent disposal;

(a) a short term written agreement by which the municipality as registered owner of land or building, allows another party to use it for a specific period of time exceeding 9 years and 11 months, subject to registration against the title deed of the leased land or building;

(b) that the lessee's obligation is to pay the agreed amount of rent;

(c) that an 'economical rent' refer to the rental amount which the property will normally bring in, in the circumstances of the time as caused by a valuator, or an amount not too far from that on which the parties agree;

(d) that a 'nominal rent' refer to the rental value determined by the municipality:
- to attract targeted industries or
- to benefit old age homes or informal settlements;

"list of accredited prospective providers" means the list of accredited prospective providers which the municipality must keep in terms of clause 16.1 of this policy

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

"long term contract" means a contract with a duration exceeding one year;

"municipality" means the category B "Local Municipality of Metsimaholo" implemented from 8 December 2000;

"municipal assets" mean the assets, immovable property, rights, liabilities and obligations in so far as they were, immediately before 8 December 2000, predominantly deployed in respect of, or related to, former disestablished municipalities of the Greater Deneysville TLC, Oranjeville TLC, Sasolburg TLC and Vaaldam TLC, which were transferred to the Local Municipality of Metsimaholo, who became the successor in law of the disestablished municipalities and depend on the assets, liabilities, rights and obligations, vested in it from 8 December 2000;

"*municipal entity*": means an entity as defined in the Systems Act;

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

"*Municipal Manager*" means the Accounting Officer as defined in the Municipal Finance Management Act;

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

"*person*": includes a natural or juristic entity;

"*policy*": means this Supply Chain Management Policy as amended from time to time.

"*preference points*": mean the points for preference referred to in this Policy;

"*Preferential Procurement Policy Framework Act*" (PPPFA): means the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000);

"*Preferential Procurement Regulations*": means the regulations pertaining to the PPPFA;

"*prime contractor*": shall have the same meaning as "Contractor";

"prime land" means land with high development potential:

(a) due to its location and the historical background of the property;
(b) existing zoning and future use;
(c) market conditions, demand and supply of similar properties or
(d) seasonal value which such property may realize if sold on the open market by a willing seller to a willing buyer;

"*Promotion of Administrative Justice Act*": means the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000);

"*Republic*": means the Republic of South Africa;

"rand value" means the total estimated value of a contract in South African currency, calculated at the time of the bid invitations, and includes all applicable taxes and excise duties;

"*responsible agent*": means those internal project managers being Municipal officials or external consultants appointed by the Municipality responsible for the administration of a project or contract;

"*SARS*" means the South African Revenue Services;

"securities" means that the responsible director will be accountable and responsible for all face value documentation under his/her control, such as original title deeds, servitudes agreements, bonds, guarantees, original delegated power approvals or minutes, etc. must ensure that it will be registered and safeguarded;

"servitudes" refer to:

- public servitudes in favour of the municipality under the control of the municipality which must protect and enforce the rights of the community arising from those servitudes to be approved by the municipal manager as accounting officer in terms of this policy;
- private servitudes in favour of private institutions over municipal land (such as Eskom power lines) affecting municipal assets to be approved by the municipal manager as accounting officer in terms of this policy;

"site permit" includes a residential permit or hostel permit or a permit issues by the municipal manager as accounting officer allowing a person to occupy a site earmarked for allotment to a trader for trading, business or professional purposes;

"*Small, Medium and Micro Enterprises (SMME's)*": bears the same meaning assigned to this expression in the National Small Enterprise Act, 1996 (Act No. 102 of 1996);

"specific use" means:

- land demanded and earmarked for 'the poor' or earmarked for 'public interest' or
- identified or earmarked by the municipality for more flexible purposes (such as low cost housing or community facility uses) where the selling price is below the market value to pre-qualified persons;

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

"streets and public places" include any street, road (or reserve), thoroughfare, sanitary passage, square or open space shown on a General Plan of a township or settlement and filed in any deeds registry or Surveyor-General office, and all land (other than erven shown on the plan) the 'control' thereof is vested, to the entire exclusion of the owner (if not the local authority), in the Local Municipality of Metsimaholo or to which the owners of the erven in the township have a common right;

"*sub-contractor*": means any person or entity that is employed, assigned, leased or contracted by the prime contractor to carry out work in support of the prime contractor in the execution of a contract;

"sub-division and consolidation" means an erf creation process recommended by the municipal manager as accounting and approved by the responsible provincial member of the executive council;

"*supplier*": is a generic term which may include suppliers of goods and services, contractors and/or consultants;

"*supplier database*": means the list of accredited prospective providers which a municipality or municipal entity must keep in terms of Regulation 14 of the Supply Chain Management Regulations;

"*Supply Chain Management (SCM) Regulations*": means the Municipal Supply Chain Management Regulations published in Government Gazette 27636 of 30 May 2005;

"*Systems Act*": means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);

"temporary uses" means the short-term use of land for which permission was granted by the municipal manager as accounting officer and includes circus sites, open air activities and amusement parks as well as any site made available or let by the municipal manager as accounting officer to clubs or youth organizations, or for temporary air fields or any other use which is dependent on a permit for a legitimate use, in the absence which the land will be returned to its original zoned use;

"*tender or tenderer*": means bid or bidder in the context of construction;

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

"*Treasury Guidelines*": means any guidelines on supply chain management issued by the Minister in terms of section 168 of the MFMA;

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

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

"*unsolicited bid*": means an offer submitted by any person at their own initiative without having been invited by the Municipality to do so;

"*value of property*" means 'a fair market value' of un-improved or improved property caused by a person registered as a valuator or an associate valuator and

(a) the economic and community value to be received in exchange for the asset, as determined by the municipal manager as accounting officer;
(b) valued in accordance with generally recognized valuation practices, methods and standards;
(c) by the optional physical inspection of the property to be valued;
(d) comparative, analytic and other system or techniques, including aerial photography and computer assisted mass appraisal systems or techniques;
(e) the market value of the property can be defined as 'the most probable amount which such property with any improvements, would have realized or generated if sold in the open market when a willing and able buyer transacts with a willing and able seller (municipality) as at the date of valuation;
(f) if the available market related data of any category of property is not sufficient, such property may be valued in accordance with any mass valuation system or technique approved by the municipality and as may be appropriate in the circumstances; and
(g) the community value as determined by the municipal manager as accounting officer may include 'incentives' where the 'public interest' or the 'plight of the poor' demands otherwise;

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

All amounts/limits stated in this document shall be deemed to be inclusive of Value Added Tax (VAT).

POLICY STATEMENT

1. Introduction

(1) Section 111 of the Municipal Finance Management Act requires each municipality and municipal entity to adopt and implement a supply chain management policy, which gives effect to the requirements of the Act.

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

2. Purpose

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

(1) to stimulate and promote local economic development in a targeted and focused manner;

(2) to facilitate creation of employment and business opportunities for the people of Metsimaholo with particular reference to HDI’s;

(3) to promote the competitiveness of local businesses;

(4) to increase the small business sector access, in general, to procurement business opportunities created by Council;

(5) to increase participation by small, medium and micro enterprises (SMME’s); and

(6) to promote joint venture partnerships.

3. Objectives

The objectives of this Policy are:

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

(2) to comply with all applicable provisions of the Municipal Finance Management Act including the Municipal Supply Chain Management Regulations published under GN868 in Government Gazette 27636 30 May 2005 and any National Treasury Guidelines issued in terms of the MFMA;

(3) to ensure consistency with all other applicable legislation and any regulations pertaining thereto, including:

(a) the Preferential Procurement Policy Framework Act;

(b) the Broad-Based Black Economic Empowerment Act;

(c) the Construction Industry Development Board Act;

(d) the Local Government: Municipal Systems Act; and

(e) the Promotion of Administrative Justice Act

(4) 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.

4. Oversight

(1) Section 117 of the Municipal Finance Management Act prohibits a municipal councillor from being a member of a bid committee or any other committee evaluating or approving quotations or bids nor may a municipal councillor attend any such meeting as an observer.

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

(3) The Executive Mayor must provide general political guidance over the fiscal and financial affairs of the Municipality and may monitor and oversee the exercise of responsibilities assigned to the municipal manager and chief financial officer in terms of the Municipal Finance Management Act.

(4) 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.

(5) 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.

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

5. Compliance with Ethical Standards

(1) In order to create an environment where business can be conducted with integrity and in a fair and reasonable manner, this Policy will strive to ensure that the municipal manager and all representatives of the Metsimaholo Municipality involved in supply chain management activities shall act with integrity and in accordance with the highest ethical standards.

(2) All supply chain management representatives shall adhere to the code of conduct of municipal staff contained in schedule 2 of the Systems Act, and this Policy’s Code of Ethical Standards.

GENERAL PROVISIONS AND APPLICATION OF POLICY

6. Commencement and Review

(1) This Policy is effective from the date on which it is adopted by Council.

(2) The municipal manager must annually review the implementation of this Policy and if she/he considers it necessary, submit proposals for the amendment of the Policy to the Council for approval.

7. Application of Policy

(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;
(c) the selection of contractors to provide assistance in the provision of municipal services otherwise than in circumstances where chapter 8 of the Systems Act applies; or
(d) the selection of external mechanisms referred to in section 80 (1) (b) of the Systems Act for the provision of municipal services in circumstances contemplated in section 83 of that Act.

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

(3) The Policy provides for the following supply chain management systems:

(a) demand management system;
(b) acquisition management system;
(c) logistics management system;
(d) disposal management system;
(e) risk management system;
(f) performance management system.

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

8. Delegations

(1) To the extent that it may be necessary, Council authorises the municipal manager 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) No decision-making in terms of any supply chain management powers and duties may be delegated to an advisor or consultant.

9. Competency

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

10. Supply Chain Management Unit

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

11. Communication with the Municipality

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

12. Availability of Supply Chain Management Policy

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

DEMAND MANAGEMENT

13. Introduction

(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.

(2) The Municipality's Integrated Development Plan (IDP) is a comprehensive strategy document setting out how the Municipality intends to address 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.

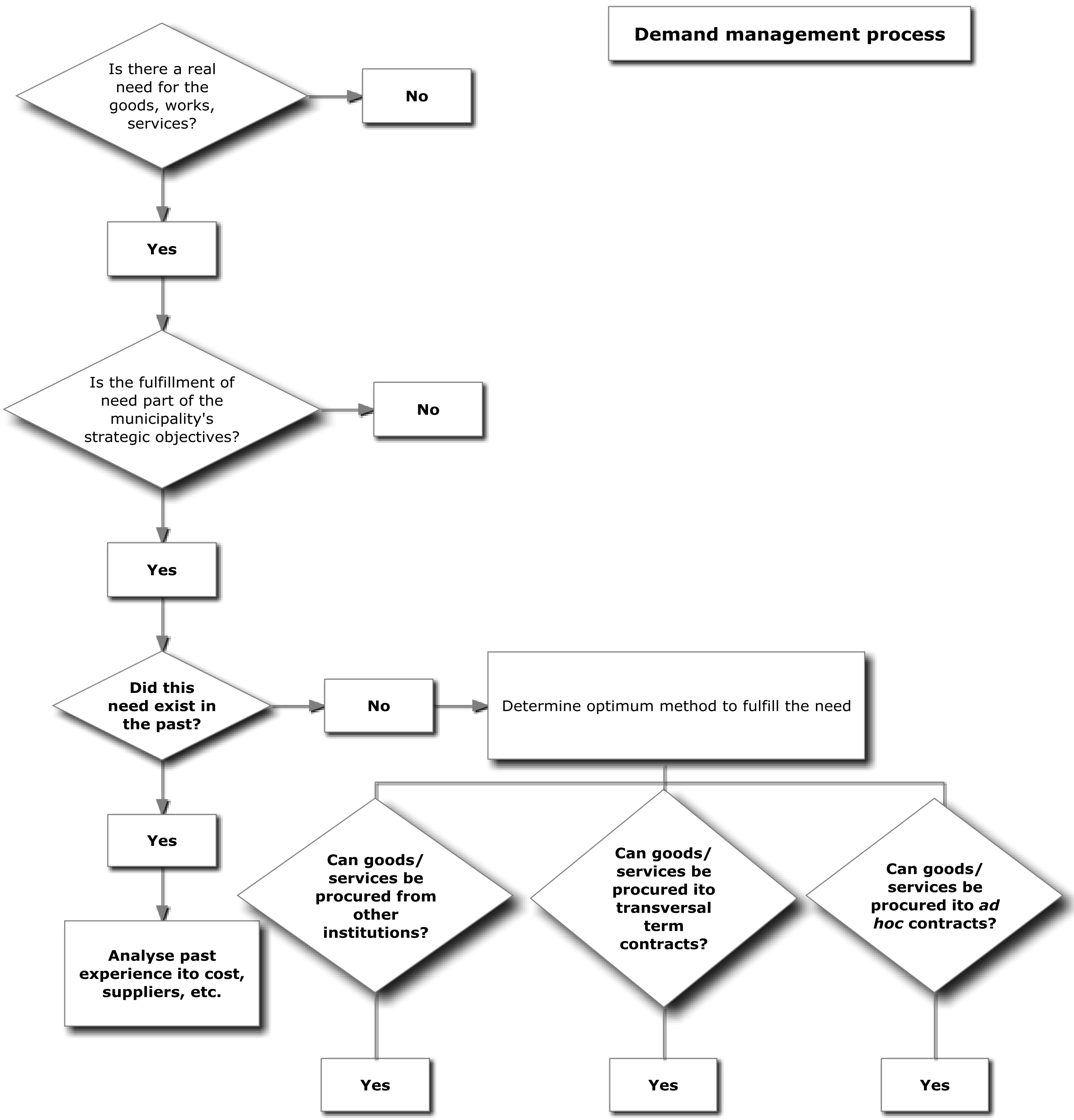
(3) In order to achieve effective demand management, the Municipal Manager shall continuously ensure:

(a) That efficient and effective provisioning and procurement systems and practices are implemented to enable the Municipality to deliver the required quantity and quality of services to the communities.
(b) The establishment of uniformity in policies, procedures, documents and contract options and the implementation of sound systems of control and accountability.
(c) The development of a world-class 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.
(d) In dealing with suppliers and potential suppliers that the Municipality shall respond promptly, courteously and efficiently to enquiries, suggestions and complaints.

14. Major Activities

(1) Demand management lies at the beginning of the supply chain and the major activities associated with identifying demand are:
(a) establishing requirements;
(b) determining needs; and
(c) deciding on appropriate procurement strategies.
(2) Demand management accordingly shall involve the following activities:
(a) understanding the future needs;
(b) identifying critical delivery dates;
(c) identifying the frequency of the need;
(d) linking the requirement to the budget;
(e) conducting expenditure analyses based on past expenditure;
(f) determining requirements;
(g) conducting commodity analyses in order to check for alternatives; and

(h) conducting industry analyses.



ACQUISITION MANAGEMENT

15. Introduction

The objectives of this acquisition management system are to ensure:

(1) that goods and services, including construction works, land and consultant services are procured by the Municipality only in accordance with the authorised procedures incorporated herein;
(2) that expenditure on goods and services, including construction works and consultant services is incurred in terms of an approved budget;
(3) that the threshold values of the different procurement procedures are complied with;
(4) that bid documentation, evaluation and adjudication criteria, and general conditions of contract are in accordance with the requirements of relevant legislation including, the Preferential Procurement Policy Framework Act, and any conditions of the Construction Industry Development Board Act; and
(5) that procurement guidelines issued by the National Treasury are taken into account.

16. General Application

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.

16.1 Supplier Database

(1) The Municipal Manager shall ensure that the Municipality's supplier database is updated at least quarterly and at least once a year shall, 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 apply for listing as an accredited prospective supplier.

(2) Prospective suppliers shall however be allowed to submit applications and amendments for listing on the database at any time.

(3) The listing criteria for accredited prospective providers are:

(a) Name of supplier / service provider;
(b) Street address;
(c) Postal address;
(d) Contact person in Sales Department;
(e) Sales Department's telephone number;
(f) Sales Department's fax number;

(g) Sales Department's cell number;
(h) Sales Department's email address;
(i) Contact person in Accounts Department;
(j) Accounts Department's telephone number;
(k) Accounts Department's fax number;
(l) Accounts Department's email address;
(m) Vat registration yes/no;
(n) Vat registration number;
(o) Banking details;
(p) Type of industry;
(q) Valid certification for specialised services;
(r) Valid tax clearance certificate;
(s) CIDB registration if applicable;
(t) Valid certification of HDI Status.

(4) The municipal manager shall disallow the listing of any prospective provider whose name appears on the National Treasury's database as a person prohibited from doing business with the public sector.

(5) Bidders who are not registered on the Supplier Database are not precluded from submitting bids. Contracts, however, may not be concluded with bidders who are not registered and verified on the supplier database.

(6) Where bids exceed R200 000 (VAT inclusive) the chairperson of the Bid Evaluation Committee may give any bidder 7 days written notice to produce proof of registration on the Supplier Database. Failure to produce proof of such registration will result in the tender being made non-responsive.

(7) Preference will be given to quotations (up to and including R200 000, VAT inclusive) from bidders who are registered and verified on the supplier database on or before the closing date.

(8) The Municipal Manager shall ensure that a fair and transparent roster system is implemented, where practically possible, when appointing bidders who are registered and verified on the supplier database.

16.2 Combating Abuse of the Supply Chain Management Policy

(1) The Municipal Manager shall be entitled to take all reasonable steps to prevent abuse of the supply chain management system and to investigate any allegations against

an official, or other role player, of fraud, corruption, favouritism, unfair, irregular or unlawful practices or failure to comply with the supply chain management system and when justified in terms of administrative law:

(a) shall take appropriate steps against such official or other role player; or
(b) shall report any alleged criminal conduct to the South African Police Service;
(c) may reject a recommendation for the award of a contract if the recommended bidder or person submitting a quote, or any of its directors, has committed a corrupt or fraudulent act in competing for the particular contract;
(d) may invalidate recommendations or decisions that were unlawfully or improperly made, taken or influenced, including recommendations or decisions that were made, taken or in any way influenced by:
  (i) Councillors in contravention of item 5 or 6 of the Code of Conduct for Councillors in schedule 1 of the Systems Act; or
  (ii) Municipal officials in contravention of item 4 or 5 of the Code of Conduct for Municipal Staff Members set out in schedule 2 of the Systems Act.

(e) may cancel a contract awarded to a person if:
  (i) the person committed a corrupt or fraudulent act during the procurement process or the execution of the contract; or
  (ii) an official or other role player committed any corrupt or fraudulent act during the procurement process or in the execution of the contract that benefited that person.

(2) The Municipal Manager may reject the bid or quote of any person if that person or any of its directors has:

(a) failed to pay municipal rates and taxes or municipal service charges and such rates, taxes and charges as are in arrears for more than three months;
(b) failed, during the last five years, to perform satisfactorily on a previous contract with the Municipality or any other organ of state after written notice was given to that bidder that performance was unsatisfactory;
(c) abused the supply chain management system of the Municipality or has committed any improper conduct in relation to this system;
(d) been convicted of fraud or corruption during the past five years;
(e) willfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
(f) been listed in the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act, 12 of 2004 or has been listed on National Treasury’s database as a person prohibited from doing business with the public sector.

(3) The Municipal Manager shall inform the National Treasury and relevant Provincial Treasury of any actions taken in terms of clauses 16.2(1) to (2) above.

16.3 Appointment of Observer

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.

16.4 Contracts Having Budgetary Implications beyond Three Financial Years

The Municipality may not enter into any contract that will impose financial obligations beyond the three years covered in the annual budget for that financial year, unless the requirements of section 33 of the Municipal Finance Management Act have been fully complied with.

16.5 Proudly South African Campaign

The Municipality supports the Proudly South African Campaign and may identify, as a specific goal the promotion of South African owned enterprises.

17. Specialised Forms of Procurement

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

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.

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

The Municipality may procure goods or services under a contract secured by another organ of state, but only if:

(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;
(2) the municipality or entity has no reason to believe that such contract was not validly procured;
(3) there are demonstrable discounts or benefits for the municipality or entity to do so; and
(4) that the other organ of state and the provider have consented to such procurement in writing.

17.3 Acquisition of Banking Services

(1) Subject to section 33 of the Municipal Finance Management Act, any contract for the provision of banking services:

(a) shall be procured through a competitive bidding process;
(b) shall be consistent with section 7 of the Municipal Finance Management Act; and
(c) may not be for a period longer than five years at a time.

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

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

(6) Bids shall be restricted to banks registered in terms of the Banks Act, 1990 (Act No. 94 of 1990).

17.4 Acquisition of IT Related Goods or Services

(1) 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 State Information Technology Agency (SITA) together with a motivation of the IT needs of the Municipality.

(2) 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.

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

17.5 Acquisition of Goods Necessitating Special Safety Arrangements

(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.

(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.

17.6 Public-Private Partnerships

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

17.7 Publications in Newspapers

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

17.8 Community Based Vendors

The Municipal Manager may request quotations directly from Community Based Vendors in a specific area or from a specific community for the procurement of goods and services for amounts less than R30 000 (including construction works).

18. Range of Procurement Processes

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

18.1 Competitive Bids

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

18.2 Annual 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.

18.3 Formal Written Price Quotations

Where the estimated transaction value exceeds R10 000 (VAT inclusive) and is less than or equal to R200 000 (VAT inclusive).

18.4 Written Price Quotations

Where the estimated transaction value exceeds R2 000 (VAT inclusive) and is less than or equal to R10 000 (VAT inclusive).

18.5 Petty Cash Purchases

Where the transaction value is less than or equal to R2 000 (VAT inclusive).

18.6 Procurement of Consulting Services

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

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

18.7 Reduction in Threshold Values

The Municipal Manager may:

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

(2) direct that:

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

(b) formal written price quotations be obtained for any specific procurement of a transaction value lower than R10 000; or

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

19. General Conditions Applicable to Bids and Quotations

(1) The Municipality shall not consider a bid or quote unless the bidder who submitted the bid or quote:

(a) has furnished the Municipality with that bidder's:

(i) full name;

(ii) identification number or company or other registration number;

(iii) tax reference number;

(iv) VAT registration number, if any; and

(v) certificate of attendance at a compulsory site inspection,

(b) where applicable; has submitted an original and valid tax clearance certificate certifying that the service provider's tax matters are in order; and

(c) has indicated whether:

(i) the provider is in the service of the state, or has been in the service of the state in the previous twelve months;

(ii) 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

(iii) whether a spouse, child or parent of the provider or of a director, manager, shareholder or stakeholder referred to in sub-clause 19(1)(c)(ii) is in the service of the state, or has been in the service of the state in the previous twelve months.

(2) Irrespective of the procurement process, the Municipality may not make any award above R30 000, to a person who's tax matters have not been declared by the SARS to be in order.

(3) Before making an award the Municipality must check with SARS if the person's tax matters are in order and, if SARS does not respond within seven days such person's tax matters may, for the purposes of clause 74, be presumed to be in order.

(4) Irrespective of the procurement process followed, the Municipality is prohibited from making an award to a person:

(a) who is in the service of the state;
(b) if the person is not a natural person, of which any director, manager or principal shareholder or stakeholder is in the service of the state; or
(c) who is an advisor or consultant contracted with the Municipality.

(5) The Municipal Manager shall ensure that the notes to the annual financial statements of the Municipality must disclose particulars of any award above R2 000 to a person who is a spouse, child or parent of a person in the service of the state, or who has been in the service of the state in the previous twelve months, including:
(a) the name of the person;
(b) the capacity in which the person is in the service of the state: and
(c) the amount of the award.

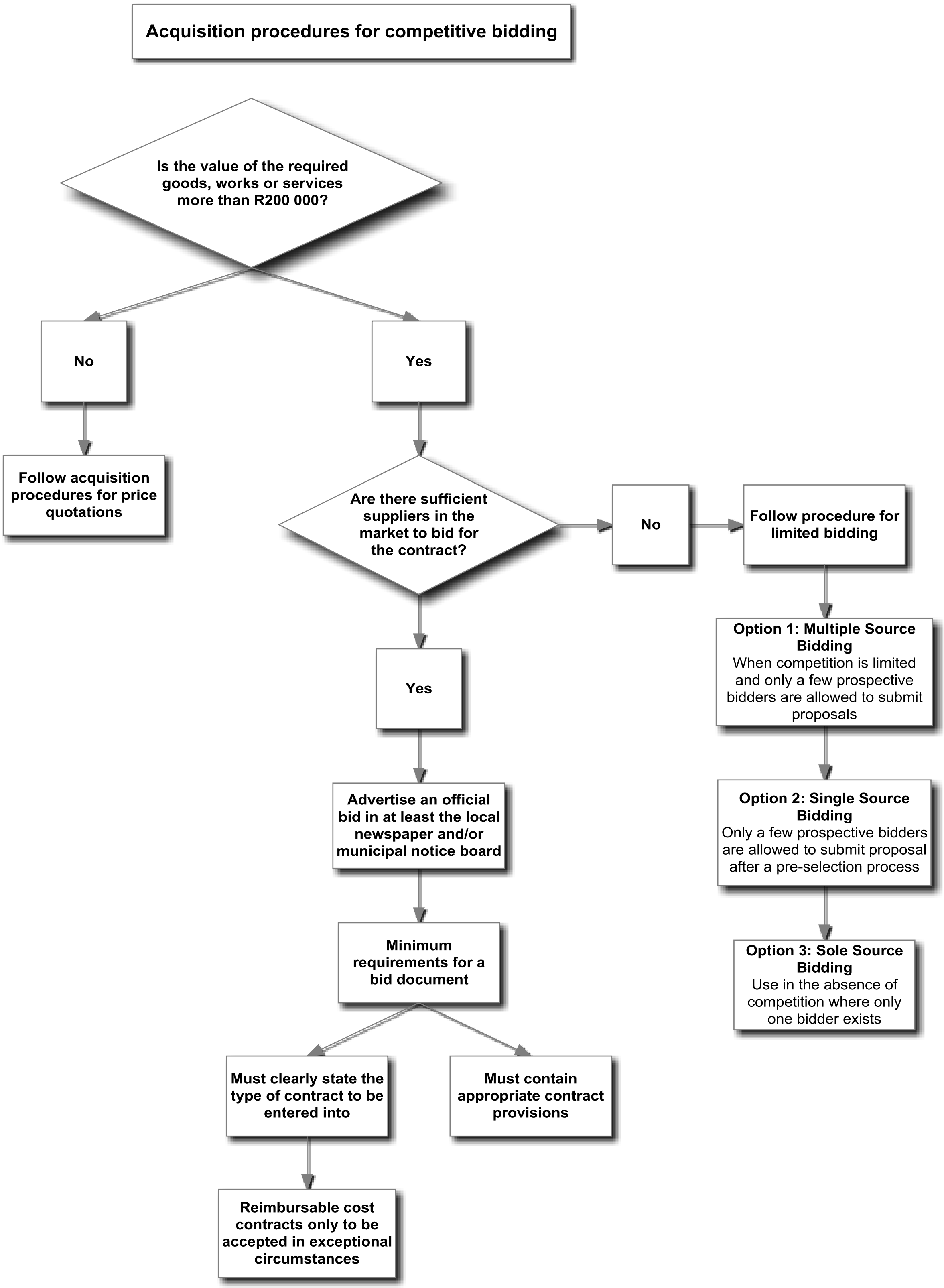
20. Competitive Bids

20.1 General

(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 (VAT inclusive), or for any contract exceeding one year in duration.

(2) Goods or services, construction works, or consultant services may not be split into parts or items of lesser value merely to avoid complying with the requirements relating to competitive bids.

(3) 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.



Acquisition procedures for competitive bidding
Is the value of the required goods, works or services more than R200 000?
No
Yes
Follow acquisition procedures for price quotations
Are there sufficient suppliers in the market to bid for the contract?
No
Follow procedure for limited bidding
Option 1: Multiple Source Bidding When competition is limited and only a few prospective bidders are allowed to submit proposals
Option 2: Single Source Bidding Only a few prospective bidders are allowed to submit proposal after a pre-selection process
Option 3: Sole Source Bidding Use in the absence of competition where only one bidder exists
Yes
Advertise an official bid in at least the local newspaper and/or municipal notice board
Minimum requirements for a bid document
Must clearly state the type of contract to be entered into
Must contain appropriate contract provisions
Reimbursable cost contracts only to be accepted in exceptional circumstances

20.2 Bid Specifications

(1) Bid specifications must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services.

(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.

(3) Bid specifications shall, where possible, be described in terms of performance required rather than in terms of descriptive characteristics for design.

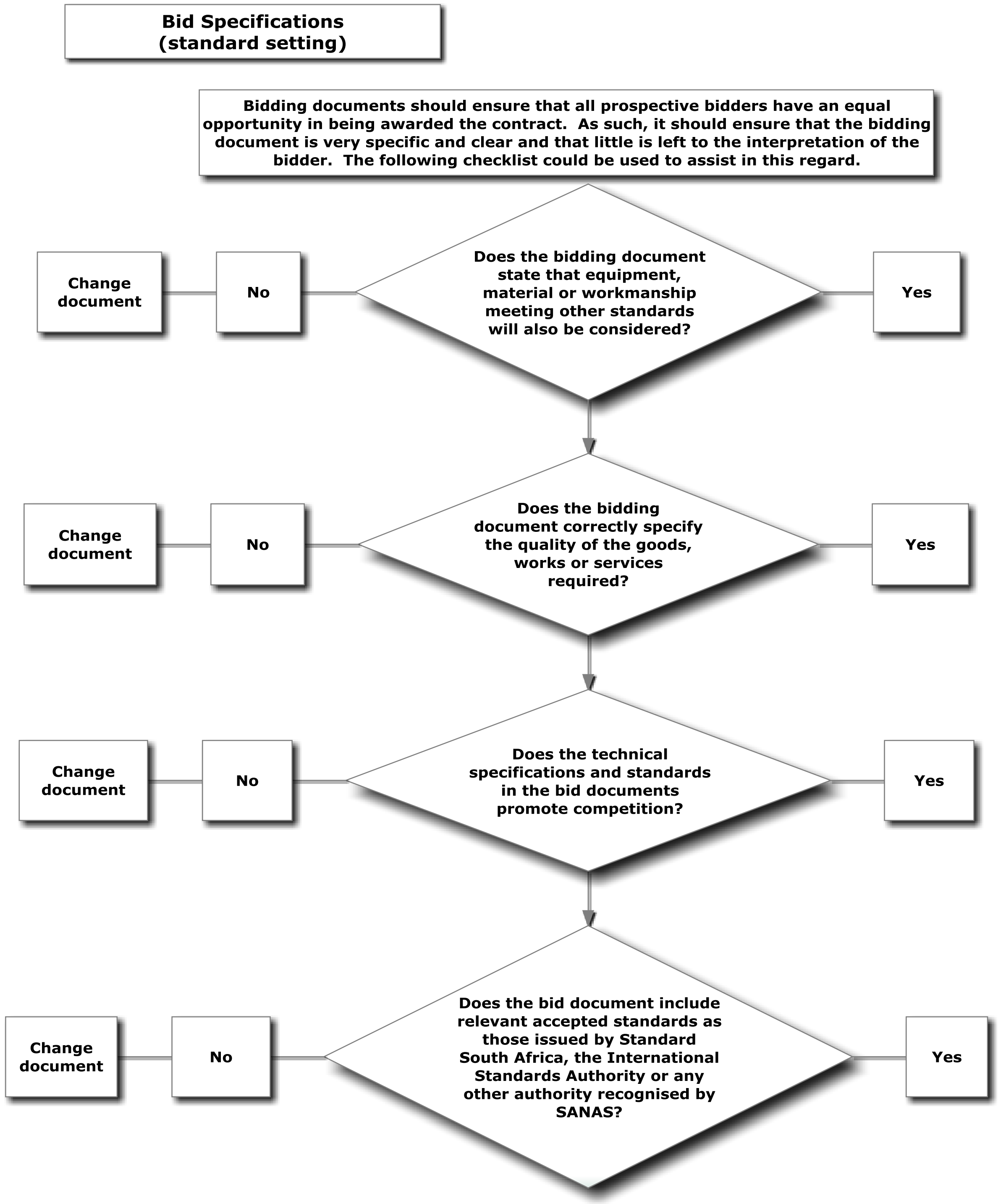
(4) Bid specifications may not create trade barriers in contract requirements in the forms of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labelling of conformity certification.

(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”.

(6) Bid specifications and/or bid documentation must indicate each specific goal for which adjudication points may be awarded.

(7) Bid specifications and/or bid documentation must be approved by the Municipal Manager or his delegated authority prior to publication of the invitation for bids.

(8) Where specifications are based on standard documents available to bidders, a reference to those documents is sufficient.



20.3 Bid Specification Committee

(1) All bid specifications and bid documentation must be compiled by an ad-hoc bid specification committee constituted for each project or procurement activity.

(2) The Bid Specification Committee shall be comprised of at least three municipal officials, an appointed Chairperson, the project manager or responsible official and at least one Supply Chain Management Practitioner of the Municipality.

(3) Where appropriate a representative of Internal Audit and/or Legal Services and/or an external specialist advisor may form part of this committee.

(4) The Municipal Manager, or his delegated authority, shall taking into account section 117 of the MFMA, when appointing the members of the Bid Specification Committee.

(5) No person, advisor or corporate entity involved with the bid specification committee, or director of such corporate entity, may bid for any resulting contracts.

(6) Bid Specification Committee meetings must be conducted in accordance with the applicable Rules of Order Regulating the Conduct of Meetings.

20.4 Compilation of Bid Documentation

(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.

(2) General conditions of contract and supply chain management guidelines of the National Treasury in respect of goods and services must be taken into account when compiling bid documents.

(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, in exceptional circumstances, site inspections are compulsory.

(4) An appropriate contract and/or delivery period must be specified for all contracts.

(5) The requirements of the preferential procurement section of this Policy must be clearly set out in the bid documentation.

(6) 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.

(7) The bid documentation must require a bidder to furnish the following:

(a) the bidders full name;
(b) the identification number or company or other registration number;
(c) the bidders tax reference number and VAT registration number, if any; and
(d) an original valid tax clearance from the South African Revenue Services stating that the bidders tax matters are in order.

(8) Bid documentation must stipulate that disputes must be settled by means of mutual consultation, mediation (with or without legal representation) or, where unsuccessful, in a South African court of law.

(9) A provision for the termination of the contract in the case of non- or under- performance must be included in the bid documentation.

(10) 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.

(11) Bid documentation must state that the Municipality shall not be obliged to accept the lowest bid, any alternative bid or any bid.

(12) Unless the Municipal Manager otherwise directs bids are invited in the Republic only.

(13) Laws of the Republic shall govern contracts arising from the acceptance of bids.

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

(15) 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 sub-clause 20.4(15)(b) is in the service of the state, or has been in the service of the state in the previous twelve months.

(16) 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.

(17) 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.

20.5 Bids exceeding R10 million

If the estimated value of the transaction exceeds R10 million, the bid documentation must require the bidders to furnish:

(1) if the bidder is required by law to prepare annual financial statements for auditing, their audited annual financial statements -

(a) for the past three years, or

(b) since their establishment if established during the past three years,

(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,

(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

(4) what portion and whether any portion of payment from the Municipality is expected to be transferred out of the Republic.

20.6 Alternative Bids

(1) Bid documentation may state that alternative bids can be submitted provided that a bid free of qualifications and strictly in accordance with the bid documents is also submitted.

(2) An alternative bid shall be submitted on a separate complete set of bid documents and shall be clearly marked "Alternative Bid" to distinguish it from the unqualified bid referred to above.

(3) Bid documentation shall state that the Municipality will not be bound to consider alternative bids.

20.7 Public Invitation for Competitive Bids

(1) On completion of the bid specification and bid document processes the Municipality shall publicly invite bids.

(2) Bid invitation shall be by notice published in the press, in newspapers circulating in the Metsimaholo Municipal Area, in at least English and in the electronic media (including the Municipality's official website) or at dissemination centres as applicable or any other appropriate ways.

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

(4) The bid notice may require payment of a non-refundable deposit by bidders wanting to collect bid documents. This deposit shall be determined by the Municipal Manager or his/her delegate from time to time.

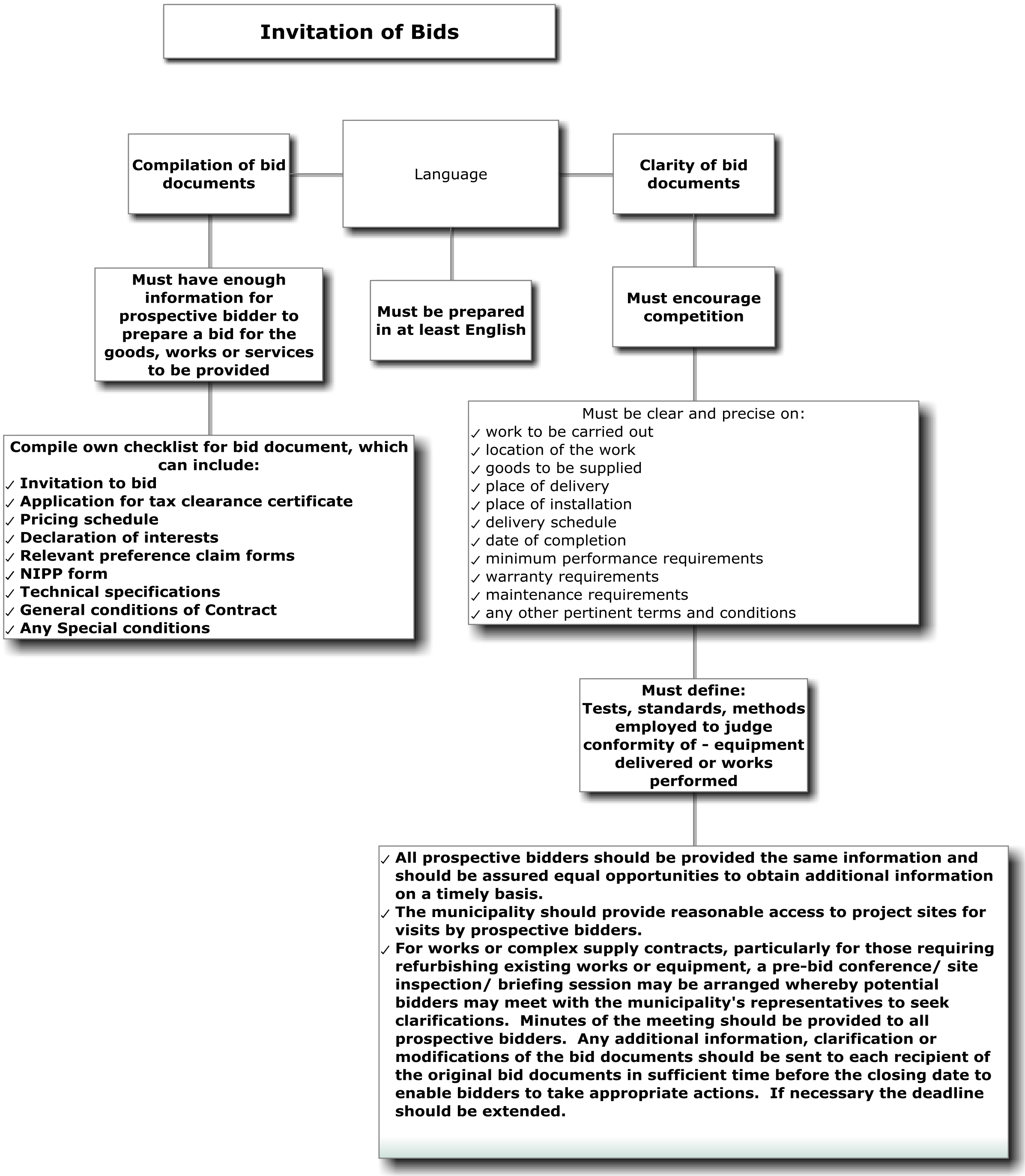
(5) The public notice contemplated by clause 20.7(2) above shall specify:

(a) the title of the proposed contract and the bid or contract reference number;

(b) such particulars of the contract as the Municipality deems fit;
(c) the date, time and location of any site inspection, if applicable;
(d) the place where the bid documentation is available for collection and the times between which bid documentation may be collected;
(e) that bids may only be submitted on the bid documentation provided by the Municipality;
(f) the deposit payable, if any;
(g) the place where bids must be submitted;
(h) the closing date and time for submission of bids; and
(i) the required CIDB contractor grading for construction work.

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

(7) Bid documentation shall be available for collection until the closing date of bids.



20.8 Issuing of Bid Documents

(1) Bid documents and any subsequent notices may only be issued by officials designated by the Municipal Manager from time to time.

(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.

(3) Details of prospective bidders must, wherever possible, include the full name of the person collecting the bid documents, a contact person, a contact telephone and fax number and a postal and email address.

20.9 Site Inspections/Briefing Sessions

(1) In general, site inspections or briefing sessions, where applicable will not be compulsory. In exceptional circumstances however, a site inspection or briefing session may be made compulsory with the approval of the Municipal Manager or his/her delegate, provided that the minimum bid period is extended by at least 7 (seven) days (refer to clauses 20.17(2) to 20.17(4) in this regard).

(2) If site inspections or briefing sessions are to be held, full details must be included in the bid notice, including whether or not the site inspection or briefing session is compulsory.

(3) Where site inspections or briefing sessions are made compulsory, the date for the site inspection or briefing session shall be at least 14 (fourteen) days after the bid has been advertised, and a certificate of attendance signed by the responsible agent must be submitted with the bid.

(4) If at a site meeting or briefing session, 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 clause 20.18 of this Policy.

20.10 Two-stage (Pre-qualification) Bidding Process

(1) In a two-stage (prequalification) bidding process, bidders are first invited to prequalify in terms of predetermined criteria, without being required to submit detailed technical proposals (where applicable) or a financial offer.

(2) In the second stage, all bidders that qualify in terms of the predetermined criteria will be shortlisted and invited to submit final technical proposals (where applicable) and/or a financial offer.

(3) This process may be applied to bids for large complex projects of a specialist or long term nature or where there are legislative, design, technological and/or safety reasons to restrict bidding to firms who have proven their capability and qualification to meet the specific requirements of the bid, including projects where it may be undesirable to prepare complete detailed technical specifications or long term projects with a duration exceeding three years.

(4) The notice inviting bidders to pre-qualify must comply with the provisions of public invitation for competitive bids (clauses 20.7(1) to (7) refer).

(5) Once bidders have pre-qualified for a particular project, they shall be given not less than 7 (seven) days to submit a final technical proposal (where applicable and/or a financial offer).

20.11 Two Envelope System

A two envelope system differs from a two-stage (pre-qualification) bidding process in that a technical proposal and the financial offer are submitted in separate envelopes at the same place and time. The financial offers will only be opened once the technical proposals have been evaluated (clauses 20.22(1) to (5) refer).

20.12 Validity Periods

(1) The period for which bids are to remain valid and binding must be indicated in the bid documents.

(2) The validity period is calculated from the bid closure date and bids shall remain in force and binding until the end of the final day of that period.

(3) This period of validity may be extended, provided that the original validity period has not expired, and that all bidders are given an opportunity to extend such period. Any such extension shall be agreed to by a bidder in writing.

(4) The responsible official must ensure that all bidders are requested to extend the validity period of their bids where necessary in order to ensure that the bids remain valid throughout the appeal period or until the appeal is finalised. If bidders are requested to extend the validity period of their bids as a result of an appeal being lodged it must be made clear to bidders that this is the reason for the request.

(5) For all contract periods equal to or exceeding one year, an appropriate contract price adjustment formula must be specified in the bid documents.

20.13 Contract Price Adjustment

(1) For all contract periods equal to or exceeding one year, an appropriate contract adjustment formula must be specified in the bid documents.

(2) In general, if contract periods do not exceed one year, the bid shall be a fixed price bid and not subject to contract price adjustment.

(3) However, if as a result of any extension of time granted, the duration of a fixed price contract exceeds one year, the contract may be subjected to contract price adjustment for that period by which the extended contract period exceeds such one year. An appropriate contract price adjustment formula must be specified in the bid documents.

(4) Notwithstanding clause 20.13(2), if the bid validity period is extended, then contract price adjustment may be applied.

20.14 Contracts providing for Compensation Based on Turnover

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

(a) a cap on the compensation payable to the service provider; and

(b) that such compensation must be performance based.

20.15 Provisional Sums and Prime Cost Items

(1) If monetary allowances in excess of R200 000 for provisional sums or prime cost items have been included in the bid documents, they shall be dealt with in terms of this acquisition management system.

(2) When monetary allowances of less than R200 000 have been included in the bid documents, contractors must be required to obtain a minimum of three written quotations for approval by the responsible agent.

20.16 Samples

(1) Where samples are called for in the bid documents, samples (marked with the bid and item number as well as the bidder's name and address) shall be delivered separately (to the bid) to the addressee mentioned in the bid documents by no later than the closing time of the bid.

(2) Bids may not be included in parcels containing samples.

(3) If samples are not submitted as required in the bid documents, then the bid concerned may be declared invalid.

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

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

20.17 Closing of Bids

(1) Bids shall close on the date and at the time stipulated in the bid notice.

(2) For bids for goods and services the bid closing date must be at least 14 (fourteen) days after publication of the notice.

(3) For construction works the bid closing date must be at least 21 (twenty one) days after publication of the notice.

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

(5) For banking services, the bid closing date must be at least 60 (sixty) days after publication of the notice.

(6) For the calling of proposal using a two envelope system, the bid closing date must be at least 30 (thirty) days after publication of the notice.

(7) The bid closing date may be extended by the Municipal Manager or his/her delegate if circumstances justify this action; provided that the closing date may not be extended unless a notice is published in the press at least one week prior to the original bid closing date. This notice shall also be posted on the official notice boards designated by the Municipal Manager or his/her delegate, and a notice to all bidders to this effect shall be issued.

(8) The Municipal Manager or his/her delegate may determine a closing date for the submission of bids which is less than any of the periods specified in clauses 20.17(2) to 20.17(6) 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.

20.18 Communication with bidders before bid closing

(1) The Bid Specification Committee Chairperson may, if necessary, communicate with bidders prior to bids closing in order to supply additional information or to clarify vague points in the bid documents.

(2) Such communication shall be in the form of a notice issued to all bidders in accordance with clause 22.5(2) and should, where possible, be issued at least one week prior to the bid closing date.

(3) Notwithstanding a request for acknowledgement of receipt of any notice issued in accordance with clause 20.18(2), the bidder will be deemed to have received such notice if the procedures described in clause 22.5(2) have been complied with.

20.19 Submission of Bids

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

(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.

(3) The bid must be submitted in a separate sealed envelope with the name and address of the bidder, the bid number and title, 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.

(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.

(5) Postal bids will not be accepted for consideration.

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

(7) Electronic bids will not be accepted.

(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.

(9) No person may amend or tamper with any bids or quotations after their submission.

20.20 Late Bids

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

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

20.21 Opening of Bids

(1) At the specified closing time on the closing date the applicable bid box shall be closed.

(2) The bid box shall be opened in public as soon as practical after the closing time.

(3) Bids found to be inadvertently placed in the incorrect bid box will be redirected provided that the applicable bids either closed on the same day at the same time, or are still open (in which case the Municipality disclaims any responsibility for seeing that the bids are in fact lodged in the correct bid box). A record of all bids placed in an incorrect box shall be kept.

(4) 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.

(5) Immediately after the opening of the bid box, all bids shall be opened in public and checked for compliance.

(6) The official opening the bids shall in all cases read out the name of the bidder and, if practical, the amount of the bid.

(7) As soon as a bid or technical proposal has been opened:

(a) the bid/proposal shall be stamped with the official stamps, and endorsed with the opening official's signature,
(b) the name of the bidder, and where possible, the bid sum shall be recorded in a bid opening record kept for that purpose, and
(c) the responsible official who opened the bid shall forthwith place his/her signature on the bid opening record and shall ensure that the bid opening record and the bid prices, where applicable, are made available for public inspection and are published on the Municipality's official website.
(8) If a two envelope system is followed, only the technical proposal will be opened at the bid opening.

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

(1) 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.

(2) When required the financial offers/bids corresponding to responsive technical proposals, shall be opened by the opening official in accordance with clauses 20.21(6) to (7).

(3) All bidders who submitted responsive technical proposals must be invited to attend the opening of the financial offers/bids.

(4) 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 22.5(1) refer).

(5) 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.

20.23 Invalid Bids

(1) Bids shall be invalid, and shall be endorsed and recorded as such in the bid opening record by the **responsible official** appointed by the Municipal Manager or his/her delegate to open the bid, in the following instances:

(a) If the bid is not sealed;
(b) the bid is not submitted on the official Form of Bid/Offer;
(c) if the bid is not completed in non-erasable ink;
(d) if the Form of Bid/Offer has not been signed;
(e) if the Form of Bid/Offer is signed, but the name of the bidder is not stated, or is indecipherable; or
(f) if in a two envelope system, the bidder fails to submit both a technical proposal and a separate sealed financial offer/bid.

(2) When bids are declared invalid at the bid opening, the bid sum of such bids shall not be read out. However, the name of the bidder and the reason for the bid having been declared invalid shall be announced.

20.24 Bid Sum

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

21. Bid Evaluation

21.1 General

(1) The Municipality shall not be obliged to accept the lowest or any bid.

(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, in the event of a number of items being offered.

21.2 Bid Evaluation Committee

(1) An ad-hoc Bid Evaluation Committee shall be constituted for each project or procurement activity to evaluate bids received.

(2) The Bid Evaluation Committee shall be comprised of at least three Municipal officials, an appointed Chairperson (who may be the same person as the Chairperson of the Bid Specification Committee), the Project Manager / responsible official and at least one Supply Chain Management Practitioner of the Municipality.

(3) Where appropriate, a representative of Internal Audit and/or Legal Services may form part of this committee, which may also include an internal or external specialist/expert as necessary.

(4) The Municipal Manager, or his/her delegate, shall, take into account section 117 of the MFMA, in appointing the members of the Bid Evaluation Committee.

(5) Bid Evaluation Committee meetings must be conducted in accordance with the applicable Rules of Order Regulating the Conduct of Meetings.

21.3 Bid Evaluation

(1) The Responsible Agent shall carry out a preliminary evaluation of all valid bids received and shall submit a draft bid evaluation report to the Bid Evaluation Committee for consideration.

(2) Any evaluation of a bid shall consider the bids received and shall note for inclusion in the evaluation report, a bidder:

- (a) whose bid was endorsed as being invalid by the responsible official at the bid opening;
- (b) whose bid does not comply with the general conditions applicable to bids and quotations of this Policy;
- (c) whose bid is not in compliance with the specification;

(d) whose bid is not in compliance with the terms and conditions of the bid documentation;
(e) whose bid does not comply with any minimum goals stipulated in terms of the preferential procurement section of this Policy;
(f) who is not registered and verified on the Municipality's supplier database. In this regard bid documentation shall state that the responsibility for registration and verification rests solely with the bidder;
(g) who, in the case of construction works acquisitions, does not comply with the requirements of the Construction Industry Development Board Act regarding registration of contractors;
(h) who has failed to submit an original and valid tax clearance certificate from the South African Revenue Services (SARS) certifying that the taxes of the bidder are in order or that suitable arrangements have been made with SARS, and
(i) who fails to comply with any applicable Bargaining Council agreements.

(3) Bids shall be evaluated according to the following as applicable:

(a) bid price (corrected if applicable and brought to a comparative level where necessary),
(b) the unit rates and prices,
(c) the bidder's ability to fulfill its obligations in terms of the bid documents,
(d) any qualifications to the bid,
(e) the bid ranking obtained in respect of preferential procurement as required by this Policy,
(f) the financial standing of the bidder, including its ability to furnish the required institutional guarantee, where applicable,
(g) any other criteria specified in the bid documents.

(4) No bidder may be recommended for an award unless the bidder has demonstrated that it has the resources and skills required to fulfill its obligations in terms of the bid document.

(5) 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.

(6) Additional information or clarification of bids may be called for if required but only in writing.

(7) Alternative bids may be considered, provided that a bid free of qualifications and strictly in accordance with the bid documents is also submitted. The Municipality shall not be bound to consider alternative bids.

(8) If a bidder requests in writing, after the closing of bids, that his/her bid be withdrawn, then such a request may be considered and reported in the bid evaluation report.

(9) The bidder obtaining the highest number of points should be recommended for acceptance unless there are reasonable and justifiable grounds to recommend another bidder.

(10) If, after bids have been brought to a comparative level, two or more score equal total adjudication points, the recommended bidder shall be the one scoring the highest preference points.

(11) 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.

(12) All disclosures of a conflict of interest shall be considered by the Bid Evaluation Committee and shall be reported to the Bid Adjudication Committee.

21.4 Recommendation to Bid Adjudication Committee

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

22. Bid Adjudication

22.1 Bid Adjudication Committee

(1) The Bid Adjudication Committee shall comprise at least four senior managers, and shall include:

(a) the Chief Financial Officer or a Manager designated by the Chief Financial Officer;
(b) at least one senior supply chain management practitioner of the Municipality; and
(c) a technical expert in the relevant field who is an official of the Municipality, if the Municipality has such an expert.

(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.

(3) Neither a member of a Bid Specification Committee, Bid Evaluation Committee, nor an advisor or person assisting such committees, may be a member of a Bid Adjudication Committee.

22.2 Adjudication and Award

(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.

(2) The Bid Adjudication Committee may make an award to a preferred bidder, subject to the Municipal Manager or his/her delegate negotiating with the preferred bidder in terms of clause 22.6(1) of this Policy.

(3) 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.

22.3 Approval of Bid not recommended

(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:

(a) check in respect of the preferred bidder whether that bidder's municipal rates and taxes and municipal service charges are not in arrears;
(b) check in respect of the preferred bidder that it has the resources and skills required to fulfill its obligations in terms of the bid document.
(c) notify the Municipal Manager.

(2) The Municipal Manager may:

(a) after due consideration of the reasons for the deviation ratify or reject the decision of the Bid Adjudication Committee referred to in clause 22.3(1) above.
(b) If the decision of the Bid Adjudication Committee is rejected, refer the decision of the adjudication committee back to that committee for consideration.

(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 working days, notify the Auditor-General, the Provincial Treasury and the National Treasury of the reasons for deviating from such recommendation.

(4) The requirement of clause 22.3 does not apply if a different bid was approved in order to rectify an irregularity.

22.4 Reconsideration of Recommendations

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

22.5 Notification of Decision and Award of Contract

(1) If the Bid Adjudication Committee or other delegated official has resolved that a bid be accepted, the successful and unsuccessful bidders shall be notified in writing of this decision.

(2) Every notification of decision and/or formal acceptance/award of a bid must be in writing and shall:

(a) be delivered by hand on the day that it was signed and dated; or
(b) be faxed to the address chosen by the bidder on the day that it was signed and dated, with a copy of the transmission verification report kept for record purposes.

22.6 Negotiations with Preferred Bidders

(1) The Municipal Manager or his/her delegate may negotiate the final terms of a contract with bidders identified through a competitive bidding process as preferred bidders provided that such negotiation:

(a) does not allow any preferred bidder a second or unfair opportunity;
(b) is not to the detriment of any other bidder; and
(c) does not lead to a higher price than the bid as submitted.

(2) Minutes of such negotiations must be kept for record purposes.

22.7 Cancellation of Bids

(1) 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.

(2) If bids have been cancelled, then all bidders must be notified in writing.

(3) It is not necessary to notify original bidders when calling for new bids, which will be advertised in accordance with clause 20.7(2).

(4) No bid may be re-advertised before the expiry of the validity period of the original bid, or any extended validity period.

(5) Notwithstanding clause 22.7(4), where no valid bids are received or where all bidders have indicated in writing that they have no objection to the re- advertisement of the bid, then the bid may be re-advertised forthwith.

(6) In the case of bids for construction related works, and where the Bid Adjudication Committee resolved that there were no responsive tenders received, then the bid may be re-advertised forthwith.

22.8 Increase in Approved Contract Sum or Contract Period

(1) Any increase in the approved contract sum or contract period (in respect of annual and other bids) that may become necessary as a result of exceptional circumstances during the contract period, must be approved by the Bid Adjudication Committee subject to the

provisions of section 116(3) of the Municipal Finance Management Act, 2003 being complied with.

23. Annual Bids

23.1 General

(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 an annual bid).

(2) The general acquisition procedure for annual bids shall comply with procedures contained in the acquisition management system for competitive bids.

(3) Bid documentation, where applicable, shall state that the acceptance of annual bids based on a schedule of rates will not necessarily guarantee the bidder any business with the Municipality.

(4) The practice of using annual bids to circumvent the bid process in respect of what should be planned project work is not permissible.

(5) Material for repairs and maintenance can be purchased on annual tender where circumstances warrant it.

(6) Additional items included in an annual bid by any bidder which are clearly not an alternative to any of the items specified shall not be considered.

23.2 Evaluation and Adjudication of Annual Bids

(1) The process for considering annual bids shall be in terms of the evaluation and adjudication procedures for conventional competitive bids.

(2) Subsequent to award, where different selections of items are required in terms of the same annual bid and it is not possible or practical to separate orders for different items from different suppliers, service providers or contractors (in the case of construction works, for example), then the adjudication 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.

(3) If the selected supplier, contractor or service provider, in terms of the selection process specified in the annual 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 an annual bid, the supplier, contractor or service

provider fails to supply the goods or service required, then the remedies in terms of the contract shall apply.

24. Formal Written Price Quotations

24.1 General

(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 (VAT inclusive), then a minimum of three written quotations shall be obtained from providers who are suitably qualified and experienced, having the necessary resources, and who are preferably registered and verified on the Municipality's supplier database. If quotations are obtained from providers who are not listed on the Municipality's supplier database, such providers must meet the listing criteria referred to in this Policy and must register on the database before they may be recommended for award.

(2) 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.

(3) Notwithstanding clause 24.1(1), if quotations have been invited via an Electronic Bulletin Board, no additional quotes need to be obtained should the number of responses be less than three.

(4) If it is not possible to obtain at least three written quotations, the reasons must be recorded and approved by the Municipal Manager or his/her delegate 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.

(5) The names of the potential providers and their written quotations must be recorded.

(6) The practice of breaking out projects in order to circumvent the competitive bid process is not permissible.

24.2 Quotation Documentation

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

24.3 Validity Periods

The provisions of clauses 20.12(1) to (5) of this Policy shall apply *mutatis mutandis* with regard to quotations.

24.4 Quotation Prices

(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.

(2) Notwithstanding clause 24.4(1) above, if the quotation validity period is extended, then contract price adjustment may be applied on a proven, fair and reasonable basis.

24.5 Issuing and Submission of Documentation

(1) Documents pertaining to quotations (including the quotation itself) may be issued by either the originating office or a designated issuing office, but submissions shall be placed into the official marked and locked bid box provided for this purpose.

(2) 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.

(3) No quotations submitted after any stipulated closing date and time shall be considered.

24.5 Opening of Quotations

The provisions of clauses 20.21(1) to (8) of this Policy shall apply *mutatis mutandis* with regard to quotations.

24.6 Consideration and Acceptance of Quotations

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

25. Written Price Quotations

(1) Where the Municipality intends to procure any goods or services, which involves a transaction value over R2 000 (VAT inclusive) and up to R10 000 (VAT inclusive), written price quotations shall be obtained from at least three different providers preferably from, but not limited to, providers whose names appear on the supplier database, provided that if quotations are obtained from providers who are not listed, such providers must meet the listing criteria referred to in this Policy.

(2) If it is not possible to obtain at least three written quotations, the reasons must be recorded and approved by the Municipal Manager or his/her delegate 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.

(3) The names of the potential providers and their written quotations must be recorded.

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

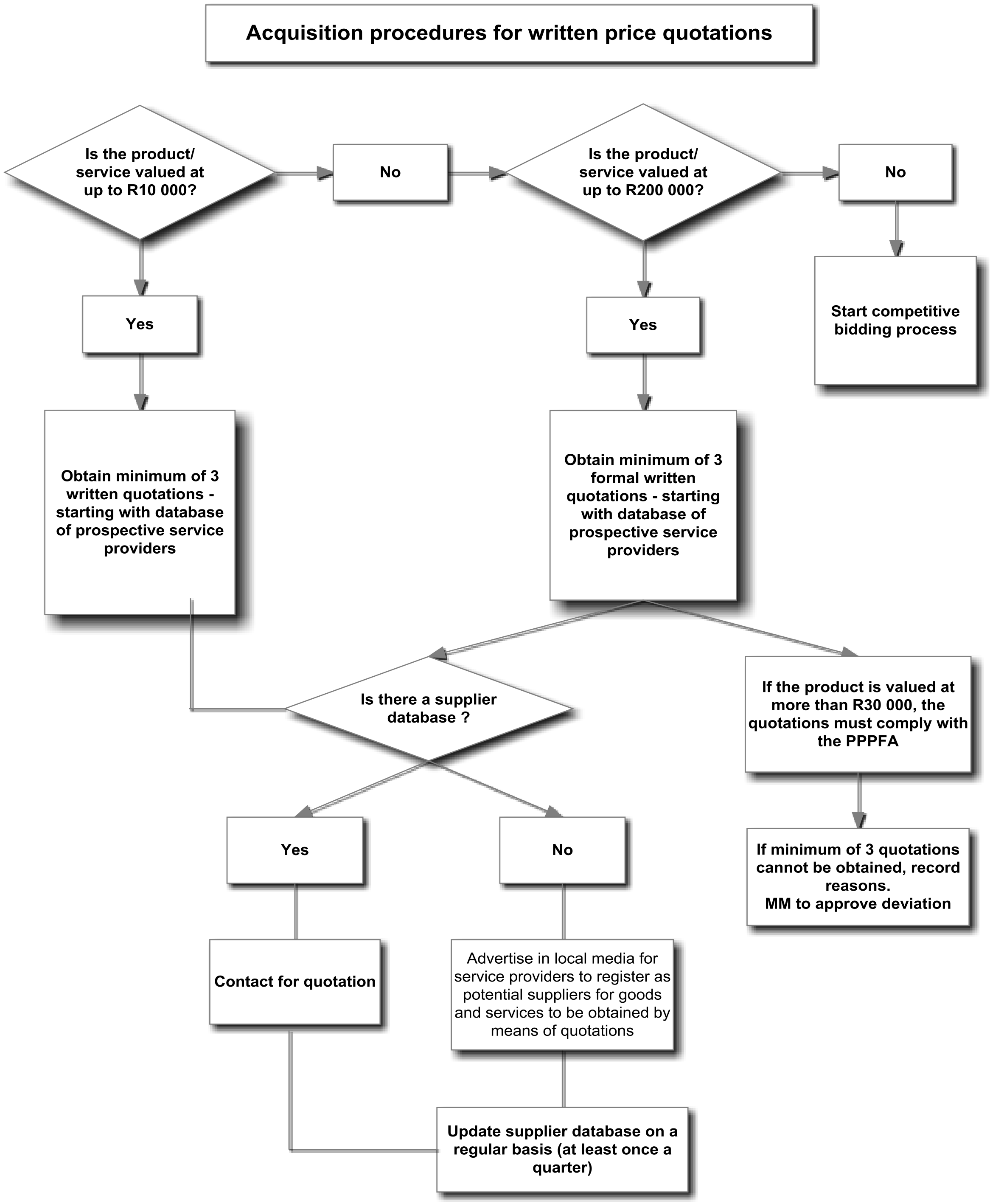
(5) All orders in respect of written price quotations shall be approved and released by the Municipal Manager, or his delegated authority.

26. Petty Cash Purchases

(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 (VAT inclusive), the Municipality's Procedures and Guidelines for Petty Cash Purchases shall be adhered to.

(2) The delegated official responsible for petty cash must compile monthly reconciliation reports 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.

(3) The practice of breaking out purchases in order to circumvent the formal written price quotation and written price quotation processes is not permissible.



Acquisition procedures for written price quotations
Is the product/ service valued at up to R10 000?
No
Is the product/ service valued at up to R200 000?
No
Yes
Yes
Start competitive bidding process
Obtain minimum of 3 written quotations - starting with database of prospective service providers
Obtain minimum of 3 formal written quotations - starting with database of prospective service providers
Is there a supplier database ?
If the product is valued at more than R30 000, the quotations must comply with the PPPFA
Yes
No
If minimum of 3 quotations cannot be obtained, record reasons.
MM to approve deviation
Contact for quotation
Advertise in local media for service providers to register as potential suppliers for goods and services to be obtained by means of quotations
Update supplier database on a regular basis (at least once a quarter)

27. Appointment of Consultants

27.1 General

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

27.2 Procurement Process (over R200 000)

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

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

27.3 Procurement Process (up to R200 000)

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

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

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

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

27.4 Single-source Selection

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

(2) Single-source selection may be appropriate only if it presents a clear advantage over competition:

(a) for services that represent a natural continuation of previous work carried out by the consultant, and continuity of downstream work is considered essential,
(b) where rapid selection is essential,
(c) for very small appointments, or
(d) when only one consultant is qualified, or has experience of exceptional worth for the project.

(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 (VAT inclusive) or less, such award shall be approved by the Municipal Manager or his/her delegate.

28. Deviation from the Procurement Processes

28.1 General

(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 (as described in clauses 28.2(1) below) 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;
(e) any other exceptional circumstances where it is impractical or impossible to follow the official procurement process, including:

(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; and

(2) The Municipal Manager may condone a deviation from the procurement processes, provided that such deviation is limited to the circumstances referred to in clause 28.1(1).

28.2 Emergency Dispensation

(1) The conditions warranting Emergency dispensation should include the existence of one or more of the following:

(a) the possibility of human injury or death;
(b) the prevalence of human suffering or deprivation of rights;
(c) the possibility of damage to property, or suffering and death of livestock and animals;
(d) the interruption of essential services, including transportation and communication facilities or support services critical to the effective functioning of the Municipality as a whole;
(e) the possibility of serious damage occurring to the natural environment;
(f) the possibility that failure to take necessary action may result in the Municipality not being able to render an essential community service; and
(g) the possibility that the security of the state could be compromised.

(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 above.

(3) Where possible, in an emergency situation, three quotes in accordance with general acquisition management principles should be obtained and a report submitted to the Municipal Manager for approval. However, where time is of the essence, the emergency shall be immediately addressed, and the process formalised in a report to the Municipal Manager as soon as possible thereafter.

28.3 Unsolicited Bids

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

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

(a) the product, service or land offered in terms of the bid is a demonstrably or proven unique innovative concept;
(b) the product, service or land offered will be exceptionally beneficial to, or have exceptional cost advantages for, the Municipality;
(c) 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.

(2) 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 Systems Act together with:

(a) reasons as to why the bid should not be open to other competitors;
(b) an explanation of the potential benefits for the Municipality were it to accept the unsolicited bid; and

(c) an invitation to the public and other potential suppliers to submit their written comments within 30 (thirty) days of the notice being published.

(3) Details of the unsolicited bid, together with any written comments received pursuant to clause 28.3(2)(c) as well as any responses from the bidder, shall be submitted to the provincial and National Treasury for comment.

(4) 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.

(5) The Bid Adjudication Committee may award the bid in respect of any amount.

(6) Any meeting of the Bid Adjudication Committee to consider an unsolicited bid shall be open to the public.

(7) 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.

28.4 Ratification of Minor Breaches of the Bid Processes

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

28.5 Obligation to Report

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.

LOGISTICS MANAGEMENT

29. Introduction

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, vendor performance and maintenance and contract administration.

30. Setting of Inventory Levels

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

(2) Open reservations shall be taken into account during the replenishment run.

31. Placing of Orders

(1) Purchase orders will be created with reference to requisitions where the supply source is contract or quotations (where sourcing had to take place).

(2) All purchase orders which are for imported goods and which are subject to rate and exchange adjustments must specify that the vendor must take out a forward exchange contract in order to fix the Rand based price in the purchase order.

(3) All purchase orders will be captured on the system exclusive of VAT.

(4) Standing orders (also known as “framework orders”) will be used in cases where a longer term arrangement, such as after hour services and copier contracts, are required.

(5) Purchase order approvals will be systems based and will involve the procurement department only.

(6) The assets section (for asset creation) and the insurance section (for claims) will be informed after the purchase order approval.

32. Receiving and Distribution of Goods

(1) Goods will be received on the Municipality’s system with reference to purchase orders.

(2) No over receipt of stock will be allowed. Under receipts will keep the purchase order open for the outstanding delivery quantity.

(3) 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.

33. Stores and Warehouse Management

(1) The stores and warehousing function will operate under the jurisdiction of the Supply Chain Management Unit.

(2) The Supply Chain Unit 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. Expediting Orders

(1) The purchasing expeditor will be required to monitor and expedite outstanding purchase orders.

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

35. Transport Management

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

36. Vendor Performance

(1) The Logistics System will enable system-based evaluation based on the vendors' performance with regard to certain pre-determined criteria.

(2) The information will be available for contract negotiations and regular feedback to the vendors.

37. Contract Management

37.1 Application

The contract management provisions below are applicable only to contracts for the provision of goods or services (excluding construction work contracts).

37.2 Competency

All contracts must be administered by an official(s) having the necessary competencies to ensure effective management of the contract.

37.3 Maintenance and Contract Administration

(1) Contracts related to the procurement of goods and services will be captured on the Municipality's procurement system in the form of a price schedule.

(2) Value (where the maximum value of the contract is restricted) and volume (where the maximum units procured are restricted) based contracts will be used.

(3) The use of fixed price, fixed term contracts will be promoted and expenditure will be driven towards contracts versus once-off purchases. Consolidated (Municipality wide) procurement volumes have to drive down the negotiated contract prices.

(4) Contract price adjustments shall be processed only in accordance with contract terms and conditions. Price adjustments shall be made on the procurement contract and any current purchase orders shall be changed to reflect the new price.

37.4 Contract Administration

(1) Contract administration is the last stage of the tendering and contract cycle, and includes all administrative duties associated with a contract after it is executed, including contract review.

(2) The effectiveness of contract administration will depend on how thoroughly the earlier steps were completed. Changes can be made far more readily early in the tendering cycle than after contract management has commenced.

(3) Some of the key early stages, which influence the effectiveness of contract administration, include:

(a) Defining the output, that is, writing specifications which identify what the aims and outputs of a contract will be;
(b) assessing risk;
(c) researching the market place (including conducting pre-tender briefings);
(d) formulating appropriate terms and conditions of contract;
(e) identifying appropriate performance measures and benchmarks so that all parties know in advance what is expected, and how it will be tested;
(f) actively creating competition, so the best possible suppliers bid for contracts; and
(g) evaluating bids competently, to select the best contractor, with a strong customer focus and good prospects of building a sound relationship.

37.5 Levels of Contract Administration

There are three levels of contract administration:

(1) The first operational level is for standard contracts for goods and services. Day to day contract administration should become no more than a monitoring, record keeping and price adjustment authorisation role.

(2) The second or intermediate level is for more complex contracts for services. An example would be a contract to outsource cleaning services. This type of contract will require a more active role for the contract manager in developing the relationship between the Municipality and the contractor.

(3) The third level is for strategic contracts involving complex partnerships and outsourcing arrangements. These contracts need more active management of the business relationships between the supplier and the users, for example to manage outputs and not the process. Sufficient resources need to be dedicated by all parties to successfully manage these contractor relationships and, where feasible, to achieve partnership. A partnership is the result of mutual commitment to a continuing co-operative relationship, rather than parties working on a competitive and adversarial basis.

37.6 Appointing a Contract Manager

(1) A contract manager should be appointed by the senior official in charge of the project prior to the execution of the contract.

(2) Where it is practical to do so, the contract manager should be involved at the earliest stage of the acquisition, which is the time of writing the specification. Contract administration arrangements should be identified and planned including who, how, delegations, reporting requirements and relationships and specific task responsibilities.

(3) Departments shall be responsible for ensuring that contract managers:

(a) prepare the contract administration plan;
(b) monitor the performance of the contractor;
(c) are appointed with appropriate responsibility and accountability;
(d) are adequately trained so that they can perform and exercise the responsibility; and
(e) act with due care and diligence and observe all accounting and legal requirements.

37.7 Duties and Powers of Contract Manager

(1) The contract manager's duties and powers shall be governed by the conditions of contract and the general law.

(2) The contract manager shall also be required to form opinions and make decisions, and in doing so is expected to be even-handed and prudent.

37.8 Contract Guidelines

(1) A guideline, which provides a description of the roles and responsibilities of a contract manager during the contract administration stage, shall be documented.

(2) The following is not an exhaustive description of contract administrative activities, and some tasks may not be carried out in the sequence presented, may be done concurrently with other tasks, or may not be necessary in some circumstances.

37.9 Delegating to Contract Administrator

(1) Where appropriate, a contract manager may delegate some contract administration duties to a contract administrator.

(2) The contract administrator would usually be required to perform duties related to processes for record keeping and authorising payment and collecting data on the contractor performance.

(3) The contract manager will however remain ultimately responsible for the performance of the contract.

37.10 Contract Management Process

(1) The contract manager shall ensure the contractor fulfill its obligations and accepts its liabilities under the contract and must also ensure the contractors are treated fairly and honestly.

(2) Both parties adhering to the agreed terms will result in:

(a) value for money;
(b) timeliness;
(c) cost effectiveness; and
(d) contract performance.

37.11 Document Retention

(1) The need exists to retain documents on a contract file for information and audit purposes, and in order to comply with the requirements of the Records Office.

(2) Proper records regarding all aspects of the contract must accordingly be maintained.

37.12 Guidelines on Contract Administration

The responsibilities of a contract manager may include the following:

(1) establishing a contract management plan for the project;
(2) reviewing the contract management process (including the plan) on a regular basis;
(3) providing liaison between internal managers and users, and suppliers to identify and resolve issues as they arise;
(4) monitoring the contractor's continuing performance against contract obligations;
(5) providing the contractor with advice and information regarding developments within the department, where such developments are likely to affect the products provided;

(6) determining if staged products should continue, and providing a procurement process for additional stages which meet the principle of obtaining value for money;

(7) providing accurate and timely reporting to the senior management in charge of the project, highlighting significant performance issues or problems;

(8) ensuring insurance policy(s) terms and conditions provide adequate protection for the Municipality and are maintained throughout the contract period;

(9) ensuring all products provided are certified as meeting the specifications before the supplier is paid;

(10) maintaining adequate records (paper and/or electronic) in sufficient detail on an appropriate contract file to provide an audit trail;

(11) managing contract change procedures;

(12) resolving disputes as they arise;

(13) conducting post contract reviews; and

(14) pursuing remedies in the event of contract breach.

DISPOSAL MANAGEMENT

38. General

(1) Disposal management provides for an effective system for the disposal or letting of assets no longer needed, including unserviceable, redundant or obsolete assets.

(2) Disposal of assets shall be subject to sections 14 and 90 of the Municipal Finance Management Act and any other applicable legislation.

(3) Assets may be disposed of in the following ways:

(a) transferring the asset to another organ of state in accordance with the provisions of the Municipal Finance Management Act;
(b) transferring the asset to another organ of state at market related value or, when appropriate, free of charge;
(c) selling the asset; or
(d) destroying the asset.

(4) 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.

(5) In the case of the free disposal of computer equipment, the provincial department of education must first be approached to indicate within 30 days whether any of the local schools are interested in the equipment.

(6) 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.

(7) Immovable property may be:

(a) sold only at market related prices except when the public interest or the plight of the poor demands otherwise;
(b) 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 immoveable property are annually reviewed.

(8) The Council, in a meeting open to public, shall:

(a) decide on reasonable grounds that the immovable asset or land is not needed to provide a minimum level of basic municipal services;
(b) consider the fair market value of the immovable asset or land and the economic and community value to be received in exchange for the asset; and
(c) decide on the category or method of disposal for all immovable assets or land to be disposed off.

(9) The municipal manager as accounting officer is authorised to:

(a) Consider applications for the disposal, alienation or allocation of immovable assets vested in the municipality or rights in respect thereof on a permanent or temporary basis, including servitudes or rights in respect thereof in line applicable by-laws and land uses;
(b) Consider, determine conditions, conclude agreements or finalise transactions referred to in (9)(a) above;
(c) Determine guidelines or procedure manuals in line with this Policy;
(d) Consider applications for erf creation and rezoning processes, subject to applicable legislation.

(10) The Municipal Manager or his/her delegate shall ensure:

(a) that immovable property be publicly advertised or that the community is notified through public notices of the intention to dispose of land and to invite their comments thereon;
(b) that tenders are invited for the disposal of prime land; or
(c) that prime land be disposed off at auctions;
(d) that unsolicited bids received for other uses outside the normal tender processes be considered for public interest or where the plight of the poor demand otherwise;
(e) that tenders and/or unsolicited bids for immovable property be evaluated in accordance with this supply chain management policy;
(f) that procedures and mechanisms for more flexible processes to pre-qualify persons or previously disadvantaged communities be implemented which may include that the value of a contract may be below the market value of the property;
(g) that guidelines for the disposal of immovable assets be implemented to maximize administrative and operational efficiency and to provide for adequate checks and balances;
(h) that where required thereto a valuator be appointed to cause a valuation for the disposal of immovable assets on a permanent or temporary basis.

(11) Read with section 195(1) of the Constitution of the RSA, 1996 (Act No. 108 of 1996) and in the interest of good governance and considering that market and economic values may change drastically over time, it is also imperative that the municipal valuation roll be updated on a regular basis and for this reason the municipal valuation roll may not, in all cases, be regarded as a correct reflection of the fair market value of immovable property.

39. Major Activities

The major activities associated with disposal management shall accordingly include, but not be limited to:

(1) establishing requirements;
(2) establishing market value;
(3) obsolescence planning;
(4) depreciation;
(5) identifying where all redundant material is kept or located; and
(6) identifying appropriate strategies relating to the manner in which items are to be disposed of.

RISK MANAGEMENT

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.

40. General

(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.

(2) Managing risk must be part of the Municipality's philosophy, practices and business plans and should not be viewed or practiced as a separate activity in isolation from line managers.

(3) Risk Management shall be an integral part of effective management practice.

41. The Risk Management Process

(1) The risk management process shall be applied to all stages of supply chain management, be it the conceptual stage, project definition, specification preparation, acquisition approval or implementation to completion.

(2) Risk management is an integral part of good management of acquisition activities and cannot be effectively performed in isolation from other aspects of acquisition management.

(3) Appropriate risk management conditions should therefore be incorporated in contracts.

42. Key Principles

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

(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;
(2) allocation and acceptance of responsibility to the party best placed to manage risk;
(3) management of risks in a pro-active manner and the provision of adequate cover for residual risks;
(4) assignment of relative risks to the contracting parties through clear and unambiguous contract documentation;
(5) ensuring that the costs incurred in managing risks are commensurate with the importance of the purchase and the risks to the Municipality's operations.

PERFORMANCE MANAGEMENT

43. Key Principles

(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.

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

(a) value for money has been attained;
(b) proper processes have been followed;
(c) desired objectives have been achieved;
(d) there is an opportunity to improve the process;
(e) suppliers have been assessed and what that assessment is; and
(f) there has been deviation from procedures and, if so, what the reasons for that deviation are.

(3) The performance management system shall accordingly focus on, amongst others:

(a) achievement of goals;
(b) compliance to norms and standards;
(c) savings generated;
(d) cost variances per item;
(e) non-compliance with contractual conditions and requirements; and
(f) the cost efficiency of the procurement process itself.

CODE OF ETHICAL STANDARDS

44. General

(1) In addition to this Code of Ethical Standards, the codes of conduct for municipal councillors and employees shall apply in the application of this Supply Chain Management Policy.

(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:

(a) mutual trust and respect; and
(b) an environment where business can be conducted with integrity and in a fair and reasonable manner.

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

(a) must treat all providers and potential providers equitably;
(b) may not use his or her position for private gain or to improperly benefit another person;
(c) may not accept any reward, gift, favour, hospitality or other benefit directly or indirectly, including to any close family member, partner or associate of that person, of a value more than R350;
(d) notwithstanding clause 44(3)(c), 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;
(e) 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;
(f) must immediately withdraw from participating in any manner whatsoever in a procurement or disposal process or in the award of a contract in which that person, or any close family member, partner or associate, has any private or business interest;
(g) must be scrupulous in his or her use of property belonging to the Municipality;
(h) must assist the Municipal Manager in combating fraud, corruption, favouritism and unfair and irregular practices in the supply chain management system; and
(i) must report to the Municipal Manager any alleged irregular conduct in the supply chain management system which that person may become aware of, including;
(j) any alleged fraud, corruption, favouritism or unfair conduct;
(k) any alleged contravention of this policy; or
(l) any alleged breach of this code of ethical standards.

(4) Declarations in terms of clause 44(3)(d) must be recorded in a register which the Municipal Manager must keep for this purpose.

(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.

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

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

45. Inducements, Rewards, Gifts and Favours

(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:

(a) any inducement or reward to the Municipality for or in connection with the award of a contract; or
(b) any reward, gift, favour or hospitality to any official or any other role player involved in the implementation of the supply chain management policy.

(2) The Municipal Manager must promptly report any alleged contravention of clause 45(1) to the National Treasury for considering whether the offending person, and any representative or intermediary through which such person is alleged to have acted, should be listed in the National Treasury's database of persons prohibited from doing business with the public sector.

(3) Clause 45(1) 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.

46. Sponsorships

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

(1) a provider or prospective provider of goods or services; or
(2) a recipient or prospective recipient of goods disposed or to be disposed.

46. Objections and Complaints

Persons aggrieved by decisions or actions taken in the implementation of this supply chain management system, may lodge within 21 days of the decision or action, a written objection or complaint against the decision or action.

47. Resolution of Disputes, Objections, Complaints and Queries

(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:

(a) any decisions or actions taken in the implementation of the supply chain management system; or
(b) any matter arising from a contract awarded in the course of the supply chain management system; or
(c) to deal with objections, complaints or queries regarding any such decisions or actions or any matters arising from such contract.

(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.

(3) The person appointed must;

(a) strive to resolve promptly all disputes, objections, complaints; or queries received; and
(b) submit monthly reports to the Municipal Manager on all disputes, objections, complaints or queries received, attended to or resolved.
(c) the dispute, objection, complaint or query is not resolved within 60 days; or
(d) no response is forthcoming within 60 days.

(4) 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.

(5) The provisions above must not be read as affecting a person’s rights to approach a court at any time.

PREFERENTIAL PROCUREMENT

48. Introduction

(1) The purpose of this section is to align the municipality's supply chain management policy with the BBBEE Act, Codes of Practice and the Preferential Procurement Regulations of 2011.

(2) The intention of the legislation is to level the playing field for all entities operating in the South African economy by providing clear and comprehensive criteria for the measurement of broad-based BEE.

(3) Preferential procurement is further enhanced with provisions aimed at improved access to information, simplification of documentation, reduced performance guarantee requirements, reduced payment cycles and good governance.

(4) Preferential Procurement allows for the establishment of procurement initiatives such as joint-venture partnerships, public-private partnerships and unbundling as well as other best practices of procuring goods, services and construction works

49. Aim

The Municipality aims to achieve a minimum BEE spend of 80% (eighty percent)[1] of its overall annual procurement budget, through the application of the Codes of Practice and preferential procurement.

50. Performance Management

To ensure that BBBEE and preferential procurement attain its objectives, performance will be monitored in terms of the Supply Chain Management performance management system.

51. Planning and stipulation of preference points

The municipal manager must prior to making an invitation for bids –

(1) Properly plan for the provision of services, goods or works to ensure that the resources that are required to fulfill the needs identified in the Integrated Development Plan (IDP) and Service Delivery and Budget Implementation Plan (SDBIP) of the municipality are delivered at the correct time, price, place and that the quantity and quality will satisfy those needs;

(2) As far as possible, accurately estimate the costs (by conducting an industry and commodity analysis whereby prospective suppliers may be approached to obtain indicative market related prices that may be utilised for benchmarking purposes) for the

[1] This target may be reviewed annually by the municipality. A breakdown of specific targets for the different classes of contracts may be determined annually by the municipality.

provision of the required services, goods and works. This is in order to determine and stipulate the appropriate preference point system to be utilised in the evaluation and adjudication of the bids and to ensure that the prices paid for the services, goods and works are market-related; and

(3) Determine whether services, goods or works for which an invitation for bids is to be made has been designated for local production and content. This will entail the inclusion of a specific condition in the bid documents that only locally produced services, goods or works or locally manufactured goods with a stipulated minimum threshold for local production and content will be considered.

52. Preferential Procurement System

52.1 80/20 preference point system up to a Rand value of R1 million

(1) The following formula must be used to calculate the points for price in respect of bids, including price quotations, with a Rand value equal to, or above R30 000 and up to a Rand value of R1 000 000 inclusive of all applicable taxes:

(a)

$$Ps = 80\left[1 - \frac{Pt - P\min}{P\min}\right]$$

Where

Ps = Points scored for comparative price of bid or offer under consideration;
Pt = Comparative price of bid or offer under consideration; and
Pmin = Comparative price of lowest acceptable bid or offer.

(b) the municipality may apply the formula in 52.1.1(a) above for price quotations with a Rand value less than R30 000, if and when appropriate.

(2) Subject to 52.1.3 below points must be awarded to a bidder for attaining the B-BBEE status level of contributor in accordance with the table below.

B-BBEE Status Level of Contributor	Number of points
1	20
2	18
3	16
4	12
5	8
6	6
7	4
8	2
Non-compliant contributor	0

(3) A maximum of 20 points may be allocated in accordance with 52.1.2

(4) The points scored by a bidder in respect of B-BBEE contribution contemplated in 52.1.2 above must be added to the points scored for price as calculated in accordance with 52.1.1.

(5) Subject to 52.3 the contract must be awarded to the bidder who scores the highest total number of points.

52.2 90/10 preference point system with a Rand value above R1 million

(1) The following formula must be used to calculate the points for price in respect of bids with a Rand value above R1 000 000 inclusive of all applicable taxes:

$$Ps = 90\left[1 - \frac{Pt - P\min}{P\min}\right]$$

Where

Ps = Points scored for comparative price of bid or offer under consideration;
Pt = Comparative price of bid or offer under consideration; and
Pmin = Comparative price of lowest acceptable bid or offer.

(2) Subject to 52.2.3 below points must be awarded to a bidder for attaining the B-BBEE status level of contributor in accordance with the table below.

B-BBEE Status Level of Contributor	**Number of points**
1	10
2	9
3	8
4	5
5	4
6	3
7	2
8	1
Non-compliant contributor	0

(3) A maximum of 10 points may be allocated in accordance with 52.2.2

(4) The points scored by a bidder in respect of B-BBEE contribution contemplated in 52.2.2 above must be added to the points scored for price as calculated in accordance with 52.2.1.

(5) Subject to 52.3 the contract must be awarded to the bidder who scores the highest total number of points.

52.3 Award of contracts to bidders not scoring the highest number of points

(1) A contract must be awarded to the bidder who scored the highest total number of points in terms of the preference points system.

(2) In exceptional circumstances a contract may, on reasonable and justifiable grounds, be awarded to a bidder that did not score the highest total number of points. The reasons for such a decision must be approved by the municipal manager and recorded for audit purposes and must be defendable in a court of law.

52.4 Broad-Based Black Economic Empowerment Status Level Certificates

(1) Bidders with annual total revenue of R5 million or less qualify as Exempted Micro Enterprises (EMEs) in terms of the Broad-Based Black Economic Empowerment Act, and must submit a certificate issued by a registered auditor, accounting officer, as contemplated in section 60(4) of the Close Corporation Act, 1984 (Act No. 69 of 1984)) or an accredited verification agency.

(2) Bidders other than Exempted Micro Enterprises (EMEs) must submit their original and valid B-BBEE status level verification certificate or a certified copy thereof, substantiating their B-BBEE rating.

(3) Bidders who do not submit B-BBEE Status Level Verification Certificates or are non-compliant contributors to B-BBEE do not qualify for preference points for B-BBEE but should not be disqualified from the bidding process. Such bidders will score points out of 90 or 80 for price only and zero (0) points out of 10 or 20 for B-BBEE.

(4) If the municipality is already in possession of a valid and original or certified copy of a bidder's B-BBEE status level verification certificate that was obtained for the purpose of establishing the database of possible suppliers for price quotations or that was submitted together with another bid, it is not necessary to obtain a new B-BBEE status level verification certificate each time a bid is submitted from the specific bidder.

(5) The certificate referred to in 52.4.4 above may be used to substantiate B-BBEE rating claims provided that the closing date of a bid falls within the expiry date of the certificate that is in the municipality's possession.

(6) The municipal manager must ensure that the B-BBEE status level verification certificates submitted by bidders, who qualify as EMEs, are issued by the following agencies:

(a) Accounting Officer, as contemplated in section 60(4) of the Close Corporation Act, 1984 (Act No. 69 of 1984); or

(b) Verification agencies accredited by the South African National Accreditation System (SANAS); or

(c) Registered auditors, who do not have to meet the prerequisite for approval by the Independent Regulatory Board of Auditors (IRBA) for the purpose of conducting verification and issuing EMEs with B-BBEE status level certificates.

(7) The municipal manager must ensure that the B-BBEE status level verification certificates submitted by bidders, other than EMEs are issued by the following agencies:

(a) Verification agencies accredited by SANAS; or

(b) Registered auditors approved by the IRBA for the purpose of conducting verification and issuing EMEs with B-BBEE status level certificates.

(8) <u>Verification certificates in respect of EMEs:</u>

(a) In terms of the Generic Codes of Practice an enterprise including a sole proprietor with an annual total revenue of R5 million or less qualifies as an EME.

(b) In instances where Sector Charters are developed to address the transformation challenges of specific sectors or industries, the threshold for qualification as an EME may be different from the generic threshold of R5 million. The relevant Sector Charters threshold will therefore be used as a basis for a potential bidder to qualify as an EME. For example the approved threshold for EMEs for the Tourism and Construction Sector Charters are R2.5 million and R1.5 million respectively.

(c) EMEs are deemed to have a B-BBEE status of "level four (4) contributor". In instances where EMEs are more than 50% owned by black people, such EMEs qualify as "B-BBEE status level three (3) contributors".

(d) Sufficient evidence to confirm a qualifying EME is a certificate issued by an Accounting Officer (as contemplated in the Close Corporation Act), a similar certificate issued by a Registered Auditor or a Verification Agency.

(e) When confirming the validity of a certificate in respect of an EME, the following details must appear on the face of the certificate:

i. The letter head with full contact details of the Accounting Officer or Registered Auditor;
ii. The practice number of the Accounting Officer or Registered Auditor;
iii. The name and physical location of the measured entity;
iv. The registration number and, where applicable, the VAT number of the measured entity;
v. The date of issue and date of expiry of the certificate;
vi. The B-BBEE status level of contribution obtained by the measured entity; and
vii. The total black shareholding and total black female shareholding.

(9) <u>Verification agencies accredited by the SANAS</u>

(a) Certificates issued by verification agencies accredited by the SANAS are identifiable by a SANAS logo and a unique BEE Verification Agency (BVA) number.

(b) Confirmation of the validity of a B-BBEE status level verification certificate can be done by tracing the name of the verification agency to the list of all SANAS accredited agencies. (The list is accessible on http://www.sanas.co.za/directory/bbee_default.php).

(c) The relevant BVA may be contacted to confirm whether such a certificate was issued.

(d) As a minimum requirement, all valid B-BBEE status level verification certificates should have the following information detailed on the face of the certificate:

i. The name and physical location of the measured entity;
ii. The registration number and, where applicable, the VAT number of the measured entity;
iii. The date of issue and expiry of the certificate;
iv. The certificate number for identification and reference;
v. The scorecard that was used (EME, QSE or Generic);
vi. The name and/or logo of the Verification Agency;
vii. The SANAS logo;
viii. The certificate must be signed by the authorised person from the Verification Agency; and
ix. The B-BBEE status level of contribution obtained by the measured entity.

(10) <u>Registered auditors approved by the IRBA</u>

(a) The format and content of B-BBEE status level verification certificates issued by registered auditors approved by the IRBA must –

i. Clearly identify the B-BBEE approved registered auditor by the auditor's individual registration number with the logos of the IRBA and auditor;
ii. Clearly record an approved B-BBEE verification certificate identification reference in the format required by the South African Standard on Assurance Engagements (SASAE);
iii. Reflect relevant information regarding the identity and location of the measured entity;
iv. Identify the Codes of Good Practice or relevant Sector Codes applied in the determination of the scores;
v. Record the weighting points (scores) attained by the measured entity for each scorecard element, where applicable, and the measured entity's overall B-BBEE status level of contribution; and
vi. Reflect that the B-BBEE verification certificate and accompanying assurance report issued to the measured entity is valid for 12 months from the date of issuance and reflect both the date of issue and date of expiry.

(b) Confirmation of the validity of a B-BBEE status level verification certificate can be done by tracing the name of the issuing B-BBEE approved registered auditor to the list of all approved registered auditors. (The list is accessible on http://www.dti.gov.za and http://www.irba.co.za).

(c) The relevant approved registered auditor may be contacted to confirm whether such a certificate was issued.

(11) The B-BBEE status level attained by the bidder must be used to determine the number of points contemplated in clauses 52.1.2 and 52.2.2 above.

52.5 Local Production and Content[2]

52.5.1 Designated sectors[3]

(1) Bids in respect of services, goods or works that have been designated for local production and content, must contain a specific bidding condition that only locally produced goods, services or works or locally manufactured goods with a stipulated minimum threshold for local production will be considered.

(2) The municipal manager must stipulate in bid invitations that the exchange rate to be used for the calculation of local content[4] must be the exchange rate published by the South African Reserve Bank (SARB) at 12:00 on the date, one week (7 calendar days) prior to the closing date of the bid.

(3) Only the South African Bureau of Standards (SABS) approved technical specification number SATS 1286:201x must be used to calculate local content.

(4) The following formula to calculate local content must be disclosed in the bid documentation:

The local content (LC) as a percentage of the bid price must be calculated in accordance with the SABS approved technical specification number SATS 1286:20x as follows:

$$LC = 1 - \left[\frac{x}{y}\right] \times 100$$

Where

x imported content

y bid price excluding value added tax (VAT)

Prices referred to in the determination of x must be converted to Rand (ZAR) by using the exchange rate published by the SARB at 12:00 on the date, one week (7 calendar days) prior to the closing date of the bid

(5) For the purpose of clauses 52.5.1, 52.5.2, 52.5.3 and 52.5.4 above the MBD 6.2 (Declaration Certificate for Local Content) must form part of the bid documentation.

(6) The Declaration Certificate for Local Content (MBD 6.2) must be completed and duly signed.

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[2] This paragraph has been postponed for implementation until such time that the National Treasury has issued further instructions / circulars

[3] The dti has designated the following sectors as contemplated in Regulation 9(1) of the Preferential Procurement Regulations of 2011:

- Textile, clothing, leather and footwear
- Power pylons
- Rolling stocks
- Canned/processed vegetables; and
- Busses (Bus body)

[4] Local content and local production are used interchangeably

(7) The municipal manager must verify the accuracy of the rates of exchange quoted by the bidder in paragraph 4.1 of the Declaration Certificate for Local Content (MBD 6.2)

52.5.2 Non-Designated Sectors

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

(2) The municipal manager must stipulate in bid invitations that the exchange rate to be used for the calculation of local content[5] must be the exchange rate published by the South African Reserve Bank (SARB) at 12:00 on the date, one week (7 calendar days) prior to the closing date of the bid.

(3) Only the South African Bureau of Standards (SABS) approved technical specification number SATS 1286:201x as indicated in clause 52.5.1.4 must be used to calculate local content.

(4) For the purpose of clauses 52.5.2.1, 52.5.2.2 and 52.5.2.3 above the MBD 6.2 (Declaration Certificate for Local Content) must form part of the bid documentation.

(5) The Declaration Certificate for Local Content (MBD 6.2) must be completed and duly signed.

(6) The municipal manager must verify the accuracy of the rates of exchange quoted by the bidder in paragraph 4.1 of the Declaration Certificate for Local Content (MBD 6.2)

52.6 Evaluation of Bids

52.6.1 General conditions

(1) An 80/20 preference point system is stipulated for procurement with an estimated Rand value of greater than R30 000, but less than or equal to R1 000 000, and a 90/10 preference point system of procurement with an estimated Rand value of greater than R1 000 000.

(2) This means that either 80 or 90 points, depending on the Rand value of the contract, are awarded to the person who bids/quotes the lowest price, and proportionately fewer points are awarded to those with higher prices. Either 20 or 10 points are then available

[5] Local content and local production are used interchangeably

to a bidder for attaining their B-BBEE status level in accordance with 52.1.2 or 52.2.2 above.

(3) The points for price will normally be fixed, unless there is an element of functionality (quality) brought into the adjudication process (clause 52.4.5 refer).

(4) When calculating comparative prices unconditional discounts must be taken into account for evaluation purposes and conditional discounts must not be taken into account for evaluation purposes but should be implemented when payment is effected.

(5) Adjudication points calculated for both price and B-BBEE status level shall be rounded off to the nearest two decimal places.

(6) (a) In the event that two or more tenders have scored equal total points, the successful bidder must be the one scoring the highest number of preference points for B-BBEE.

(b) However, when functionality is part of the evaluation process and two or more tenders have scored equal points including equal preference points for B-BBEE, the successful bidder must be the one scoring the highest points for functionality.

(c) Should two or more bids be equal in all respects, the award shall be decided by the drawing of lots.

(7) A trust, consortium or joint venture will qualify for their B-BBEE status level as a legal entity, provided that the entity submits a B-BBEE status level certificate.

(8) A trust, consortium or joint venture will qualify for their B-BBEE status level as an unincorporated entity, provided that the entity submits a consolidated B-BBEE status level verification certificate as if they were a group structure and that such a consolidated B-BBEE scorecard is prepared for every separate bid.

(9) A bidder must not be awarded the points claimed for B-BBEE status level of contribution if it is indicated in the bid documents that such a bidder intends sub-contracting more than 25% of the value of the contract to any other enterprise that does not qualify for at least the same number of preference points for B-BBEE that the bidder qualifies for, unless the intended sub-contractor is an exempted micro enterprise (EME) that has the capability and ability to execute the sub-contract.

(10) A bidder awarded a contract may not sub-contract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level than the bidder concerned, unless the contract is sub-contracted to an exempted micro enterprise that has the capability and ability to execute the contract.

(11) <u>However, if the contract referred to in 52.4.1.9 is sub-contracted to an exempted micro enterprise not more than 49% of the value of the contracted may be sub-contracted.</u>

(12) A bidder 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 below the stipulated minimum threshold.

(13) When the municipality requires a service provided by only tertiary institutions or public entities and enterprises from the private sector, such services must be procured and the appointment of the contractor must be done through a competitive bidding process.

(14) Tertiary institutions and public entities referred to in 52.4.1.12 above will be required to submit their B-BBEE status in terms of the respective specialised scorecards contained in the B-BBEE Codes of Good Practice.

52.6.2 Cancellation and re-invitation of bids

(1) It is a requirement that the bid invitation or request for quotations be cancelled and new bids/quotations be invited, in the event of:

(a) the **80/20 preference point system** having been stipulated in the bid/quote documents, and all bids/quotes received **exceed a value of R1 000 000**; or
(b) the **90/10 preference point system** having been stipulated in the bid documents, and all bids received **are equal to, or below a value of R1 000 000**.

(2) If one or more of the acceptable bids received, in the case of the stipulated 80/20 preference point system, are within the prescribed threshold of 1 000 000, all bids received must be evaluated on the 80/20 preference point system.

(3) If one or more of the acceptable bids received, in the case of the stipulated 90/10 preference point system, are above the prescribed threshold of 1 000 000, all bids must be evaluated on the 90/10 preference point system.

(4) If new bids/quotes are invited, a revised preference point system, either 90/10 or 80/20 as applicable, must be clearly stipulated in the bid documents.

(5) The municipal manager may, prior to the award of a bid, cancel the bid if –

(a) Due to changed circumstances, there is no longer a need for the services, goods or works requested; or
(b) Funds are no longer available to cover the total envisaged expenditure; or
(c) No acceptable bids are received.

(6) The decision to cancel a bid in terms of 52.4.2.5 above must be published in the Government Tender Bulletin or the media in which the original bid invitation was advertised.

52.6.3 Evaluation based on functionality

Goods, services and works

(1) Adjudication points may be granted for functionality at the expense of points for price.

(2) For goods, services and works, not more than 50% of the combined points for functionality and price may be granted for functionality.

(3) Bids/quotes which include points for functionality will be the exception rather than the rule, and will generally apply to only those projects of a more complex nature and/or of a higher value taking into account quality, reliability, viability and durability of a service and the bidders technical capacity and ability to execute a contract. Design and construction projects, for example, may include points for functionality of design proposals.

(4) When evaluating tenders on functionality the objective evaluation criteria for measuring functionality[6], weight of each criterion[7], applicable values[8] and minimum qualifying score for functionality[9], must be clearly indicated in the bid documentation.

(5) Bids invited on the basis of functionality as a criterion must be evaluated in two stages – first functionality must be assessed and then in accordance with the preference points system prescribed in 52.1 and 52.2 above

First stage – Evaluation of functionality

(6) Bids must be evaluated in terms of the objective evaluation criteria stipulated in the bid documents. The amendment of evaluation criteria, weights, applicable values and/or minimum qualifying score for functionality after the closure of bids is not allowed as this may jeopardise the fairness of the process.

(7) A bid will be considered further if it achieves the prescribed minimum qualifying score for functionality.

(8) Bids that fail to achieve the minimum qualifying score for functionality must be disqualified and must not be further considered.

(9) Score sheets should be prepared and provided to panel members to evaluate the bids.

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[6] Evaluation criteria may include criteria such as the consultant's relevant experience for the assignment, the quality of the methodology; the qualifications of key personnel, transfer of knowledge, etc.

[7] The weight that is allocated to each criterion should not be generic but should be determined separately for each bid on a case by case basis.

[8] Applicable values that will be utilised for scoring each criterion should be objective. As a guide, values ranging from 1 being poor, 2 being average, 3 being good, 4 being very good and 5 being excellent, may be utilised.

[9] Minimum qualifying score that must be obtained for functionality in order for a bid to be considered further should not be generic. It should be determined separately for each bid on a case by case basis. The minimum qualifying score must not be so low that it may jeopardise the quality of the service required nor so high that it may be restrictive to the extent that it jeopardises the fairness of the SCM system.

(10) The score sheet should contain all the criteria and weight for each criterion as well as the values to be applied for evaluation as indicated in the bid documents.

(11) Each panel member should after thorough evaluation independently award his/her own value to each individual criterion.

(12) Score sheets should be signed by panel members and if necessary, written motivation may be requested from panel members where vast discrepancies in the values awarded for each criterion exist.

(13) If the minimum qualifying score for functionality is indicated as a percentage in the bid documents, the percentage scored for functionality may be calculated as follows:

(a) The value awarded to each criterion should be multiplied by the weight for the relevant criterion to obtain the score for the various criteria;
(b) The scores for each criterion should be added to obtain the total score; and
(c) The following formula should be used to convert the total score to a percentage for functionality

$$Ps = \frac{So}{Ms} \times 100$$

Where:

Ps	=	percentage scored for functionality by the bid under consideration
So	=	total score of bid under consideration
Ms	=	maximum possible score

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

Second stage – Evaluation in terms of 80/20 or 90/10 preference point systems

(15) Only bids that achieve the minimum qualifying score or percentage for functionality must be evaluated further in accordance with the 80/20 or 90/10 preference point systems as indicated in clauses 52.1 and 52.2 above.

52.6.4 Evaluation based on a stipulated minimum threshold for local production and content[10]

(1) Bids that were invited on the basis of local production and content should be evaluated by following a two-stage bidding process:

First stage – Evaluation in terms of the stipulated minimum threshold for local production and content

(2) Bids must be evaluated in terms of the evaluation criteria stipulated in the bid documents. The amendment of the stipulated minimum threshold for local production and content after the closure of bids is not allowed as this may jeopardise the fairness of the process

(3) A bid will be disqualified if:

(a) the bidder fails to achieve the stipulated minimum threshold for local production and content; and

(b) the Declaration Certificate for Local Content (MBD 6.2) referred to in 52.5.1.5 and 52.5.2.4 above.

(4) The local content (LC) as a percentage of the bid price must be calculated in accordance with the SABS approved technical specification number SATS 1286:20x as indicated in clause 52.5.1.4 above.

(5) The municipal manager must verify the accuracy of the rates of exchange quoted by the bidder in paragraph 4.1 of the Declaration Certificate for Local Content (MBD 6.2)

Second stage – Evaluation in terms of 80/20 or 90/10 preference point systems

(7) Only bids that achieve the minimum stipulated threshold for local production and content must be evaluated further in accordance with the 80/20 or 90/10 preference point systems as indicated in clauses 52.1 and 52.2 above.

52.6.6 Tax clearance

No bid may be awarded to any bidder whose tax matters have not been declared by SARS to be in order.

[10] This paragraph has been postponed for implementation until such time that the National Treasury has issued further instructions / circulars

52.6.7 Remedies in respect of Fraud or Non-performance

The Municipal Manager must, upon detecting that the B-BBEE status level of contribution has been claimed or obtained on a fraudulent basis, or any specified contract conditions have not fulfilled in the performance of the contract, act against the bidder or the person awarded the contract. The Municipal Manager may in addition to any other remedy:

(1) Disqualify the bidder or person from the bidding process;

(2) recover all costs, losses or damages it has incurred or suffered as a result of that person's conduct;

(3) cancel the contract and claim any damages it has suffered as a result of having to make less favourable arrangements due to such cancellation; and/or

(4) restrict the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and

(5) forward the matter for criminal prosecution.

(6) The details of any restrictions imposed on bidders, persons or contractors must be forwarded to the National Treasury for inclusion on the central Database of Restricted Suppliers.

53. Unbundling Strategies

(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 is encouraged.

(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.

(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.

(4) It is important to note that while it is the Municipality's policy to procure works in the smallest practicable quantities, the practice of breaking out projects in order to circumvent the formal bid process is not permitted.

54. Increasing Employment Opportunities

(1) One of the Municipality's key socio-economic objectives is to facilitate the creation of employment for the people of Metsimaholo.

(2) Increasing employment opportunities through procurement may be achieved by specifying labour friendly technologies and/or labour intensive methods of construction in the bid documents (as part of the functionality criteria).

(3) It is up to Implementing/Responsible Agents to thoroughly investigate the options available in this regard, to evaluate the positive versus negative impact of any proposals, and to specify labour friendly technologies and/or methods where appropriate.

55. Documentation

(1) 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 contract documentation wherever possible.

(2) To ensure that the Municipality's interests are protected, simplified documents should only be adopted for relatively low risk contracts.

(3) By virtue of their scale and value (and more often than not, their complexity) standard contract documentation should be applied to major contracts.

56. Sureties for Due Performance

(1) Sureties for the procurement of goods and services (including consultant services) will not generally be called for, but in exceptional circumstances, where required, will be in accordance with the limits described below.

(2) The sureties required for each category are as follows:

(a) **Below R200 000**: waived (that is, no surety is required);

(b) **Equal or above R200 000 and up to R1 000 000**: 2.5% of the bid sum;

(c) **Above R1 000 000**: 5% of the bid sum;

unless otherwise provided for in the standard conditions of contract prescribed by the CIDB in respect of construction work.

57. Retention

(1) Retention for procurement of goods and services (including consultant services) will not generally be called for, but where required, will be in accordance with the limits described below.

(2) The value of retention to be deducted shall be as follows:

(a) **Below R1 000 000:** 10% of the value of work carried out with no limit, reducing to 5% for the duration of the maintenance period;

(b) **Above R1 000 000:** 10% of the value of the work carried out, up to a limit of 5% of the bid sum, with no reduction for the duration of the maintenance period;

unless otherwise provided for in the standard conditions of contract prescribed by the CIDB in respect of construction work.

(3) Where consultant services are to be completed at the end of the maintenance (defects 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 maintenance inspection and the preparation of the final account). Alternatively, the value of this work must be budgeted for in the following financial year.

(4) For turnkey/design and construct projects, the above retention limits may be reviewed by the Implementing Agent.

(5) Financial guarantees may be submitted in lieu of retention.

58. Payment Terms

(1) The municipality determines all closing dates for receipt of documentation for payment and the payment run dates.

(2) All invoices received for goods and services will be paid in accordance with section 65(2)(e) of the Municipal Finance Management Act, 2003.

(3) The municipality may determine a shorter payment period for SMME/HDI suppliers.

59. Restriction of Suppliers

(1) Notwithstanding the imposition of any penalties that may be applied under this Policy, if a supplier is found guilty of misrepresenting any facts in respect of either ownership or B-BBEE status level contribution, either in a bid submission, quote, or on the supplier database, in order to effect the outcome of a bid/quote, either before or after the award of a contract, then that supplier shall, with the approval of the Municipal Manager, be restricted on the supplier database for a period of twelve months and shall be notified accordingly.

(2) The affect of such restriction is that absolutely no further work may be awarded to that supplier for the duration of the restriction.

60. Preferential Procurement Regulations, 2011

Where this Policy does not provide for a matter regulated by the Preferential Procurement Regulations of 2011, the provisions of the regulations will prevail in respect of a “tender” as defined in the regulations.

Annexure I: Procurement implementation process

Establish Class of Contract

Class	MICRO (between R10 000 and R200 000)	MINOR (between R200 000 and R1 000 000)	MAJOR (over R1 million)	CONSULTANT (between R10 000 and R200 000)	CONSULTANT (over R200 000)
Procurement procedure	3 Quotations	Formal bid	Fomal bid	3 Quotations	Formal bid
Other Specific Goals (where appropriate) - *see clause 52.5*	Specify minimum threshold for local production and content (no adjudication points given)	Specify minimum threshold for local production and content (no adjudication points given)	Specify minimum threshold for local production and content (no adjudication points given)	Specify minimum threshold for local production and content (no adjudication points given)	Specify minimum threshold for local production and content (no adjudication points given)
Bid Adjudication	Price: 80 points B-BBEE status level: 20 points	Price: 80 points B-BBEE status level: 20 points	Price: 90 points B-BBEE status level: 10 points	Price: 80 points B-BBEE status level: 20 points	Between R200k and R1m Price: 80 pts; B-BBEE status level: 20 pts Over R1m: Price 90 pts; B-BBEE status level: 10 pts
Documentation	Electronic Bulletin Simplified CoCs Lump sum contracts Simplified BoQs	Simplified CoCs Lump sum contracts Simplified BoQs	Standard CoCs Standard BoQs	Simple briefs or RFQs or standard contracts (as applicable)	Standard consultant or professional services contracts
Surety (unless otherwise provided for in standard CoCs)	Waived	2.5%	5.0%	Not applicable	Up to 7.5% may be called for in exceptional circumstances
Retention (unless otherwise provided for in standard CoCs)	10% (no limit) reducing to 5% during maintenance	10% (no limit) reducing to 5% during maintenance	10% up to a 5% limit (no reduction during maintenance)	5% may be applied for completion of service at the end of maintenance	5% may be applied for completion of service at the end of maintenance

Annexure II: MFMA Circulars on SCM issued by National Treasury

No.	Date issued	Title	Issues covered
6	13 September 2004		INVITATION: MFMA Workshops – Supply Chain Management
16	20 April 2005	SCM Training	SCM provincial workshops to be held by National Treasury in consultation with Provincial Treasuries prior to the taking effect of the SCM Regulations
22	25 August 2005	Model SCM Policy	The model policy has been developed to comply fully with the MFMA and closely reflects the format of the Municipal Supply Chain Management Regulations. Prior to adoption, it is necessary for the accounting officer to customise the model policy by inserting the name of the municipality/municipal entity and a range of discretional information throughout.
25	3 October 2005	SCM Guide for Accounting Officers and Bid Documents	• General Conditions of Contract issued by National Treasury • Special Conditions of Contract • General Conditions of Contract and Standard Bidding Documents for Construction Projects issued by the CIDB • SCM Guide for Accounting Officers of Municipalities and Municipal Entities
29	31 January 2006	SCM Issues	• Excluding certain bidders (all potential suppliers must be given an opportunity to bid for contracts • Cost estimate threshold to evaluate bids – not a justifiable reason for rejection of bids • Measurable for awarding preference points must form part of the bid documentation • Tax clearance certificates (TCC) - revised application from SARS; Threshold for obtaining TCC is R30 000; TCC must be obtained for price quotations and competitive bids.
33	20 March 2006	SCM Issues	MBD 8: Declaration on abuse of the supply chain management system
34	20 June 2006	SCM Issues	• Reporting of awards above R100 000 • Separate report for each contract awarded submitted to National Treasury within 15 days of the en of each month.
40	20 October 2006	SCM Implementation checklist	The SCM self assessment checklist (attached) is designed to test the thoroughness of

No.	Date issued	Title	Issues covered
			implementation and to monitor progress
43	25 May 2007	SCM: Restriction of suppliers and BBBEE objectives	Should a contractor to a municipality or municipal entity obtain preferences fraudulently or fail to attain any specified goals in terms of the Preferential Procurement Regulations then the municipality or entity may take various actions, including exercising its power in terms of the regulations to restrict the supplier from doing business with the public sector
46	17 March 2008	Checking the prohibition status of recommended bidders	Accounting Officers are required to email the details of the recommended bidder to the National Treasury prior to awarding a contract.
52	30 July 2010	SCM Issues	• Prohibition of restrictive practices (bid rigging or collusive bidding) • MBD 9: Certificate of independent bid determination • Revised GCC
53	3 September 2010	SCM: Amended guidelines in respect of bids that include functionality as a criterion for evaluation of bids	The need to invite and evaluate bids on the basis of functionality depends on the nature of the required commodity or service. When functionality is utilised as an evaluation criterion, paragraphs below must be adhered to. When inviting bids an institution must indicate: - (i) whether the bids will be evaluated on functionality; (ii) the evaluation criteria for measuring functionality; (iii) the weight of each criterion; and (iv) the applicable values as well as the minimum threshold for functionality
56	9 September 2011	SCM: Database of restricted suppliers and training on the revised Preferential Procurement Regulations, 2011	• Publication of the database of restrictive suppliers on the National Treasury website • Amended verification procedures prior to the award of any contract above R100 000 • Training on the revised Preferential Procurement Regulations, 2011

Annexure III: Bidding Documents

The following bidding documents, have been amended where necessary in accordance with the prescripts of the Preferential Procurement Regulations, 2011. The MBDs below replace those that were previously issued by the National Treasury.

Document Number	MBD Description
MBD 1	Invitation to Bid
MBD 2	Application for Tax Clearance Certificate
MBD 3.1, 3.2 and 3.3	Pricing Schedules
MBD 4	Declaration of Interest
MBD 5	Declaration for Procurement above R10 000 000
MBD 6.1	Preference claims in terms of the Preferential Procurement Regulations, 2011
MBD 6.2	Declaration Certificate for Local Content
MBD 7.1, 7.2 and 7.3	Formal Contracts
MBD 8	Declaration of Bidder's past SCM practices
MBD 9	Certificate of Independent Bid Determination

Annexure IV: Background to the intention and application of the Codes of Good Practice