

# THABA CHWEU MUNICIPALITY SUPPLY CHAIN MANAGEMENT POLICY

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## CHAPTER 1: DEFINITIONS

### 1. DEFINITIONS

- 1.1 In this SCM Policy, unless the context otherwise indicates, a word or expression to which a meaning has been assigned in the Local Government: Municipal Finance Management Act, 2003 (Act No 56 of 2003), has the meaning so assigned, and:
- (a) **“basic municipal service”** means a municipal service that is necessary to ensure an acceptable and reasonable quality of life and which, if not provided, would endanger public health or safety or the environment;
  - (b) **“bid”** means a written offer submitted in a prescribed or stipulated form, in response to an invitation by the Municipality for a procurement or disposal, as part of the competitive bidding process of the Municipality;
  - (c) **“capital asset”** means the non consumable movable and immovable property, including land, of the Municipality;
  - (d) **“CFO”** means the person who is appointed by the Council as the Chief Financial Officer for the Municipality and his delegates;
  - (e) **“Municipal Manager”** means the person who is appointed by the Council as the head of the administration and as accounting officer for the Municipality in accordance with section 82 of the Structures Act and his delegates;
  - (f) **“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;
  - (g) **“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;
  - (h) **“consultant”** means a professional service provider which is a partnership, sole trader or legal entity which provides on a fiduciary basis, labour and knowledge-based expertise which is applied with reasonable skill, care and diligence, and adheres to statutory labour practices;
  - (i) **“corrected bid sum”** means the bid sum, corrected in terms of the bid documentation, where applicable;
  - (j) **“contract”** means the written agreement that results from the acceptance of a bid or quotation by the Municipality;
  - (k) **“contractor”** means any natural or legal person whose bid or quotation has been accepted by the Municipality for the execution of work for the Municipality;
  - (l) **“Council”** means the Municipal Council of the THABA CHWEU Local Municipality, its legal successors in title and its delegates;
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- (m) **“delegating authority”**, means the Council, Municipal Manager, councillor or other employee to whom original powers were assigned in terms of legislation, and in relation to a sub-delegation of a power, means that delegated body;
- (n) **“delegation”** means the issuing of a written authorisation by a delegating authority to a delegated body to act in his stead, and in relation to a duty, includes an instruction or request to perform or to assist in performing the duty, and **‘delegate’** and **‘sub-delegate’** has a corresponding meaning;
- (o) **“delegated body”** in relation to the delegation of a power means the person to whom a power has been delegated by the delegating authority in writing;
- (p) **“disability”** means a permanent impairment of a physical, intellectual, or sensory function, which results in restricted, or lack of ability to perform an activity in the manner or in the range considered normal for a human being;
- (q) **“disposal”** means a process of preparing, negotiating and concluding a written contract which involve the alienation of a capital asset, including a capital asset no longer needed by the Municipality or rights in respect thereof, by means of a sale, a lease or a donation;
- and **“dispose”** has a similar meaning;
- (r) **“engineering and construction works”** means the provision of a combination of Goods and Services, arranged for the development and provision of an asset, including building and engineering infrastructure, or for the refurbishment of an existing asset;
- (s) **“equity ownership”** means the percentage of an enterprise or business owned by individuals or, in respect of a private company, the percentage of a company 's shares that are owned by individuals, who are actively involved in the management of the enterprise or business and exercise control over the enterprise or business, commensurate with their degree of ownership at the closing date of the bid;
- (t) **“Director”** means an Director directly accountable to the Municipal Manager, appointed in terms of section 56 of the Systems Act, including the Chief Financial Officer and the Chief Operating Officer;
- (u) **“firm price”** is the price that is only subject to adjustments in accordance with the actual increase or decrease resulting from the change, imposition, or abolition of customs or excise duty and any other duty, levy, or tax, which, in terms of a law or regulation, is binding on the contractor and demonstrably has an influence on the price of any supplies, or the rendering costs of any service, for the execution of the contract;
- (v) **“functionality”** means the suitability of a proposal, design or product for the use for which it is intended;
- (w) **“goods”** means those raw materials or commodities which are available for general sale;
- (x) **“HDI”** means a Historically Disadvantaged Individual that is a South African citizen:
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- (i) 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
- (ii) who is female; and/or
- (iii) who has a disability;
- (y) **“in the service of the state”** means to be :
- (i) a member of :
    - any municipal council
    - any provincial legislature; or
    - the National Assembly or the National Council of Provinces;
  - (ii) a member the board of directors of any municipal entity;
  - (iii) an official of any municipality or municipal entity;
  - (iv) any employee of any national or provincial department, national or provincial public entity or constitutional within the meaning of the Public Finance Management act, 1999 (Act No.1 of 1999);
  - (v) a member of the accounting authority of any national or provincial public entity; or
  - (vi) an employee of Parliament or a Provincial Legislature.
- (z) **“local business”** means service providers with active offices in the Municipality, which shall be interpreted on the basis of whether the offices are utilized for the goods or services to be procured, and whether the majority shareholders are local or Mpumalanga people;
- (aa) **“long term contract”** means a contract with a duration period exceeding one year;
- (bb) **“management”** refers to the membership of any board or similar governing body which is charged with the day-to-day management control of the enterprise / business. This entails the power to determine policies and direction of economic activities and resources;
- (cc) **“MFMA”** means the Local Government: Municipal Finance Management Act, 2003 (Act No 56 of 2003);
- (dd) **“Municipality”**, means the **THABA CHWEU** Local Municipality, and when referred to as –
- (i) an entity, means a municipality as described in section 2 of the Systems Act; and
  - (ii) a geographic area, means the municipal area determined in terms of the Local Government : Municipal Demarcation Act, 1998 (Act No 27 of 1998);
- (ee) **“organ of state”** means –
- (i) any department of state or administration in the national, provincial or local sphere of government; or
  - (ii) any other functionary or institution-
    - exercising a power or performing a function in terms of the Constitution or a provincial constitution; or
    - exercising a public power or performing a public function in terms of any legislation,
- but does not include a court or a judicial officer;
-

- (ff) **“other applicable legislation”** means any other legislation applicable to municipal Supply Chain Management, including –
- (i) the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000);
  - (ii) the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003); and
  - (iii) the Construction Industry Development Board Act, 2000 (Act No. 38 of 2000);
- (gg) **“person”** includes reference to juristic person;
- (hh) **“Preferential Procurement Legislation”** means the Preferential Policy Framework Act, 2000 (Act No 5 of 2000) and its associated Preferential Procurement Regulations, and the Broad-Based Black Economic Empowerment Act, 2003 (Act No 53 of 2003);
- (ii) **“prime contractor”** means the legal entity with whom the Municipality will contract (as opposed to sub-contractors, suppliers, manufacturers or service providers who contract with the prime contractor);
- (jj) **“procurement”** means a process of preparing, negotiating and concluding a contract, whether in writing or verbally, which involve the acquiring of goods, services and engineering and constructions works or any combination thereof, or the acquiring of capital assets or any rights in respect of the above, by means of a purchase, lease or donation;
- and **“procuring”** has a similar meaning;
- (kk) **“quotation”** means a written offer which is not submitted in the form of a bid document prescribed by the Municipality, but is never-the-less subject to a specification, conditions of purchase and any schedules and annexures such as drawings or plans, as applicable;
- (ll) **“rand value”** means the total estimated value of a contract in rand denomination which is calculated at the time of quotation and bid invitations and includes all applicable taxes and excise duties;
- (mm) **“Register”** means the register of accredited prospective service providers established and maintained by the CFO in accordance with paragraph 3 of Chapter 3, to be used for the procurement requirements of the Municipality;
- (nn) **“responsive bid”** means a bid which conforms to all the terms, conditions and specifications contained in the bid documentation without material deviation or qualification;
- (oo) **“SCM Policy”** means the Supply Chain Management Policy contained in this document;
- (pp) **“SCM Unit”** means the Supply Chain Management Unit which is under the management and control of the Chief Financial Officer, and that is responsible for the implementation and management of the SCM Policy;
- (qq) **“services”** means the provision of labour and work carried out by hand, or with the assistance of plant and equipment, including the input, as necessary, of knowledge based expertise;
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- (rr) “**service provider**” means a current or potential supplier, manufacturer, contractor, vendor, agent or consultant;
- (ss) “**SMME’s**” means small, medium and micro enterprises in the Supply Chain Management system of the Municipality;
- (tt) “**Structures Act**” means the Local Government: Municipal Structures Act, 1998 (Act No 117 of 1998);
- (uu) “**sub-contracting**” means the primary contractor's assigning or leasing or making out work to, or employing another person to support such primary contractor in the execution of part of a project in terms of the contract;
- (vv) “**Systems Act**” means the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000);
- (ww) “**trust**” means the arrangement through which the property of one person is made over or bequeathed to a trustee to administer such property for the benefit of another person;
- (xx) “**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;

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

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

### **1. INTRODUCTION**

During the development of the IDP of the Municipality, it was realised that, in general, the overall economy in the Municipality is declining or stagnant. Whilst it is the primary objective of the Municipality to affirm the historically disadvantaged community, it is also critical to utilize procurement as a tool to stimulate and promote local business development.

It is therefore imperative for the Municipality to align its Supply Chain Management system to the objectives of the IDP. One of the purposes of this policy is therefore to promote entrepreneurship to allow the historically disadvantaged individuals, particularly blacks, access to the mainstream of business opportunities. This will be achieved by increasing business opportunities for Historically Disadvantaged Individuals ("HDI's) and maximising purchases of goods and services from these companies. Emphasis will need to be placed on supporting local businesses to boost the economy of the Municipality and the Mpumalanga area.

Notwithstanding the above, the primary task of the Municipality's Supply Chain Management system shall always be to find reliable, cost effective service providers for the Municipality. On the one hand, HDI companies will not be treated any differently from the norm with regard to quality, expected service delivery and technical performance. On the other hand, it is required that all personnel associated with the Municipality's Supply Chain Management system must be made aware of this initiative and are expected to commit themselves to its implementation through good faith, efforts and appropriate purchasing procedures.

Section 217 of the Constitution of the Republic of South Africa requires an organ of state to contract for goods or services in accordance with a system which is fair, equitable, transparent, competitive and cost effective. This SCM Policy of the Municipality has been drawn up to give effect to this principles and the Preferential Procurement Legislation, and furthermore to comply with the provisions of the MFMA and regulations promulgated in terms thereof.

### **2. OBJECTIVES OF THE SCM POLICY**

#### **2.1 Primary Objectives**

2.2.1 The primary objectives of SCM Policy are to:

2.2.1.1 Give effect to the provisions of the Constitution of the Republic of South Africa;

2.2.1.2 Give effect to the provisions of the MFMA;

2.2.1.3 Transform procurement and provisioning practices in the Municipality into an integrated Supply Chain Management function;

2.2.1.4 Introduce a systematic approach for the appointment of consultants;

2.2.1.5 Create a common understanding and interpretation of the Municipality's preferential procurement policy objectives;

- 2.2.1.6 Make a significant improvement to Supply Chain Management in the broader public sector;
- 2.2.1.7 Promote consistency in respect of the SCM Policy and other related policy initiatives in the Municipality;
- 2.2.1.8 Align with global trends and transformation and ensure that the Municipality adheres to international best practices.

## **2.2 Secondary objectives**

### 2.2.1 The secondary objectives of the SCM Policy are to:

- 2.2.1.1 To ensure that all procurements and disposals, as well as the appointment of PSP's, is done in the most effective, efficient and consistent manner;
  - 2.2.1.2 To ensure that all procurements and disposals, as well as the appointment of PSP's, is done in accordance with the prescribed processes;
  - 2.2.1.3 To ensure that expenditure on goods and services is incurred in terms of an approved budget in terms of section 15 of the MFMA;
  - 2.2.1.4 To ensure that any treasury guidelines on procurement management are properly taken into account;
  - 2.2.1.5 To demonstrate the Municipality's commitment towards the achievement of national government's black economic empowerment goals;
  - 2.2.1.6 To facilitate the engagement of HDI's in the Supply Chain Management system;
  - 2.2.1.7 To promote equity, fairness and increased participation of local business in the Municipality's Supply Chain Management system;
  - 2.2.1.8 To outline the processes in the Municipality for dealing with quotations and competitive bidding and the awarding of contracts;
  - 2.2.1.9 To enhance competitiveness;
  - 2.2.1.10 To facilitate creation of employment and business opportunities for the community with particular reference to HDI 's;
  - 2.2.1.11 To increase the Small Business Sector's access to procurement business opportunities created by the Municipality;
  - 2.2.1.12 To promote joint venture partnerships;
-

### **3. RESPONSIBILITIES**

#### **3.1 Role of the Municipal Manager**

- 3.1.1 Ensures strict adherence to the guidelines provided in the SCM Policy.
- 3.1.2 Implementation of the SCM Policy.
- 3.1.3 Annual review of targets and the SCM Policy.
- 3.1.4 Approves the inclusion of a service provider in the Municipality Supply Chain Management system after rehabilitation of the service provider according to statutory requirements.
- 3.1.5 Appoints the members of the bid committees.

#### **3.2 Role of the Directors**

- 3.2.1 Each Director shall be responsible and accountable for:
  - 3.2.1.1 Exercising the powers, performing the functions and discharging the duties conferred or assigned to him in terms of this SCM Policy;
  - 3.2.1.2 Implementing the SCM Policy and any procedural and other prescripts issued in terms of the policy within his area of responsibility;
  - 3.2.1.3 Ensuring compliance with the SCM Policy and any procedural and other prescripts issued in terms of the policy within his area of responsibility;
  - 3.2.1.4 Developing, or causing to be developed, draft specifications for the procurements by his directorate exceeding an amount of R 500 (VAT inclusive);
  - 3.2.1.5 Asset utilization management in his area of responsibility;
  - 3.2.1.6 Properly planning for and, as far as possible, accurately estimating the costs of the provision of services, works or goods for which offers are to be solicited;
  - 3.2.1.7 Selecting the appropriate preference point system to be utilized in the evaluation of offers;
  - 3.2.1.8 Achieving any objectives and targets set with regard to procurements and disposals;

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

- 3.3.1 Custodian of the SCM Policy and report on progress regarding its implementation.
  - 3.3.2 Conducts procurement audits of the entire Supply Chain Management system to identify successes and failures for incorporation into a "lessons learnt" database.
  - 3.3.3 Overall management of the quotation and competitive bidding process from solicitation to processing of invoice payment.
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- 3.3.4 Promotes corporate approach by encouraging standardization of items purchased within the Municipality to realize economies of scale.
- 3.3.5 Provides supplier interface on supplier performance issues.
- 3.3.6 Ensures that procurements and disposals are effected through practices that demonstrate compliance to all relevant legislation.
- 3.3.7 Responsible for managing procurements and disposals to ensure that the Supply Chain Management system of the Municipality is adhered to.
- 3.3.8 Ensures that the procurements and disposal process followed adheres to preference targets without compromising price, quality, service delivery and developmental objectives.
- 3.3.9 Responsible for ensuring that all employees involved in the Supply Chain Management process receive the necessary training to support implementation of the SCM Policy.
- 3.3.10 Responsible for establishing the amount to be paid by prospective service providers as a non-refundable deposit for enquiry documents issued by the Municipality.
- 3.3.11 Responsible for the verification of the applications of service providers for possible inclusion in the Register.
- 3.3.12 Submit regular reports to the Finance Portfolio Committee regarding progress and any matters of importance relating to the SCM Policy.

#### **4. OVERSIGHT ROLE OF COUNCIL**

- 4.1 The Council has an oversight role as far as the Supply Chain Management system is concerned, to ensure that the Municipal Manager executes the SCM Policy within the ambit of the applicable legislation.
- 4.2 The Municipal Manager must therefore in this regard on a monthly basis report to the Executive Mayor, and at least on a quarterly basis to the Council on the implementation of the SCM policy.

#### **5. SUPPLY CHAIN MANAGEMENT UNIT**

- 5.1 The Municipal Manager shall establish a Supply Chain Management Unit (SCM Unit) in the Finance Directorate.
  - 5.2 The SCM Unit shall be subject to the management control of, and accountable to, the CFO;
  - 5.3 The SCM Unit shall consist of :
    - i. A Demands Management section;
    - ii. A Procurement section;
-

- iii. A Stores and Warehouse section (logistics management); and
- iv. A Performance and Contract Management section;
- v. A Disposal section;

- 5.4 The Procurement Manager shall be responsible and accountable for the day-to-day management of the SCM Unit.
- 5.5 The SCM Unit shall consist of such personnel as the Municipal Manager may appoint, after consultation with the CFO.
- 5.6 The CFO must ensure that officials implementing, applying and managing the SCM Policy are trained in accordance with the prescribed requirements.
- 5.7 All documents pertaining to the procurement of goods or services by means of written price quotations of a transaction value over R2000 up to R200 000 (VAT included), as well as all documents pertaining to procurements by means of competitive bidding of a transaction value over R200 000 (VAT included), will be issued, received and finalized by the SCM Unit.
- 5.8 All documents pertaining to the disposal of movable and immovable capital assets will be issued, received and finalized by the SCM Unit.

## **6. DELEGATIONS**

The Delegation of Powers Policy of the Municipality as adopted by the Council from time to time will apply to all procurements and disposals.

In the event that the Municipal Manager decides to award a bid to a bidder other than the one recommended by the adjudication committee, the Municipal Manager must within 7 (seven) working days, notify the Auditor-General, the relevant provincial treasury and the national treasury in writing of the reasons for deviating from such recommendations.

Supply Chain Management powers may not be delegated to a person who is not an official of the Municipality, or to a committee which is not exclusively composed of officials of the Municipality.

Final awards in a competitive bidding process may only be made through the committee system for competitive bids provided for in chapter 3.

## **7. ADVISORS**

The Municipal Manager may procure the services of advisors to assist in the execution of the Supply Chain Management function. No advisor may however form part of the final decision-making process regarding the awarding of bids, as this will counter the principle of vesting accountability with the Municipal Manager. The Municipal Manager may not delegate decision-making authority to a person other than an official.

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**8. FRAMEWORK FOR SUPPLY CHAIN MANAGEMENT**

8.1 The SCM Policy provides the following systems, which are provided for in Chapter 3:

- 8.1.1 Demand management;
  - 8.1.2 Acquisition management;
  - 8.1.3 Logistics management;
  - 8.1.4 Disposal management;
  - 8.1.5 Risk management;
  - 8.1.6 Performance management
  - 8.1.7 Process and contract management; and
  - 8.1.8 Preferences management
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## CHAPTER 3: SUPPLY CHAIN MANAGEMENT SYSTEM

### PART 1: DEMAND MANAGEMENT

#### 1. SYSTEM OF DEMAND MANAGEMENT

##### 1.1 Duties of Directors

1.1.1 Each Director shall during the preparation of his directorate's estimates for the budget year :

1.1.1.1 Determine which functions it must perform;

1.1.1.2 Determine the products and services it must provide in the performance of those functions;

1.1.1.3 Conduct a condition assessment of the assets managed by his directorate;

1.1.1.4 On the basis of its analysis in terms of the above, determine its financial needs during the budget year for :

- (a) Maintaining existing assets at an acceptable level calculated to ensure the continued productivity of the asset in question and minor repairs;
- (b) Repairing existing assets;
- (c) Refurbishing or renovating existing assets;
- (d) Extensive repairing of existing assets;
- (e) Replacing existing assets; and
- (f) Acquiring new assets.

##### 1.2 Establishment of a corporate schedule of procurements

1.2.1 The SCM Unit shall, after consultation with Directors, compile a schedule of procurements for capital projects in respect of each financial year, which schedule shall be attached to the Municipality's budget implementation plan.

1.2.2 During consultations between the SCM Unit and Directors, all reasonable efforts shall be made to determine :

1.2.2.1 The desired date and time at which a specific contract must be awarded;

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

1.2.2.3 The place where any goods to be supplied shall be delivered;

1.2.2.4 The quantity and quality of any goods to be supplied; and

1.2.2.5 Any other relevant matter.

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## **PART 2: PROCUREMENT MANAGEMENT**

### **2. SYSTEM OF PROCUREMENT MANAGEMENT**

2.1 The objectives of the SCM Policy as set out in paragraph 2 of Chapter 2 should be complied with.

#### **2.2 Procurement from organ of state**

2.2.1 In the event that goods and services are procured by means of a contract with another organ of state as contemplated in section 110(2) of the MFMA, the Municipality must through its annual budget or through a separate process make public the fact that it procures such goods or services otherwise than through its Supply Chain Management system, including the kind of goods or services and the particulars of the supplier.

2.2.2 The SCM Policy, except where otherwise provided, does not apply in respect of the procurement of goods and services by means of contract with another organ of state as contemplated in section 110(2) of the MFMA, including:

2.2.2.1 Water from the Department of Water Affairs or another entity;

2.2.2.2 Electricity from Eskom or another entity;

#### **2.3 Procurement other than from organ of state**

2.3.1 The Municipality may not consider a written quotation or bid, unless the service provider who submitted the quotation or bid:

2.3.1.1 Has provided the Municipality with his full names and identity number, company/ close corporation registration number, tax reference number, and VAT registration number(if applicable) and municipal rates and taxes number;

2.3.1.2 Has provided an original Tax Clearance Certificate from the SARS to the effect that his tax matters are in order;

2.3.1.3 Has provided a Rates Clearance Certificate;

2.3.1.4 Has indicated :

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

(b) In the event that the provider is not a natural person, whether any of its directors, principal shareholders or stakeholders is in the service of the state, or has been in the service of the state in the previous twelve months;

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

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- 2.3.1.5 Has provided proof that his name does not appear on a database maintained by the national treasury as a person prohibited from doing business with the public sector.

### 3. REGISTER OF ACCREDITED PROSPECTIVE SERVICE PROVIDERS

#### 3.1 Register of accredited prospective service providers

The CFO shall establish and maintain a Register of Accredited Prospective Service Providers by means of an electronic database to be used for the procurement requirements of the Municipality through written for procurements below R 200,000 (VAT included). The Register must have separate lists per commodity and per type of service, including consultants.

#### 3.2 Procedure for establishing and maintaining the register

- 3.2.1 The CFO shall within 30 days of the adoption of this policy through newspapers commonly circulating in the Municipality, on the website of the Municipality and any other approved manner invite prospective service providers of goods or services to apply for evaluation and listing as accredited prospective service providers. Such notice shall also specify the listing criteria for accredited prospective service providers and the closing time and date for submission of such information. The CFO shall thereafter during February of each year by public notice invite prospective service providers to apply for evaluation and inclusion in the Register. The particulars of any service provider enrolled in the Register shall be removed there from not later than 30 June of each year unless such supplier applied for registration and evaluation.

#### 3.2.2 The CFO shall make appropriate arrangements to ensure as far as is reasonably possible that:

- 3.2.2.1 The Register is updated at least quarterly;

- 3.2.2.2.1 Applications for registration as accredited service providers can be submitted electronically.

- 3.2.3 The CFO shall before he publishes an invitation in terms of paragraph 3.2.1 cause to be compiled a prospective service provider information questionnaire and transmit or give it to all applicants who respond to the invitation, all existing contractors of the Municipality and all known suppliers for completion. Information required shall include:

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

- 3.2.3.2 Registration details regarding income tax, value-added tax, unemployment insurance and skills development levy;

- 3.2.3.3 Postal and physical address that will be used as **domicilium citandi et executandi** for the purpose of submitting offers;

- 3.2.3.4 Citizenship of owners, e.g. South African or other: Provided that a juristic person is deemed to be a corporate South African citizen if the majority of its shares or interests are owned by South African citizens;

- 3.2.3.5 Ownership details, e.g. % HDI ownership of equity;

- 3.2.3.6 Size of enterprise, e.g. micro, small, medium or large;
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- 3.2.3.7 Categories of goods or services supplied or work performed;
- 3.2.3.8 Number of employees employed by the enterprise; and
- 3.2.3.9 Whether the enterprise is a new (i.e. having been established in the past year) or an existing enterprise.

### **3.3 Evaluation of applications**

3.3.1 In order to ascertain the suitability of applicants for registration in the Register, the CFO shall, after consultation with the Directors of the Municipality's other directorates:

3.3.1.1 Evaluate an applicant's capacity and ability to supply goods and services and to complete work, in order to ensure that all contracts or orders awarded are within the capabilities of the enterprise; and

3.3.1.2 Evaluate the amount of assistance that may be required by each applicant.

3.3.2 Evaluation criteria shall be based on the following:

3.3.2.1 Previous experience;

3.3.2.2 Qualifications of owner(s), directors, members, trustees and staff;

3.3.2.3 Value of contracts completed in the past year;

3.3.2.4 Value and duration of current contracts;

3.3.2.5 Persons that may be contacted for references;

3.3.2.6 Contracts completed on time and within budget; and

3.3.2.7 Contracts awarded as a main contractor or as sub-contractor.

3.3.3 The CFO shall, as soon as possible after the closing time of the invitation in terms of paragraph 3.2.1 examine and assess all applications submitted.

### **3.4 Registration in Register**

3.4.1 An applicant is suitable for registration on the appropriate list in the Register if he, in the opinion of the CFO:

3.4.1.1 Has the capacity in terms of the availability of personnel, financial resources and administrative infrastructure to execute contracts to a specified value and/or

3.4.1.2 Has relevant experience of a particular nature related to a specific kind or type of contract and/or

3.4.1.3 Has previously successfully executed a contract of a similar nature for the Municipality successfully, will be an added advantage and/or

3.4.1.4 Complies with the Municipality's policy regarding the economic advancement of HDIs and/or

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3.4.1.5 Is a small, medium or micro-enterprise.

3.4.2 The names of prospective service providers that comply with the above requirements and are considered to be suitable for the specific purpose to undertake contracts shall be included in the appropriate list within the Register. The CFO shall after he has registered a prospective service provider in the Register, supply that service provider with a reference number.

3.4.3 The Register shall be compiled per type of service, including consultants.

### **3.5 Removing entries from the Register**

3.5.1 The Municipal Manager shall authorize the removal from the Register:

3.5.1.1 The name and other particulars of any service provider at her/his request;

3.5.1.2 If the Municipal Manager, considers him to be no longer suitable to undertake the contracts concerned: Provided that the Municipal Manager shall in writing inform the service provider concerned of its intention to remove him from the Register stating the reasons in respects of which the he allegedly is no longer deemed to be suitable to undertake the contracts concerned and granting the service provider concerned an opportunity to reply in writing to such notification before the Municipal Manager makes such a decision;

3.5.1.3 Any person contemplated in paragraph 3.2.2.2 as soon as it becomes known that his name is included in the said database; and

3.5.1.4 The name and other particulars of a service provider who has been declared insolvent or is liquidated.

3.5.2 Each new application for inclusion in the Register will be considered by the CFO.

### **3.6 Utilisation of the Register**

3.6.1 Unless otherwise directed by the Municipal Manager, invitations to submit quotations for the goods, work or services concerned are limited to the service providers whose names are included in the relevant lists in the Register.

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

## **4. RANGE OF PROCUREMENT PROCESSES**

4.1 The procurement of goods and services shall be by way of :

4.1.1 Petty cash purchases, up to a transaction value of R 2 000 (VAT included);

4.1.2 Written price quotations for procurement of a transaction value over R 2 000 up to R 10 000 (VAT included);

4.1.3 Formal written quotations for procurement of a transaction value over R10 000 up to R 200 000 (VAT

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included);

4.1.4 A competitive bidding process for :

4.1.4.1 All procurements above a transaction value of R 200 000 (VAT included); and

4.1.4.2 The procurement of long term contracts;

4.2 The Municipal Manager may lower, but not increase, the different threshold values specified in 4.1 above, or direct that :

4.2.1 Written quotations be obtained for any specific procurement of a transaction value lower than R 2 000 (VAT included);

4.2.2 Formal written quotations be obtained for any specific procurement of a transaction value lower than R10 000 (VAT included);

4.2.3 A competitive bidding process be followed for any specific procurement of a transaction value lower than R 200 000 (VAT included);

4.3 The Municipal Manager may dispense with the prescribed processes and authorize the acquisition of any goods or services through any convenient process:

4.3.1 In the event of an emergency;

4.3.2 If the required goods or services are available from a single service provider only;

4.3.3 In any exceptional case where it is impractical to follow the prescribed procedure; and

4.3.4 If the desired goods or services are to be acquired under a contract secured by another organ of state: Provided that such contract has been secured through a competitive bidding process and the organ of state and the service provider concerned consented in writing to such procurement.

4.4 A Director seeking the approval of the Municipal Manager in terms of paragraph 4.3 shall submit a written report to the Municipal Manager detailing the reasons why he should authorize a departure from the prescribed requirements. A report in terms of this paragraph shall contain such information as the Municipal Manager may specify.

4.5 The Municipal Manager shall record his decision with regard to an application in terms of paragraph 4.4 in writing and shall, if he grants that application, stipulate the alternative procurement process to be followed.

4.6 Nobody may, in order to avoid compliance with any prescript in this paragraph 4, split the procurement of any goods, services or the execution of work into lesser items or parts or enter into more than one contract. When determining transaction values, a requirement for goods or services consisting of different parts or items, must as far as possible be treated and dealt with as a single transaction.

4.7 The decision of the Municipal Manager in terms of paragraph 4.5 shall be final.

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## 6. QUOTATIONS

### 6.1 Written quotations

#### 6.1.1 For procurement of goods and services above R 2 000 to a maximum of R10 000 (VAT included):

- 6.1.1.1 Informal written or verbal quotations must be obtained from at least three different service providers preferably from providers whose names appear on the Register: Provided that if quotations are obtained from service providers who are not included in the Register, such service providers must meet the listing criteria mentioned in 3.4.1 above;
- 6.1.1.2 Service providers must be requested to submit quotations in writing & verbally;
- 6.1.1.3 In the event that it is not feasible to obtain at least three quotations, the reasons must be recorded and approved by the CFO or Directors or an official designated by him or her;
- 6.1.1.4 The CFO must record the names of the prospective service providers requested to provide quotations, and their quoted prices;
- 6.1.1.5 The designated official referred to above, must within three days of the end of each month report to the CFO on any approvals given during that month.

### 6.2 Formal written price quotations

#### 6.2.1 For procurement of goods and services above R10 000 up to R 200 000 (VAT included):

- 6.2.1.1 Formal written price quotations must be obtained from at least three different providers whose names appear on the list of accredited prospective providers of the Municipality;
- 6.2.1.2 Quotations may be obtained from providers who are not listed, but only when no suitable providers for the required commodity or type of service are available from the list, and provided that such providers meet the listing criteria mentioned in 3.2.1 above;
- 6.2.1.3 In the event that it is not feasible to obtain at least three quotations, the reasons must be recorded and approved by the CFO or an official designated by him or her;
- 6.2.1.4 The CFO must record the names of the potential providers requested to provide quotations with their quoted prices;
- 6.2.2 The designated official referred to in 6.2.1.3 must within three days of the end of each month report to the CFO on any approvals given during that month

### 6.3 Process for procuring goods or services through written quotations

#### 6.3.1 General

- 6.3.1.1 The use of the Register is obligatory for the procurement of goods or services through written quotations.
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**6.2.1.2 All procurements above R 30 000 must be advertised by the SCM Unit for at least 7 (seven) calendar days on the Municipality's notice boards and website.**

6.2.1.3 When using the Register of accredited prospective providers, the SCM Unit must promote ongoing competition amongst service providers, including by inviting service providers to submit quotations on a rotation basis.

6.2.1.4 The SCM Unit must take all reasonable steps to ensure that the procurement of goods and services through written quotations is not abused.

6.2.1.5 The CFO and Municipal Manager must on a monthly basis be notified in writing of all written quotations, accepted by an official acting in terms of a sub-delegation.

6.2.1.6 Where quotations have been invited via the notice boards and website of the Municipality, no additional quotations need to be obtained should the number of responses be less than three.

**6.2.2 Specifications, evaluation criteria and procedures**

6.2.2.2 Quotation documents shall clearly indicate terms and conditions of contract, the specification criteria for evaluation and procedures to be followed where applicable.

6.2.2.3 The specifications and evaluation criteria shall not be aimed at hampering competition, but rather to ensure a fair, equitable, transparent, competitive and cost-effective process as well as the protection or advancement of persons, or categories of persons.

6.2.2.4 The specifications shall not mention trade names or particular processes of manufacture unless these are the only acceptable products, however, where the use of trade names, trade marks or origin is the only known way of accurately describing the products required, the words "or other equal and approved" shall be included in the specifications mentioned in the quotation document.

6.2.2.5 Where the specifications are based on standard documents available to bidders, a reference to those documents is sufficient.

6.2.2.6 The Municipality may, if necessary, communicate with prospective service providers prior to the submission of quotations in order to supply additional information or to clarify vague points in the quotation documents.

**6.2.3 Quotation Prices**

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

**6.2.4 Issuing and submission of documentation**

6.2.4.1 All documents pertaining to the procurement of goods or services by means of written price quotations of a transaction value over R 30 000 to a maximum of R 200 000 (VAT included), will be issued and received by the SCM Unit.

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

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

#### 6.2.5 Acceptance of Quotations

6.2.5.1 A report in the approved format shall be submitted by the SCM Unit to the relevant Delegated Authority for approval.

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

### **7. COMPETITIVE BIDS**

#### **7.1 General**

7.1.1 Goods or services above a transaction value of R 200 000 (VAT included) must be procured through a competitive bidding process, save for in the case of an emergency as provided for in 4.3.1 above.

7.1.2 No requirement for goods or services above an estimated transaction value of R 200 000 (VAT included) may deliberately be split into parts or items of lesser value merely for the sake of procuring the goods or services otherwise than through competitive bidding.

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

##### **7.2.1 General**

7.2.1.1 The SCM Unit shall, by notice published in the press in newspapers circulating in the Municipality, and on the Municipality's website invite bids for procurements which involves or is likely to involve an estimated amount exceeding R 200 000 (VAT included) or any such greater amount as may be determined by the Municipality from time to time.

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

7.2.1.3 For large complex plants or projects of special nature, when it may be undesirable to compare complete detailed technical specifications in advance, the SCM Unit may make use of a two stage bidding process. Under the first stage un-priced technical proposals on the basis of conceptual design or performance specifications are invited, subject to technical as well as commercial clarifications and adjustments. The second stage should include amended bidding documents and the submission of final technical proposals and priced bids.

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

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

## 7.2.2 Specifications, Evaluation Criteria and Procedures

7.2.2.1 Bid documentation must be compiled in accordance with the General Conditions of Contract and Supply Chain Management Guidelines of the National Treasury, and the prescripts of the Construction Industry Development Board, in the case of a bid relating to the construction industry.

7.2.2.2 Bid documents shall clearly indicate the terms and conditions of contract, specification criteria for evaluation and procedures to be followed where applicable, including the criteria prescribed in terms of the Preferential Procurement Legislation.

7.2.2.3 The bid documentation must compel all bidders to declare any conflict of interest bidders may have in a specific bid, and must prescribe that bidders must furnish their tax reference registration numbers and identification numbers, where applicable.

7.2.2.4 The bid documentation must prescribe that disputes be settled by means of mutual consultation, mediation (with or without legal presentation), or arbitration or when unsuccessful, in a South African court of law.

7.2.2.5 The specifications and evaluation criteria shall not be aimed at hampering competition, but rather to ensure fair, equitable, transparent, competitive and cost effective bidding, as well as the protection or advancement of persons, or categories of persons.

7.2.2.6 The specifications shall not mention trade names or particular processes of manufacture unless these are the only acceptable products. However, where the use of trade names, trade marks or origin is the only known way of accurately describing the products required, the words "or other equal and approved" shall be included in the specifications mentioned in the bid document.

7.2.2.7 Where the specifications are based on standard documents available to bidders, a reference to those documents is sufficient.

7.2.2.8 The CFO in consultation with the Director concerned may, if necessary, communicate with bidders and prospective bidders prior to bid closing in order to supply additional information or to clarify vague points in the bid documents. Such communication shall be in the form of a prescribed notice and shall, where possible, be issued at least one week prior to the bid closing date.

## 7.2.3 Invitation for competitive bids

### 7.2.3.1 The notice in the press shall specify:

- (a) The nature of the proposed contract;
  - (b) Such particulars of the contract as the Municipality may deem fit;
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- (c) That all bids for such contract shall be submitted in a sealed envelope which on the outside clearly states that such envelope contains a bid and the contract for which such bid is being submitted;
- (d) A day not less than 30 days in the case of transactions over R 10 million (VAT included), or which are of a long terms nature for more than three years, or not less than 14 days in any other case, being the closure date for submission of bids on which such bids must be received;
- (e) The place where such bids must be submitted and when such bids will be opened;
- (f) A statement that bids may only be submitted on the bid documentation provided by the Municipality;

7.2.3.2 The Municipal Manager may determine a closing date for the submission of bids which is less than the 30 or 14 days required, but only if such shorter period can be justified on the grounds of urgency or emergency or any exceptional case where it is impractical or impossible to follow the official procurement process.

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

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

7.2.3.5 Bid documentation shall be available for collection by prospective bidders during normal office hours, until the closing date of bids. Site inspections and/or clarification meetings, where applicable, shall not be compulsory/mandatory, except where so specifically stated in the bid documents. Where site inspections and/or clarification meetings are to be held, details thereof shall be included in the bid notice.

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

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

#### 7.2.4 Two-stage bidding process

7.2.4.1 A two-stage bidding process is allowed for :

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

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

7.2.4.3 In the second stage Final Technical Proposals and Priced Bids should be invited.

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### 7.2.5 Issuing of bid documentation

7.2.5.1 Bid documents and any subsequent notices shall only be issued by the SCM Unit.

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

7.2.5.3 Details of all prospective bidders who have been issued with bid documents shall be recorded by the SCM Unit. Such details shall include:

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

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

### 7.2.6 Validity periods

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

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

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

### 7.2.7 Bid Prices and Contract Periods for Engineering and Construction Contracts

7.2.7.1 For all contract periods equal to or exceeding one year in duration, an appropriate contract price adjustment formula shall be specified in the bid documents.

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

7.2.7.3 Notwithstanding the above arrangement, where the bid validity period is extended, then contract price adjustment may be applied.

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7.2.7.4 An appropriate contract period must be specified for all engineering and construction contracts. The time for completion shall be stated in number of weeks.

#### 7.2.8 Samples

7.2.8.1 When samples are called for in the bid documents, samples (marked with the bid and item number as well as the bidder's name and address) shall be delivered to the addressee mentioned in the bid documents by no later than the closing time of the bid. Bids shall not be included in parcels containing samples.

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

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

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

#### 7.2.9 Closing of bids

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

7.2.9.2 The bid closing date may be extended if circumstances justify this action. The closing date may only be extended if there is sufficient time to publish a prescribed amending.

#### 7.2.10 Submission of bids

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

7.2.10.2 Each bid shall be in writing using non-erasable ink and shall be submitted on the official Form of Bid issued with the bid documents. The bid shall be submitted in a separate sealed envelope with the name and address of the bidder, the bid number and title, the bid box number (where applicable), and the closing date indicated on the envelope. The envelope shall not contain documents relating to any bid other than that shown on the envelope.

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

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

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- 7.2.10.5 No bids forwarded by telegram, facsimile, e-mail or similar process shall be considered.
- 7.2.10.6 Bids shall not be included in packages containing samples and such bids may be rejected as being invalid.
- 7.2.11 Late Bids
- 7.2.11.1 Bids are late if they are received after closing time.
- 7.2.11.2 A late bid shall not be admitted for consideration and where feasible shall be returned unopened to the bidder.
- 7.2.12 Envelopes
- 7.2.12.1 Any bid received without being in an envelope, shall be sealed in an envelope, and the bid number and title, the bid box number (where applicable) and closing date shall be written on the envelope, if ascertainable.
- 7.2.12.2 Bids received in envelopes (sealed or un-sealed) without a bid number or title on the envelope, shall be opened, where possible in the presence of a witness, the bid number and title ascertained, the envelope sealed and the bid number and title, the bid box number (where applicable) and closing date written on the envelope. Any such envelopes shall be lodged in the applicable bid box, it being understood that the Municipality disclaims any responsibility for seeing that such bids are in fact lodged in the correct bid box.
- 7.2.13 Opening of Bids
- 7.2.13.1 At the specified closing time on the closing date, at least two representatives of the SCM Unit will be present and responsible for the process of receiving and recording the bids. The applicable bid box shall be closed by them.
- 7.2.13.2 They shall thereafter open the bid box in public after the closing time, and the contents thereof shall be checked for compliance.
- 7.2.13.3 Immediately after the opening of the bid box by the representatives of the SCM Unit, all bids shall be opened in public, and they shall in each case read out the name of the bidder and where possible, the amount of the bid.
- 7.2.13.4 As soon as a bid has been opened, the bid document shall be stamped with the official stamps, and where necessary, endorsed with the opening official's signatures. The name of the bidder shall be recorded in a bid opening record kept for that purpose.
- 7.2.13.5 After the representatives of the SCM Unit have completed the bid opening record in respect of all bids received, the bids shall be handed over to the official of the directorate where the bids
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originated for the processing thereof, and that official shall acknowledge receipt thereof by signing the bid opening record.

#### 7.2.14 Invalid Bids and Non-responsive bids

##### 7.2.14.1 Invalid Bids

- (a) Bids shall be considered invalid and shall be endorsed and recorded as such (in the bid opening record) by the responsible official who opened the bid in the following instances:
- (i) Where the bid is not submitted on the official bid form;
  - (ii) Where the bid is not completed in non-erasable ink;
  - (iii) Where the bid form has not been signed;
  - (iv) Where the bid form is signed, but the name of the bidder is not stated, or is indecipherable.
- (b) When bids are declared invalid at the bid opening, the bid sum of such bids shall not be read out. However, the name of the bidder and the reason for the bid having been declared invalid shall be announced.

##### 7.2.14.2 Non-responsive bids

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

(a) Non-responsive tenders

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

(b) Non-responsible tenders

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

- Is the bid price substantially below or higher than that of other bidders?
- In repeat purchases, how does the bid price compare with recent contracts awarded for similar items or work, taking into account quantified, conditions, terms, and other important specifications?
- Are there price indices available to determine the changes in labour and material costs
- Market research information to establish fair market price goods and serviced procured regularly

##### 7.2.15 Bid Sum

A bid will not necessarily be invalidated if the amount in words and the amount in figures do not correspond, in which case the amount in words shall be read out at the bid opening.

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7.2.16 Confidentiality of rates and proprietary information

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

7.2.17 Consideration and acceptance of bids

7.2.17.1 All quoted tariffs shall be considered.

7.2.17.2 The Municipal Manager may negotiate the final terms of contracts with bidders identified as preferred bidders through a competitive bidding process, provided that such a process does not allow the bidder concerned a second (unfair) opportunity, and it is not to the detriment of any bidder. Minutes of such negotiations shall be kept for record purposes.

7.2.17.3 The Municipality shall not be obliged to accept the lowest or any bid. For goods and services bids, the Municipality shall have the right to accept the whole bid or part of a bid or any item or part of an item or accept more than one bid, in the event of a number of items being tendered for.

7.2.17.4 The Municipality may, before bids are considered for acceptance examine and take into account the following, although not limited thereto:

- (a) The financial standing of a bidder, including his ability to furnish the required institutional guarantee, where applicable;
- (b) The bidder's goods standing with the Municipality from past experience;
- (c) The bidder's ability to fulfil his obligations in terms of the bid documents.

7.2.17.5 The remaining acceptable bids shall be adjudicated according to the following as applicable:

- (a) Bid price (corrected if applicable and brought to a comparative level where necessary);
- (b) The unit rates and prices;
- (c) Any qualifications to the bid;
- (d) The bid ranking obtained in respect of preferences set out in Chapter 4;
- (e) Any other criteria specified in the bid documents.

7.2.17.6 Additional information or clarification of bids may be called for if required, by the Bid Evaluation Committees in writing.

7.2.17.7 The Municipality reserves the right to consider alternative bids, provided that a bid free of qualifications and strictly in accordance with the bid documents is also submitted. Alternative bids shall be submitted on separate complete sets of bid documents and shall be clearly marked "Alternative Bid" to distinguish it from the unqualified bid referred to above. The Municipality shall not be bound to consider alternative bids. If, after bids have been brought to a comparative level and are equal in all respects, the Delegated Authority shall in the presence of a witness, draw lots to decide the award.

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

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#### 7.2.18 Request for withdrawal of a Bid

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

#### 7.2.19 Acceptance of a Bid

- 7.2.19.1 Once bids have been adjudicated upon in accordance with the bid committee system, the minutes of the Bid Adjudication Committee shall be submitted to the Municipal Manager for approval.
- 7.2.19.2 Where a bid has been recommended for acceptance and is approved by the Municipal Manager, the successful bidder shall be notified thereof in writing as provided in Part 7 of Chapter 3.
- 7.2.19.3 In the event of it becoming necessary to cancel or re-advertise a bid, then a report to this effect shall be submitted to the Municipal Manager.
- 7.2.19.4 Where a bid has either been cancelled or is unsuccessful, the bidder shall be notified in writing accordingly.
- 7.2.19.5 No contract may be awarded to a service provider who has failed to submit an original tax clearance certificate from the South African Revenue Service (SARS) certifying that the taxes of that service provider are in order or that suitable arrangements have been made with SARS.
- 7.2.19.6 No contract may be awarded to a service provider who has failed to submit an original property rates clearance certificate from the applicable Municipality certifying that the taxes of that service provider are in order.

#### 7.2.20 Annual Bids

- 7.2.20.1 It is permissible to invite formal bids for the supply of goods and services or engineering and construction works that is of an ad-hoc or repetitive nature, for a predetermined period of one year (commonly referred to as an annual bid). It is permissible to use the annual bids for procuring the services of consultants, but the practice of using annual bids to circumvent the formal bid process in respect of traditional project work is however not permissible
  - 7.2.20.2 All such bids shall comply with the prescribed provisions in the SCM Policy in all respects.
  - 7.2.20.3 Approval of a bid will not necessarily guarantee the service provider any business with the Municipality.
  - 7.2.20.4 Annual bids shall be considered in terms of the prescribed adjudication procedures for bids.
  - 7.2.20.5 Where different selections of items are required from the same bid and it is not possible or practical to split the orders, then the adjudication process will have to be carried out in respect of each application. Individual orders will then be placed (or contracts awarded) on the basis of the highest total adjudication points received per application.
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7.2.20.6 Where the selected service provider in terms of the adjudication process followed, is unable to provide the required goods, services or construction works at the required time and confirms as much in writing, then the bidder with the next highest adjudication points may be selected.

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

#### 7.2.21.1 **The Municipal Manager may:**

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

7.2.21.2 The accounting officer must record the reasons for any deviations in terms of sub-paragraphs 7.2.21.1(a) and (b) above and report them to the next meeting of the Council and include it as a note to the annual financial statements.

7.2.21.3 Subparagraph 7.2.21.2 does not apply to the procurement of goods and services contemplated in paragraph 2.2 of Chapter 3.

### 7.3 **Procurement of Banking Services**

7.3.1 **A contract for the provision of banking services to the Municipality :**

7.3.1.1 Must be procured through a competitive bidding process;

7.3.1.2 Must be consistent with Section 7 of the MFMA;

7.3.1.3 May not be for a period of more than five years at a time;

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

7.3.3 The closure date for the submission of bids may not be less than 60 days from the date on which the applicable advertisement is placed in a newspaper. Bids must be restricted to banks registered in terms of the Banks Act, 1990 (Act No 94 of 1990).

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

- 7.4.1 The Municipal Manager may request the State Information Technology Agency (SITA) to assist the Municipality with the procurement of IT related goods or services through a competitive bidding process.
- 7.4.2 The parties must enter into a written agreement to regulate the services by and the payments to be made to SITA.
- 7.4.3 The Municipal Manager must notify SITA together with a motivation of the IT needs of the Municipality if :
- 7.4.3.1 The transaction value of IT related goods or services required by the Municipality in any financial year will exceed R 50 million (VAT included);
- 7.4.3.2 The transaction value of a contract to be procured by the Municipality whether for one or more years exceeds R 50 million (VAT included);
- 7.4.4 If SITA comments on the submission and the Municipality disagree with such comments, the comments and the reason for rejecting or not following such comments must be submitted to the Council, the National Treasury, the Mpumalanga Provincial Treasury and the Auditor General.

#### **7.5 Procurement of goods and services under contracts secured by other organs of state**

- 7.5.1 The Municipal Manager may procure goods or services for the municipality under a contract secured by another organ of state, but only if :
- 7.5.1.1 The contract has been secured by that organ of state by means of a competitive bidding process applicable to that organ of state;
- 7.5.1.2 The Municipality has no reason to believe that such contract was not legally procured;
- 7.5.1.3 There are demonstrable discounts or benefits to the Municipality;
- 7.5.1.4 That other organ of state and the service provider have consented to such procurement in writing;
- 7.5.2 Paragraphs 7.5.1.3 and 7.5.1.4 do not apply if the Municipality procures goods or services through a contract secured by a municipal entity of which it is the parent municipality.

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

- 7.6.1 The procurement and storage of goods in bulk (other than water) which necessitate special safety arrangements, including gasses and fuel, may only be undertaken after the Municipal Manager has approved the safety arrangements to be effected.
- 7.6.2 The storage of goods in bulk must be based on sound reasons, including the total cost of ownership and cost advantages for the municipality or municipal entity, as approved by the Municipal Manager.
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## **7.7 Appointment of consultants**

- 7.7.1 The Municipal Manager may procure the services of consultants provided that any Treasury Guidelines in respect of such consulting services are taken into account when such procurements are made.
- 7.7.2 The Municipal Manager must ensure that copyright in any document produced, and the patent rights or ownership in any plant, machinery, thing, system or process designed or devised, by a consultant in the course of the consultancy service is vested in the Municipality.

## **7.8 Unsolicited Bids**

- 7.8.1 The Municipality is in terms of the provisions of section 113 of the MFMA not obliged to consider an unsolicited bid received outside the normal competitive bidding process.
- 7.8.2 The Municipality may however consider an unsolicited bid, but then only:
- 7.8.2.1 If the product or service offered in terms of the bid, is an unique innovative concept that will be exceptionally beneficial to, or have exceptional cost advantages for the Municipality;
- 7.8.2.2 The person who made the bid is the sole provider of the product or service;
- 7.8.2.3 the need for the product or service by the Municipality has been established during its strategic planning and budgeting processes;
- 7.8.2.4 the reasons for not going through the normal bidding processes are found to be sound by the Municipal Manager;
- 7.8.3 If the municipality decides to consider an unsolicited bid that complies with 7.8.2 above, the municipality must make its decision public in accordance with the provisions of section 21A of the Systems Act, together with :
- 7.8.3.1 Its reasons as to why the bid should not be open to other competitors;
- 7.8.3.2 An explanation of the potential benefits for the municipality or entity were it to accept the unsolicited bid; and
- 7.8.3.3 An invitation to the public or other potential suppliers to submit their comments within 30 days of the notice.
- 7.8.4 Once the municipality has received written comments pursuant to 7.8.3 above, it must submit such comments, including any responses from the unsolicited bidder, to the National Treasury and the relevant provincial treasury for comment.
- 7.8.5 The adjudication committee must consider the unsolicited bid and make a recommendation to the Municipal Manager.
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- 7.8.6 A meeting of the adjudication committee to consider an unsolicited bid must be open to the public.
- 7.8.7 When considering the matter, the adjudication committee must take into account :
- 7.8.7.1 Any comments submitted by the public; and
- 7.8.7.2 Any written comments and recommendations of the National Treasury or the Mpumalanga Provincial Treasury.
- 7.8.8 If any recommendations of the National Treasury or Mpumalanga Provincial Treasury are rejected or not followed, the Municipal Manager must submit to the Auditor General, the Mpumalanga Provincial Treasury and the National Treasury the reasons for rejecting or not following those recommendations.
- 7.8.9 Such submission must be made within seven days after the decision on the award of the unsolicited bid is taken, but no contract committing the municipality or municipal entity to the bid may be entered into or signed within 30 days of the submission.

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

### **8.1 General**

- 8.1.1 The Municipality's committee system for competitive bids shall consist of the following committees:
- 8.1.1.1 A bid specification committee for each directorate;
- 8.1.1.2 A bid evaluation committee for each directorate; and
- 8.1.1.3 One bid adjudication committee;
- 8.1.2 The members of each committee are appointed by the Municipal Manager, taking into account the provisions of section 117 of the MFMA.
- 8.1.3 The Municipal Manager may appoint a neutral or independent observer for ensuring fairness and promoting transparency, if he deems it necessary.
- 8.1.4 The Municipal Manager may apply the bid committee system to written price quotations if he deems it appropriate.
- 8.1.5 The following persons shall not be eligible to become members of a bid committee –
- 8.1.5.1 A councillor of any municipality; and
- 8.1.5.2 A member of the Municipality's audit committee or performance audit committee.
- 8.1.6 No councillor of any municipality may attend a meeting of a bid committee in any capacity, nor may a councillor make a presentation or representations to or conduct an interview with a bid committee in any capacity.
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8.1.7 A bid committee established in terms of this chapter shall perform its functions, exercise its powers and discharge its duties independently and without fear, favour or prejudice.

8.1.8 A bid committee established in terms of this chapter shall be accountable to the Municipal Manager.

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

8.2.1 The chairperson of the relevant bid committee shall determine the date, time and venue of meetings of the committee concerned: Provided that at least three working days written notice shall be given of a meeting of a bid committee to all the members.

8.2.2 A majority of the members of a bid committee must be present before the committee concerned may consider any matter.

8.2.3 Members of the committee can only be represented by another person who is acting on his behalf for that day.

8.2.4 Decisions of a bid committee shall be taken by a majority of the members present at a meeting voting in favour of, or against, a question.

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

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

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

8.2.6.2 Be signed by the person presiding at the meeting when they are approved; and

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

8.2.6.4 After approval be submitted to the SCM Unit, together with the tender documents concerned, for the calling of tenders or quotations where applicable.

## **8.3 Procedures of bid committees**

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

8.3.1.1 Meetings of the bid specification and bid evaluation committee shall be closed; and

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

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

- 8.4.1 The official responsible for procurements in a directorate, shall prepare, or cause to be prepared, written draft specifications and related documentation in respect of any offer to be invited by his directorate for the procurement of a contract the estimated value of which is likely to exceed R 200000 inclusive of VAT.
- 8.4.2 With due regard for the powers delegated to him, the responsible official may acquire the services of an external service provider, which may include the State Information Technology Agency, to assist him to write a draft specification and other documentation: Provided that :
- 8.4.2.1 The relevant service provider is registered in the Register; and
- 8.4.2.2 A service provider that has been appointed in terms of this paragraph may not :
- (a) Quote or bid for the relevant contract; or
  - (b) In any other manner acquire an interest in, or benefit from, the relevant contract without the express prior approval of the Municipal Manager having been obtained.
- 8.4.3 A specification shall specify:
- 8.4.3.1 The details of the preference point system which shall be used when evaluating a particular offer if the value of the contract exceeds R 200 000 (VAT included) or such lower amount as the Municipal Manager may determine in any specific case or category of cases;
- 8.4.3.2 Any specific goal for which a point may be awarded in terms of the preference point system must be clearly specified in the specification if the value of the contract, inclusive of value-added tax, exceeds R 200 000 (VAT included) or such lower amount as the Municipal Manager may determine in any specific case or category of cases;
- 8.4.3.3 In the case of offers for the provision of goods to the Municipality, at least:
- (a) The technical specifications of the goods to be acquired;
  - (b) The quantity of the goods to be supplied;
  - (c) The preference point system to be used in selecting suppliers; and
  - (d) Any other relevant matter;
- 8.4.3.4 In the case of offers for the provision of services to the Municipality, at least:
- (a) The scope of work of the service to be rendered, stipulating the desired outputs;
  - (b) The preference point system to be utilised to select suppliers; and
  - (c) Any other relevant matter;
- 8.4.3.5 In the case of offers for the execution of work on behalf of the Municipality, at least:
- (a) The date on which delivery of the work is expected;
  - (b) The preference point system to be used to select suppliers;
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- (c) Any conditions of the Construction Industry Development Board approved by the National Treasury, if applicable; and
- (d) Any other relevant matter;

8.4.3.6 In the case of offers for the disposal of assets of the Municipality, at least:

- (a) If it is a land asset, the permitted use or uses for which the land may be utilised;
- (b) The preference point system to be used to select purchasers; and
- (c) Any other relevant matter.

8.4.4 A draft specification as mentioned above shall be:

8.4.4.1 Submitted for consideration to the bid specification committee; and

8.4.4.2 Written in an unbiased manner to allow all potential bidders to make a proper offer.

**8.5 Bid Specification Committees**

8.5.1 The preparation and compiling of bid documents will be undertaken by the directorate requiring the procurement or disposal, in consultation with the SCM Unit, but has to be approved by the bid specification committee prior to advertising. A standard checklist is to be prepared by the SCM Unit to define the process.

8.5.2 A bid specification committee must finalize and approve the specifications for each procurement of goods or services by the municipality.

8.5.3 Specifications:

8.5.3.1 Must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services;

8.5.3.2 Must take account of any accepted standards such as those issued by Standards South Africa, the International Standards Organization, or an authority accredited or recognized by the South African National Accreditation System with which the equipment or material or workmanship should comply;

8.5.3.3 Where possible, be described in terms of performance required rather than in terms of descriptive characteristics for design;

8.5.3.4 May not create trade barriers in contract requirements in the forms of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labelling of conformity certification;

8.5.3.5 May not make reference to any particular trade mark, name, patent, design, type, specific origin or producer unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the words "equivalent";

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- 8.5.3.6 Must indicate each specific goal for which points may be awarded in terms of the points system set out in the Supply Chain Management policy of the municipality or municipal entity; and
- 8.5.3.7 Must be approved by the Municipal Manager prior to publication of the invitation for bids.
- 8.5.4 A bid specification committee must be established for each directorate of the Municipality, consisting of at least three members designated by the Director of the directorate concerned in consultation with the Municipal Manager. The Chairperson of the Committee should at least be at the level of a general manager or director.
- 8.5.5 No person, advisor or corporate entity involved with the bid specification committee, or director of such a corporate entity, may bid for any resulting contracts.
- 8.5.6 A bid specification committee must be established for each directorate of the Municipality, consisting of at least three members designated by the Director of the directorate concerned. The Chairperson of the Committee should at least be at the level of a general manager or director.
- 8.5.7 The persons who compiled the specifications in terms of 8.5.1 must present their report to the bid specification committee.
- 8.5.8 The chairperson the bid specification committee can invite Legal, Financial, Technical and External expertise if necessary in an advisory capacity.
- 8.5.9 **A copy of the minutes of the meetings of the bid specification committee must after approval, be submitted to the SCM Unit, together with the bid documentation, for the calling of tenders or quotations where applicable.**

## **8.6 Bid Evaluation Committees**

- 8.7.1 The bid evaluation committee is responsible for the evaluation of bids received, which shall include the verification of:
    - 8.6.1.1 The capability / ability of the bidder to execute the contract;
    - 8.6.1.2 Tax clearance certificate issued by the South African Revenue Services;
    - 8.6.1.3 Payment of municipal fees, levies and other charges as prescribed by the Municipality;
    - 8.6.1.4 National industrial participation programme requirements (for contracts in excess of R10 million)
  - 8.6.2 The bid evaluation committee will evaluate all bids received in accordance with the criteria specified in the bid specifications, and submit a report and recommendation regarding the award of a bid to the bid adjudication committee.
  - 8.6.3 A bid evaluation committee must be established for each directorate of the Municipality, consisting of at least three members designated by the Director of the directorate concerned in consultation with the Municipal Manager. The Chairperson of the bid evaluation committee should at least be at the level of a general manager or director, and a representative of the SCM Unit must be included.
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- 8.6.4 No person, advisor or corporate entity involved with the bid evaluation committee, or director of such a corporate entity, may bid for any resulting contracts.
- 8.6.5 The chairperson of the bid evaluation committee can invite technical / financial / external expertise if necessary, in an advisory capacity.
- 8.6.6 A copy of the minutes of the meetings of the bid evaluation committee must after approval, be submitted to the bid adjudication committee for consideration.
- 8.6.7 It must be emphasized that bids may only be evaluated in accordance with the criteria specified in the bid specifications. According to the prescripts of the Preferential Procurement Legislation, bids must be evaluated in accordance with a preference point system. Any specific goal for which a point may be awarded must be clearly specified in the invitation to submit a bid.

## **8.7 Bid Adjudication Committee**

- 8.7.1 The Chairperson of this committee shall be appointed by the Municipal Manager and if the chairperson is absent from the meeting, the members of the committee who are present must elect one of them to preside at the meeting. The committee shall consist of the following officials:
    - 8.7.1.1 Selected Directors.
    - 8.7.1.2 Chief Financial Officer
    - 8.7.1.3 **Senior Supply Chain Management Practitioner**
  - 8.7.2 The chairperson of the bid adjudication committee can invite Technical / External expertise if necessary, in an advisory capacity.
  - 8.7.3 The bid adjudication committee must consider the reports and recommendations made by the bid evaluation committees, and must thereafter make a final recommendation to the Municipal Manager for approval.
  - 8.7.4 It is important that the bid specification committee, bid evaluation committee and bid adjudication committee comprise different members to ensure that a transparent and fair review of the bid is undertaken. Members of the bid evaluation committee may present their report to the bid adjudication committee and clarify any uncertainties. Such members have no voting power on the bid adjudication committee.
  - 8.7.5 If a bid adjudication committee decides to recommend approval of a bid other than the one recommended by the bid evaluation committee, the bid adjudication committee must prior to referring the matter to the Municipal Manager check in respect of the preferred bidder whether that bidder's municipal rates and taxes and municipal service charges are not in arrears. The reasons for the deviation must be clearly stated.
  - 8.7.6 The Municipal Manager may after due consideration of the reasons given by the bid adjudication committee for the deviation, ratify the recommendation of the bid adjudication committee or refer the matter back to that committee for reconsideration.
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- 8.7.7 The Municipal Manager may at any stage of a bidding process, refer any recommendation made by the bid evaluation committee or the bid adjudication committee back to that committee for reconsideration of the recommendation.
- 8.7.8 The Municipal Manager must comply with the provisions of section 114 of the MFMA within 10 working days.

### **PART 3: LOGISTICS MANAGEMENT**

#### **9. LOGISTICS MANAGEMENT**

- 9.1 The SCM Unit shall be responsible and accountable for the establishment, management and operation of store facilities for the Municipality, which shall consist of a main store and such satellite stores in other urban areas within the Municipality as may be necessary.
- 9.2 The Supply Chain Manager shall be responsible and accountable for:
- 9.2.1 The day-to-day operation of the Municipality's store facilities;
- 9.2.2 Determining the range and nature of items that will be carried in the main store facility and satellite stores;
- 9.2.3 Setting of inventory levels;
- 9.2.4 Timely placement of orders when stock levels are low;
- 9.2.5 Receiving and distribution of goods; and
- 9.2.6 Expediting orders.

### **PART 4: DISPOSAL MANAGEMENT**

#### **10. DISPOSAL MANAGEMENT**

##### **10.1 Introduction**

- 10.1.1 In accordance with the provisions of section 14(5) of the MFMA, the transfer of ownership of a capital asset of the Municipality must be fair, equitable transparent, competitive and consistent with this policy.
- 10.1.2 The Municipality shall not transfer ownership as a result of a sale or other transaction, or otherwise permanently dispose of a capital asset needed to provide the minimum level of basic municipal services.
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- 10.1.3 Capital assets that are not needed for the provision of basic municipal services may be disposed of, but only after the Council, in compliance with the provisions of section 14(2) of the Act, in a meeting open to the public has considered a report with recommendations submitted by the directorate concerned, and
- 10.1.3.1 Has decided on reasonable grounds that the asset is not needed to provide the minimum level of basic municipal services; and
- 10.1.3.2 Has considered the fair market value of the asset and the economic and community value to be received in exchange for the asset.
- 10.1.4 The Council reserves the power to decide on the transfer of ownership or otherwise of the disposal of all immovable capital assets including land, that is not needed to provide a minimum level of basic municipal services.
- 10.1.5 The power to decide on the transfer of ownership or otherwise of the disposal of a movable capital asset below the value of R 1 million is delegated to the Municipal Manager in terms of the Delegation of Powers Policy of the Municipality. The possible transfer of movable capital assets with the value of R 1 million or above must be referred to Council for decision.

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

### **10.2.1 The Municipal Manager must ensure that :**

- 10.2.1.1 Immovable capital assets are sold at market related prices, except when the public interest or the plight of the poor demands otherwise;
- 10.2.1.2 Movable capital assets are sold either by way of written quotation, a competitive bidding process, auction or at market related prices, whichever is the most advantageous to the Municipality;
- 10.2.1.3 Immovable capital assets are leased at market related rates, except when the public interest or the plight of the poor demands otherwise;
- 10.2.1.4 Where assets are traded-in for other assets the highest possible trade-in price is negotiated;
- 10.2.1.5 All fees, charges, rates, tariffs, scales of fees or other charges relating to the leasing of property are reviewed annually;
- 10.2.1.6 In the case of the free disposal of computer equipment, that the provincial department of education must first be approached to indicate within 30 days whether any of the local schools are interested in the equipment; and
- 10.2.1.7 In the case of the disposal of firearms, the applicable legislation is complied with;
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**10.3 Disposal of immovable capital assets, including land of the Municipality**

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

**10.4 Disposal of movable assets of the Municipality**

- 10.4.1 Only movable assets that have been declared unserviceable, redundant or obsolete may be disposed of.
- 10.4.2 A movable capital asset below the value of R 1 million that has not yet reached its estimated useful lifespan in terms of Generally Recognized Accounting Practices (GRAP), may not be declared unserviceable, redundant or obsolete without the express written approval of the Municipal Manager.
- 10.4.3 The Director who is responsible for the management of the movable asset concerned shall not later than 31 October of each year supply the SCM Unit with a list of movable capital assets the control of which vest in him that has, in his opinion, become redundant, unserviceable or obsolete.
- 10.4.4 The SCM Unit shall inspect the movable capital assets included in a list concerned, and shall submit a report on its findings to the Municipal Manager. The Director concerned shall supply such assistance as may reasonably be required for the purpose of an inspection to the SCM Unit.
- 10.4.5 The Municipal Manager shall consider the report and recommendations of the SCM Unit and shall determine which assets mentioned in the report is unserviceable, obsolete or redundant. The decision of the Municipal Manager regarding an asset is final. Capital assets with a value of R 1 million and above, shall be referred to the Council for decision.
- 10.4.6 Any movable asset that has been declared unserviceable, obsolete or redundant must be kept in a place indicated by the manager responsible for corporate support and auxiliary services until its disposal is decided on.
- 10.4.7 If a movable asset that has been declared redundant, obsolete or unserviceable has been financed by means of a loan not yet fully redeemed, the CFO must determine the method in accordance with and source from which the outstanding balance of the loan will be repaid.
- 10.4.8 The SCM Unit shall determine the best method for disposing of any unserviceable, redundant and obsolete assets, including written quotation, competitive bidding, public auction or by private treaty at market related prices:
- 10.4.9 The SCM Unit shall dispose of the capital assets as determined by the Municipal Manager or the Council.
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## **PART 5: RISK MANAGEMENT**

### **11. RISK MANAGEMENT**

- 11.1 The Municipal Manager must establish an effective system of risk management for the identification, consideration and avoidance of potential risks in the Supply Chain Management system.
- 11.2 Risk management must include:
- 11.2.1 The identification of risks on a case-by-case basis;
- 11.2.2 The allocation of risks to the party best suited to manage such risks;
- 11.2.3 Acceptance of the cost of the risk where the cost of transferring the risk is greater than that of retaining it;
- 11.2.4 The management of risks in a pro-active manner and the provision of adequate cover for residual risks; and
- 11.2.5 The assignment of relative risks to the contracting parties through clear and unambiguous contract documentation.

## **PART 6: PERFORMANCE MANAGEMENT**

### **12. PERFORMANCE MANAGEMENT**

The accounting officer must establish an effective internal monitoring system in order to determine, on the basis of a retrospective analysis, whether the authorized Supply Chain Management processes were followed and whether the desired objectives were achieved.

## **PART 7: PROCESS AND CONTRACT MANAGEMENT**

### **13. PROCESS AND CONTRACT MANAGEMENT**

- 13.1 The bid specification committee will consider and approve the specifications and other bid documentation prepared for a bid. A copy of the minutes of the meetings of the bid specification committee must after approval, be submitted to the SCM Unit, together with the bid documentation, for the calling of bids. The SCM Unit will receive and record all bids, where after it will be provided to the directorate concerned for submission to its bid evaluation committee for consideration.
- 13.2 The bid evaluation committee will evaluate all bids received relating to the specific directorate, in accordance with the criteria specified in the bid specifications, and submit a report and recommendation regarding the awarding of a bid to the bid adjudication committee.
- 13.3 The bid adjudication committee will consider the reports and recommendations made by the bid evaluation committee, and will thereafter make a final recommendation to the Municipal Manager for approval. The recommendations will be recorded, and the minutes of the bid adjudication committee will be submitted to the Municipal Manager for approval.
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- 13.4 A copy of the minutes of the bid adjudication committee will after approval by the Municipal Manager be provided by Committee Services to the CFO timely, who is responsible for informing the successful bidders and the directorates concerned in writing of the decisions taken. The successful bidder will be informed that he must contact the responsible directorate for the conclusion of a contract, and that performance in terms of the signed contract can only commence after the issuing of a requisition by the SCM Unit.
- 13.5 It is the responsibility of each directorate concerned to ensure that a valid and legally binding contract is entered into between the municipality and the successful bidder in line with the bid specifications, after approval of the bid as mentioned above.
- 13.6 In the event that a suitable contract has not been included in the bid documentation, a copy of the approval and all relevant documentation must be provided to Legal Services timely for the drafting of a suitable contract.
- 13.7 After signing of the contract by the parties, the directorate concerned must ensure that copies are made available to all role players including the Finance Directorate. The originally signed copy must be filed at the Records Unit in the Bram Fischer Building who will act as custodian of all procurement contracts of the municipality.
- 13.8 The directorate concerned is responsible, in consultation with the SCM Unit and Legal Services, to ensure that service providers comply with the provisions of the contract, and in the event of a possible breach of contract or proposed amendment to the contract, to submit a report in this regard to the Municipal Manager.

## **PART 8: PREFERENCES MANAGEMENT**

### **14.1 Preferences for Procurements**

Offers for the procurement of goods and services shall be in line with the applicable procurement legislation, namely the Preferential Policy Framework Act, 2000 (Act No 5 of 2000) and its associated Preferential Procurement Regulations, and the Broad-Based Black Economic Empowerment Act, 2003 (Act No 53 of 2003).

#### 14.1.1 Offers for the procurement of goods and services shall be adjudicated on the following criteria:

- 14.1.1.1 Contracts for the supply of goods and the execution of work with a Rand value between R 30,000 up to R 500,000 shall be adjudicated on an 80/20 basis, as follows:

1. Points awarded for price and functionality:

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

Where

Ps = Points scored for price of the tender under consideration

Pt = Rand value of the tender under consideration

P min = Rand value of lowest acceptable tender

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2. Points awarded for HDI equity ownership and management, subcontracting with an HDI and achieving specified goals:

Preference	Targeted goal	Preference points
HDI ownership	100% of equity	12
Women ownership	100% of equity	6
Disabled ownership	100% of equity	2

- 14.1.2 Contracts for the supply of goods and the execution of work with a Rand value exceeding R200,000, will be adjudicated on a 90/10 basis, as follows:

- (a) Points awarded for price and functionality

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

Where

Ps = Points scored for price of tender under consideration

Pt = Rand value of the tender under consideration

P min = Rand value of lowest acceptable tender

- (b) Points awarded for HDI equity ownership and management, subcontracting with an HDI and achieving specified goals –

Preference	Targeted goal	Preference points
HDI ownership	100% of equity	6
Women ownership	100% of equity	3
Disabled ownership	100% of equity	1

- 14.1.2 The points scored by a bidder in terms of paragraph 1.1.1(a) must be added to the points scored in terms of paragraph 1.1.1(b). The points scored in terms of paragraph 1.1.2(a) must be added to the points scored in terms of paragraph 1.1.2(b).

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

- 14.1.4 No preference points shall be awarded for equity ownership if the bidder is a public company.

#### **14.2 Formula to calculate the number of points for equity ownership by an HDI**

- 14.2.1 The following formula shall be applied to calculate the percentage equity ownership by an HDI who is actively involved in the management of the quoting or bidding enterprise and who exercises control over the enterprise commensurate with his degree of ownership:

$$N_{EP} = N_{OP} \times \frac{E_P}{100}$$

Where

$N_{EP}$  = points awarded for equity ownership by an HDI

$N_{OP}$  = the maximum number of points awarded for equity ownership by an HDI

$E_P$  = the percentage of equity ownership by an HDI within the tendering enterprise

- 14.2.2 Equity claims for a Trust may only be allowed in respect of those persons who are both trustees and beneficiaries and who are actively involved in the management of the Trust.
- 14.2.3 Documentation to substantiate the validity of the credentials of the trustees contemplated in sub regulation (6) must be submitted to the relevant organ of state.
- 14.2.4 A Consortium or Joint Venture may, based on the percentage of the contract value managed or executed by their HDI members, be entitled to equity ownership in respect of an HDI.
- 14.2.5 The number of points scored for a Consortium or Joint Venture must be added to the number of points scored for achieving specified goals.
- 14.2.6 The points contemplated in sub regulation (9) must be added to the points scored for price, in order to establish the total number of points scored.
- 14.2.7 Subject to regulations 9 and 10, the contract must be awarded to the tender, which scores the highest points.
- 14.2.8 A person awarded a contract as a result of preference for contracting with, or providing equity ownership to, an HDI, may not subcontract more than 25% of the value of the contract to a person who is not an HDI or does not qualify for such preference

### **14.3 Cancellation of specific bids**

#### **14.3.1 A bid must be cancelled when:**

- 14.3.1.1 In the application of the 80/20 preference point system all bids received exceed the estimated Rand value of R 200,000; and
- 14.3.1.2 In the application of the 90/10 preference point system all bids received are equal to, or below R200,000.
- 14.3.2 After cancellation of a bid in terms of this paragraph, the Municipality must re-invite bids stipulating the correct preference point system to be applied.

### **14.4 Preference point system for disposals**

- 14.4.1 The following formula must be used to calculate the points for price in respect of competitive bids for disposals:
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14.4.1.1 Equal to or above R 30 000 up to a value of R 200,000:

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

Where –

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

Pt = Comparative price of bid / offer under consideration

Ph = Comparative price of highest acceptable bid / offer

14.4.1.2 With a value above R 200,000:

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

Where –

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

Pt = Comparative price of bid / offer under consideration

Ph = Comparative price of highest acceptable bid / offer

14.4.2 A maximum of 10 or 20 points, as the case may be, may be awarded to a bidder for HDI ownership.

14.4.3 The points scored by a bidder in respect of HDI ownership must be added to the points scored for price.

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

## 14.5 Principles

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

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

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

14.5.4 A person awarded a contract as a result of preference for HDI equity may not subcontract more than 25% of the value of the contract to a person who does not qualify for such preference.

## 14.6 Declarations

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

14.6.2 The information regarding any claim from preference points provided is true and correct;

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- 14.6.2.1 The signatory to the bid document is duly authorised; and
- 14.6.1.2 Documentary proof regarding any bidding issue will, when required, be submitted to the satisfaction of the Municipality.

#### **14.7 Penalties**

- 14.7.1 Where a contract has been awarded on the strength of preference information furnished by the contractor which, after the conclusion of the relevant contract, is proved to have been incorrect, the Municipality may, in addition to any other legal remedy it may have:
  - 14.7.1.1 Recover from the contractor all costs, losses or damages incurred or sustained by the Municipality as a result of the award of the contract; and/or
  - 14.7.1.2 Cancel the contract and claim damages which the Municipality may suffer as a result of having to make less favourable arrangements; and/or
- 14.7.2 Impose on the contractor a penalty not exceeding five per cent of the value of the contract.

#### **14.8 Specific Goals**

- 14.8.1 The tendering conditions may stipulate that specific goals, as contemplated in section 2 (1) (d) (ii) of the Act, be attained.
  - 14.8.2 The stipulation contemplated in sub regulations (1) must include the method to be used to calculate the points scored for achieving specific goals.
  - 14.8.3 Over and above the awarding of preference points in favour of HDI's, the following activities may be regarded as a contribution towards achieving the goals of the RDP (published in *Government Gazette* 16085 dated 23 November 1994):
    - 14.8.3.1 The promotion of South African owned enterprises;
    - 14.8.3.2 The promotion of export orientated production to create jobs;
    - 14.8.3.3 The promotion of SMME's;
    - 14.8.3.4 The creation of new jobs or the intensification of labour absorption;
    - 14.8.3.5 The promotion of enterprises located in a specific province for work to be done or services to be rendered in that province;
    - 14.8.3.6 The promotion of enterprises located in a specific region for work to be done or services to be rendered in that region;
    - 14.8.3.7 The promotion of enterprises located in a specific municipal area for work to be done or services to be rendered in that municipal area;
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- 14.8.3.8 The promotion of enterprises located in rural areas;
  - 14.8.3.9 The empowerment of the work force by standardising the level of skill and knowledge of workers;
  - 14.8.3.10 The development of human resources, including by assisting in tertiary and other advanced training programmes, in line with key indicators such as percentage of wage bill spent on education and training and improvement of management skills; and
  - 14.8.3.11 The upliftment of communities through, but not limited to, housing, transport, schools, infrastructure donations, and charity organisations.
- 14.8.4 Specific goals must be measurable and quantifiable and organs of state must monitor the execution of the contract for compliance with such goals.
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## **CHAPTER 4: MISCELLANEOUS MATTERS**

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

- 1.1 The Municipality may not make any award above R30 000 to a person whose tax matters have not been declared by the SARS to be in order.
- 1.2 Before making an award to a person, the responsible official must first check with SARS whether that person's tax matters are in order.
- 1.3 If SARS does not respond within seven days such person's tax matters may for purposes of this paragraph shall be presumed to be in order.

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

#### **2.1 The Municipality may not make any award to and conclude a contract with a person:**

- 2.1.1 Who is in the service of the state;
- 2.1.2 If that person is not a natural person, of which any director, manager, principal shareholder or stakeholder is a person in the service of the state; or
- 2.1.3 Who is an advisor or consultant contracted with the municipality or municipal entity.

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

- 3.1 The notes to the annual financial statements of a municipality must disclose particulars of any award of more than R2 000 to a person who is a spouse, child or parent of a person in the service of the state, or has been in the service of the state in the previous twelve months, including:
  - 3.1.1 The name of that person;
  - 3.1.2 The capacity in which that person is in the service of the state; and
  - 3.1.3 The amount of the award.

### **4. ETHICAL STANDARDS**

- 4.1 All officials and other role players engaged in the Supply Chain Management system of the Municipality must comply with the highest ethical standards in order to promote mutual trust and respect, and an environment where business can be conducted with integrity and in a fair and reasonable manner.
  - 4.2 All officials of the Municipality must comply with the provisions of the Code of Conduct for Staff Members contained in Schedule 2 to the Systems Act, and if adopted by the Municipality, also the National Treasury's Code of Conduct for Supply Chain Management Practitioners and other Role Players involved in Supply Chain Management.
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- 4.3 In the event that an official abuses or do not comply with the provisions of the SCM Policy, action against the official shall be taken in terms of the Conditions of Service of the Municipality as well as Chapter 15 of the MFMA.
- 4.4 Officials and other role players involved in the Supply Chain Management system:
- 4.4.1 Must treat all providers and potential providers equitably;
- 4.4.2 Must treat all information obtained in the Supply Chain Management process as confidential;
- 4.4.3 May not use his or her position for private gain or to improperly benefit another person;
- 4.4.4 May not accept any reward, gift above R 350 in value, favour, hospitality or other benefit directly or indirectly, including to any close family member, partner or associate of that person;
- 4.4.5 Must, for the purposes of paragraph 3 above, declare to the Municipal Manager details of any private or business interest which 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 ;
- 4.4.6 Must immediately withdraw from participating in any manner whatsoever in a procurement or disposal process or in the award of a contract in which that person, or any close family member, partner or associate, has any private or business interest;
- 4.4.7 Must be scrupulous in his or her use of property belonging to the municipality or municipal entity;
- 4.4.8 Must assist the Municipal Manager in combating fraud, corruption, favouritism and unfair and irregular practices in the Supply Chain Management system; and
- 4.4.9 Must report to the Municipal Manager any alleged irregular conduct in the Supply Chain Management system which that person may become aware of, including :
- 4.4.9.1 Any alleged fraud, corruption, favouritism or unfair conduct;
- 4.4.9.2 Any alleged contravention of paragraph 5 below; or
- 4.4.9.3 Any alleged breach of the code of ethical standards.
- 4.5 All declarations in terms of paragraphs 4.4.5 must be recorded in a register which the Municipal Manager must keep for this purpose;
- 4.6 All declarations by the Municipal Manager must be made to the Executive Mayor who must ensure that such declarations are recorded in the register;
- 4.7 The Municipality may adopt the national treasury's code of conduct for Supply Chain Management practitioners and other role players involved in Supply Chain Management. When adopted, such code of conduct becomes binding on all officials and other role players involved in the implementation of the SCM Policy of the Municipality.
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## 5. OBJECTIONS AND COMPLAINTS

Persons aggrieved by decisions or actions taken by the Municipality in the implementation of its Supply Chain Management system, may lodge within 14 days of the decision or action a written objection or complaint to the Municipal Manager against the decision or action.

## 6. RESOLUTION OF DISPUTES, OBJECTIONS, COMPLAINTS AND QUERIES

6.1 The Municipal Manager may appoint an independent and impartial person not directly involved in the Supply Chain Management processes of the Municipality:

6.1.1 To assist in the resolution of disputes between the municipality and other persons regarding:

6.1.1.1 Any decisions or actions taken by the municipality or municipal entity in the implementation of its Supply Chain Management system;

6.1.1.2 Any matter arising from a contract awarded in the course of its Supply Chain Management system; or

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

6.2 A parent municipality and a municipal entity under its sole or shared control may for these purposes appoint the same person.

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

6.4 The person so appointed must :

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

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

6.5 A dispute, objection, complaint or query may be referred to the Mpumalanga Provincial Treasury if:

6.5.1 The dispute, objection, complaint or query is not resolved within 60 days; or

6.5.2 No response is received from the Municipality within 60 days.

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

## 7. CONTRACTS PROVIDING FOR COMPENSATION BASED ON TURNOVER

7.1 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

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agreed percentage of turnover for the service or the amount collected, the contract between the service provider and the Municipality must stipulate:

- 7.1.1 A cap on the compensation payable to the service provider; and
- 7.1.2 That such compensation must be performance based.

## **8. AVOIDING ABUSE OF SUPPLY CHAIN MANAGEMENT SYSTEM**

### 8.1 The Municipal Manager :

- 8.1.1 Must take all reasonable steps to prevent abuse of the Supply Chain Management system;
  - 8.1.2 Investigate any allegations against an official or other role player, of corruption, improper conduct or failure to comply with the Supply Chain Management system. If justified, the Municipal Manager must take steps against such official or other role player and inform the provincial treasury of such steps, and report any conduct that may constitute a criminal offence to the South African Police Service;
  - 8.1.3 Must check the National Treasury's database prior to awarding any contract to ensure that no recommended bidder, nor any of its directors are listed as companies or persons prohibited from doing business with the public sector;
  - 8.1.4 Must reject any bid from a service provider:
    - 8.1.4.1 Who fails to provide written proof from the South African Revenue Service that that supplier either has no outstanding tax obligations, or has made arrangements to meet such outstanding tax obligation;
    - 8.1.4.2 Who has any outstanding obligations in respect of municipal fees, levies and other charges as prescribed by the Municipality, or has not made any arrangements with the Municipality to meet such outstanding obligations;
    - 8.1.4.3 Who during the last five years has failed to perform satisfactorily on a previous contract with the municipality or municipal entity or any other organ of state after written notice was given to that bidder that performance was unsatisfactory;
  - 8.1.5 May disregard the bid of any bidder if that bidder, or any of its directors:
    - 8.1.5.1 Has abused the National or Provincial Department's, or the Municipality's Supply Chain Management system;
    - 8.1.5.2 Has committed fraud or any other improper conduct in relation to such system;
  - 8.1.6 Must inform the relevant provincial treasury of any action taken in terms of this paragraph;
  - 8.1.7 May cancel a contract awarded to a person if:
    - 8.1.7.1 The person committed any corrupt or fraudulent act during the bidding process or the execution of the contract; or
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- 8.1.7.2 An official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of the contract that benefited that person;
- 8.1.8 Must reject the bid of any bidder if that bidder or any of its directors :
- 8.1.8.1 Has abused the Supply Chain Management system of the municipality or municipal entity or has committed any improper conduct in relation to such system;
- 8.1.8.2 Has been convicted for fraud or corruption during the past five years;
- 8.1.8.3 Has wilfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
- 8.1.8.4 Has been listed in the Register for Tender Defaulters In terms section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004).

## **9. NATIONAL INDUSTRIAL PARTICIPATION PROGRAM (NIPP)**

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

## **10. REPORTING OF SUPPLY CHAIN MANAGEMENT INFORMATION**

- 10.1 The Municipal Manager must submit to the Provincial Treasury such Supply Chain Management information as that Treasury may require.
- 10.2 The required information must be submitted in such a format and at such intervals as the provincial treasury may require.

## **11. COMPLIANCE WITH PROVISIONS OF CONSTRUCTION INDUSTRY DEVELOPMENT BOARD ACT**

- 11.1 From the date determined by the Minister of Public Works in terms of section 16(4) of the Construction Industry Development Board Act, 2000 (Act No.38 of 2000) namely 14 November 2005, the Municipality may not award a contract for construction work to a contractor that is not suitably registered with the Construction Industry Development Board and that cannot supply sufficient proof of such registration.
- 11.2 From the same date, the Municipality must, in addition to its own register of accredited prospective suppliers, apply the National Register of Construction Contractors established in terms of the Construction Industry Development Board Act, 2000 (Act No.38 of 2000) when contracting for construction work.
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