

# CEDERBERG MUNICIPALITY



## SUPPLY CHAIN MANAGEMENT POLICY

ADOPTED:	10 JULY 2007
1 <sup>ST</sup> AMENDMENT:	31 MAY 2012
2 <sup>ND</sup> AMENDMENT:	30 MAY 2016
3 <sup>RD</sup> AMENDMENT:	31 MARCH 2017
4 <sup>TH</sup> AMENDMENT	30 May 2017

# **PART A**

**This Policy consists of two parts:**

**Part A** is the **Supply Chain Management Policy**, adopted in terms of section 111 of the Local Government: Municipal Finance Management Act, No. 56 of 2003 and the Municipal Supply Chain Management Regulations, Notice 868 of 30 May 2005;

and

**Part B** is the **Preferential Procurement Policy**, adopted in terms of section 5 of the Preferential Procurement Policy Framework Act, No. 5 of 2000 and the Preferential Procurement Regulations, 2017.

**CEDERBERG MUNICIPALITY**  
**SUPPLY CHAIN MANAGEMENT POLICY – PART A**

---

**PART A**

**MUNICIPAL SUPPLY CHAIN MANAGEMENT POLICY**  
**LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003**

The Council of the Cederberg Municipality resolved on 25 May 2012 in terms of section 111 of the Local Government: Municipal Finance Management Act (no. 56 of 2003) to adopt the following as the Supply Chain Management Policy of the municipality:

**CEDERBERG MUNICIPALITY**  
**SUPPLY CHAIN MANAGEMENT POLICY – PART A**

---

**TABLE OF CONTENTS**

**1. Definitions**

CHAPTER 1:  
ESTABLISHMENT AND IMPLEMENTATION OF SUPPLY  
CHAIN MANAGEMENT POLICY

- 2. Supply chain management policy**
- 3. Adoption and amendment of supply chain management policy**
- 4. Delegation of supply chain management powers and duties**
- 5. Sub-delegations**
- 6. Oversight role of council**
- 7. Supply chain management units**
- 8. Training of supply chain management officials**

CHAPTER 2:  
FRAMEWORK FOR SUPPLY CHAIN MANAGEMENT POLICY

**9. Format of supply chain management policy**

*Part 1: Demand management*

**10. System of demand management**

*Part 2: Acquisition management*

- 11. System of acquisition management**
- 12. Range of procurement processes**
- 13. General preconditions for consideration of written quotations or bids**
- 14. Lists of accredited prospective providers**
- 15. Petty cash purchases**
- 16. Written quotations**
- 17. Formal Written price quotations**
- 18. Procedures for procuring goods or services through written price quotations and formal written price quotations**
- 19. Competitive bidding process**
- 20. Process for competitive bidding**
- 21. Bid documentation for competitive bids**
- 22. Public invitation for competitive bids**
- 23. Procedure for handling, opening and recording of bids**

**CEDERBERG MUNICIPALITY**  
**SUPPLY CHAIN MANAGEMENT POLICY – PART A**

---

- 24.** Negotiations with preferred bidders and communication with prospective providers and bidders
- 25.** Two-stage bidding process
- 26.** Committee system for competitive bids
- 27.** Bid specification committees
- 28.** Bid evaluation committees
- 29.** Bid adjudication committees
- 30.** Procurement of banking services
- 31.** Procurement of IT related goods or services
- 32.** Procurement of goods and services under contracts secured by other organs of state
- 33.** Procurement of goods necessitating special safety arrangements
- 34.** Proudly SA Campaign
- 35.** Appointment of consultants
- 36.** Deviation from, and ratification of minor breaches of, procurement processes
- 37.** Unsolicited bids
- 38.** Combating of abuse of supply chain management system

*Part 3:*

*Logistics, Disposal, Risk and Performance Management*

- 39.** Logistics management
- 40.** Disposal management
- 41.** Risk management
- 42.** Performance management

**CEDERBERG MUNICIPALITY**  
**SUPPLY CHAIN MANAGEMENT POLICY – PART A**

---

*Part 4: Other*

*matters*

- 43. Prohibition on awards to persons whose tax matters are not in order
- 44. Prohibition on awards to persons in the service of the state
- 45. Awards to close family members of persons in the service of the state
- 46. Ethical standards
- 47. Inducements, rewards, gifts and favours
- 48. Sponsorships
- 49. Objections and complaints
- 50. Resolution of disputes, objections, complaints and queries
- 51. Right of appeal
- 52. Contract Management
- 53. Contracts providing for compensation based on turnover
- 54. Unsatisfactory performance
- 55. Handling of proprietary information
- 56. Short title and commencement

**CEDERBERG MUNICIPALITY**  
**SUPPLY CHAIN MANAGEMENT POLICY – PART A**

---

***Part 5: Annexures***

- ANNEXURE A - General principles governing the municipality in its interaction with bidders
- ANNEXURE B - Criteria to Evaluate Technical and Financial Ability
- ANNEXURE C - The Code of Conduct for Supply Chain Management Practitioners and Other Role Players
- ANNEXURE D - National Small Business Amendment Act, 2003 - Schedule
- ANNEXURE E - Delegations for Supply Chain management Policy

## 1. Definitions

In this 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 same meaning as in the Act, and –

<b><i>“Accounting Officer”</i></b>	means a person appointed by the Municipality in terms of Section 82 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998) and who is the head of administration and also the Municipal Manager for the Municipality.
<b><i>“Act” or “MFMA”</i></b>	means the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);
<b><i>“Business day”</i></b>	means any day of the week except Saturday, Sunday and public holidays as determined in the Public Holidays Act, 1994 (Act No. 36 of 1994)
<b><i>“CFO”</i></b>	means Chief Financial Officer of the Municipality or Director: Finance in this instance;
<b><i>“CIDB”</i></b>	means Construction Industry Development Board
<b><i>“close family member”</i></b>	means: <ul style="list-style-type: none"><li>(a) spouse or partner</li><li>(b) parent</li><li>(c) children</li></ul>
<b><i>“closing date”</i></b>	means the time and day specified in the bid documents and/or advertisement of the receipt of bids.
<b><i>“competitive bidding process”</i></b>	means a competitive bidding process referred to in paragraph 12 (1) (f) of this Policy;
<b><i>“competitive bid”</i></b>	means a bid in terms of a competitive bidding process;
<b><i>“contract”</i></b>	means the agreement that results from the acceptance of a bid by the Municipality;
<b><i>“disability”</i></b>	means, in respect of a person, a permanent impairment of a physical, intellectual, or sensory function, which results in restricted, or lack of, ability to perform an activity in the manner, or within the range, considered normal for a human being.
<b><i>“delegation”</i></b>	in relation to a duty, includes an instruction a request to perform or to assist in performing the duty.
<b><i>“Emerging Enterprise”</i></b>	means an enterprise which is owned, managed and controlled by previously disadvantaged persons and which is overcoming business impediments arising from the legacy of apartheid.
<b><i>“final award”</i></b>	in relation to bids or quotations submitted for a contract, means the final decision on which bid or quote to accept;
<b><i>“financial interest”</i></b>	means where a municipal staff member is a close family member of a person who is the owner, partner, principal shareholder or member, manager or who serves on the board of directors, etc of a tendering enterprise;
<b><i>“formal written price quotation”</i></b>	means quotations referred to in paragraph 12 (1) (d) & (e) of this Policy;
<b><i>“IDP”</i></b>	means Integrated Development Plan;
<b><i>“in the service of the state”</i></b>	means to be – <ul style="list-style-type: none"><li>(a) a member of –<ul style="list-style-type: none"><li>(i) any municipal council;</li><li>(ii) any provincial legislature; or</li><li>(iii) the National Assembly or the National Council of Provinces;</li></ul></li></ul>



- (b) a member of the board of directors of any municipal entity;
- (c) an official of any municipality or municipal entity;
- (d) an official of any national or provincial department, national or provincial public entity or institution within the meaning of the Public Finance Management Act, 1999 (Act No.1 of 1999);
- (e) an executive member of the accounting authority of any national or provincial public entity; or
- (f) an employee of Parliament or a provincial legislature;

***“long term contract”***

means a contract with a duration period exceeding one year;

***“list of accredited prospective providers”***

means the list of accredited prospective providers which the Cederberg Municipality must keep in terms of paragraph 14 of this policy;

***“micro-enterprise”***

means a very small business, often involving only the owner, some family members and at the most one or two paid employees. They usually lack ‘formality’ in terms of business licences, value-added tax (VAT) registration, formal business premises, operating permits, operating permits and accounting procedures. Most of them have a limited capital base and only rudimentary technical or business skills among their operators. However, many micro-enterprises advance into viable small businesses. Earning levels of micro-enterprises differ widely, depending on the particular sector, the growth phase of the business and access to relevant support.

***“municipality”***

means the Cederberg Municipality;

***“notice boards”***

means the official notice boards at the municipal offices and libraries;

***“other applicable legislation”***

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

- a) the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000);
- b) the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- c) the Construction Industry Development Board Act, 2000 (Act No.38 of 2000);
- d) the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);
- e) the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000);
- f) the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);
- g) the Prevention and Combating of Corrupt Activities Act, 2000 (Act No. 12 of 2004);
- h) the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);  
Municipal Supply Chain Management Regulations;
- i) the Preferential Procurement Regulations,2011
- j) National Treasury, MFMA Circular No. 34, Municipal Finance Management Act No. 56 of 2003, Reporting of awards above R 100 000
- k) National Treasury, MFMA Circular No. 46, Municipal Finance Management Act No. 56 of 2003, Checking the prohibition status of recommended bidders
- l) National Treasury, MFMA Circular No. 50, Municipal Finance Management Act No. 56 of 2003, Preparation of the municipal audit file (Stores & Consumables)
- m) National Treasury, MFMA Circular No. 52, Municipal Finance Management Act No. 56 of 2003, Prohibition of restricted practices
- n) National Treasury, MFMA Circular No. 53, Municipal Finance Management Act No. 56 of 2003, Amended guidelines in respect of bids that include functionality as a criterion for evaluation
- o) National Treasury, MFMA Circular No. 56, Municipal Finance Management Act No. 56

of 2003, Database of restricted suppliers and training on the revised Preferential Procurement Regulations, 2011

- "Policy"** means the Supply Chain Management Policy of the Cederberg Municipality;
- "quotation"** means a stated price that a supplier expects to receive for the provision of specified services, works or goods;
- "Regulations"** means the Local Government: Municipal Finance Management Act, 2003, Municipal Supply Chain Management Regulations published by Government Notice 868 of 30 May 2005;
- "SDBIP"** means Service Delivery and Budget Implementation Plan;
- "senior manager"** means an employee appointed in terms of Section 56 of the Municipal Systems Act and any manager who reports directly to a Section 56 employee;
- "single provider"** Sole supplier- One and Only (Alone of its kind) Supplier (Oxford Dictionary). If such goods or services are produced or available from a single provider only. There is no competition and only one bidder exists (for example, sole distribution rights);
- "small business"** means a separate and distinct business entity, including cooperative enterprises and non-governmental organisations, managed by one owner or more which, including its branches or subsidiaries, if any, is predominantly carried on in any sector or sub-sector of the economy mentioned in column 1 of the Schedule, attached as **Annexure D**, and which can be classified as a micro-, a very small, a small or a medium enterprise by satisfying the criteria mentioned in columns 3,4 and 5 of the Schedule opposite the smallest relevant size or class as mentioned in column 2 of the Schedule
- "supply chain management practitioners"** include the Chief Financial Officer and the Supply Chain Manager;
- "survivalist enterprise"** means a business set up by people unable to find a paid job or get into an economic sector of their choice. Income generated from these activities usually falls far short of even a minimum income standard, with little capital invested, virtually no skills training in the particular field and only limited opportunities for growth into a viable business. This category is characterised by poverty and the attempt to survive.
- "tender"** means a 'bid' or a 'quotation' in relation to a "Tender Box";
- "tender box"** means the specified tender box at the offices of Cederberg Municipality, 2 A Voortrekker Street, Clanwilliam.
- "Treasury guidelines"** means any guidelines on supply chain management issued by the Minister in terms of section 168 of the Act;
- "Validity Period"** means the period for which a bid is to remain valid and binding as stipulated in the relevant tender document.
- "written quotations"** means quotations referred to in paragraph 12(1)(c) of this Policy.
- Words importing the singular shall include the plural and *vice versa* and words importing the masculine gender shall include females and words importing persons shall include companies, closed corporations and firms, unless the context clearly indicates otherwise.
  - All amounts / limits stated in this document shall be deemed to be inclusive of Value Added Tax (VAT).

## CHAPTER 1: IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY

### 2. SUPPLY CHAIN MANAGEMENT POLICY

- 1) All officials and other role players in the Supply Chain Management system of the Cederberg Municipality must implement this Policy in a way that –
  - a) gives effect to –
    - i) Section 217 of the Constitution; and
    - ii) Part 1 of Chapter 11 and other applicable provisions of the Act;
    - iii) Regulations pertaining to Supply Chain Management.
    - iv) Guidelines as issued by National Treasury, which affects this Policy.
  - b) gives effect to the principles contained in **Annexure A**.
  - c) complies with –
    - i) the Regulations; and
    - ii) any minimum norms and standards that may be prescribed in terms of section 168 of the Act;
  - d) is consistent with other applicable legislation;
  - e) does not undermine the objective for uniformity in Supply Chain Management Systems between organs of state in all spheres; and
  - f) is consistent with national economic policy concerning the promotion of investments and doing business with the public sector;
  - g) applies the highest ethical standards; and
  - h) promotes local economic development.
- 2) This Policy applies when the Municipality –
  - a) procures goods or services;
  - b) disposes of goods no longer needed;
  - c) selects contractors to provide assistance in the provision of municipal services including circumstances where Chapter 8 of the Municipal Systems Act applies.
- 3) This Policy, except where provided otherwise, does not apply in respect of:
  - a) the procurement of goods and services contemplated in section 110(2) of the Act, including –
    - i) water from the Department of Water Affairs or a public entity, another municipality or a municipal entity; and
    - ii) electricity from Eskom or another public entity, another municipality or a municipal entity.
  - b) the Projects that are ear-marked for Local Emerging Contractor Development.
  - c) the acquisition of services of attorneys and advocates subject that the acquisition of such services to be dealt with in terms of Delegations of the Municipality's Delegation of Powers and Duties, as amended from time to time and any Bargaining Council Agreements on Disciplinary Procedures.

- d) the payment of accommodation and air travel for official purposes subject that same be dealt with in terms of the Municipality's Travelling and Subsistence allowance/cost Policy, as amended from time to time, as well as Delegations of the Municipality's Delegation of Powers and Duties, as amended from time to time.
- e) any contract relating to the publication of notices and advertisements by the municipality

### **3. ADOPTION, AMENDMENT AND IMPLEMENTATION OF THE SUPPLY CHAIN MANAGEMENT POLICY**

- 1) The accounting officer must –
  - a) at least annually review the implementation of this Policy; and
  - b) when the accounting officer considers it necessary, submit proposals for the amendment of this Policy to Council.
- 2) If the accounting officer submits proposed amendments to Council that differs from the model policy issued by the National Treasury, the accounting officer must –
  - a) ensure that such proposed amendments comply with the Regulations; and
  - b) report any deviation from the model policy to the National Treasury and the provincial treasury.
- 3) When amending this supply chain management policy the need for uniformity in supply chain practices, procedures and forms between organs of state in all spheres, particularly to promote accessibility of supply chain management systems for small businesses must be taken into account.
- 4) The accounting officer must in terms of section 62(1)(f)(iv) of the Act, take all reasonable steps to ensure that the municipality implements the supply chain management policy.

### **4. DELEGATIONS OF SUPPLY CHAIN MANAGEMENT POWERS AND DUTIES**

- 1) Council hereby delegates all powers and duties to the accounting officer which are necessary to enable the accounting officer –
  - a) to discharge the supply chain management responsibilities conferred on accounting officers in terms of –
    - i) Chapter 8 or 10 of the Act; and
    - ii) this Policy;
  - b) to maximize administrative and operational efficiency in the implementation of this Policy;
  - c) to enforce reasonable cost-effective measures for the prevention of fraud, corruption, favouritism and unfair and irregular practices in the implementation of this Policy; and
  - d) to comply with his or her responsibilities in terms of section 115 and other applicable provisions of the Act.
- 2) Section 79 of the Act applies to the sub delegation of powers and duties delegated to the accounting officer in terms of subparagraph (1).

- 3) The accounting officer may not sub-delegate any supply chain management powers or duties 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;
- 4) This paragraph may not be read as permitting an official to whom the power to make final awards has been delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in paragraph 26 of this Policy.

## **5. SUB- DELIGATIONS**

- 1) The accounting officer may in terms of section 79 of the Act sub-delegate any supply chain management powers and duties, including those delegated to the accounting officer in terms of this Policy, but any such sub-delegation must be consistent with subparagraph (2) of this paragraph and paragraph 4 of this Policy.
- 2) The power to make a final award –
  - a) above R10 million (VAT included) may not be sub-delegated by the accounting officer;
  - b) above R200 000 (VAT included), but not exceeding R10 million (VAT included), may be sub-delegated but only to a bid adjudication committee of which the chief financial officer or a senior manager is a member.
  - c) above R30 000 (VAT included) but not exceeding R200 000 may be sub-delegated to the official as per Council's delegation, attached as **Annexure E**, pertaining the purchase of goods and services.
- 3) An official or bid adjudication committee to which the power to make final awards has been sub-delegated in accordance with subparagraph (2) must within five (5) days of the end of each month submit to the official referred to in subparagraph (4) a written report containing particulars of each final award made by such official or committee during that month, including–
  - a) the amount of the award;
  - b) the name of the person to whom the award was made; and
  - c) the reason why the award was made to that person.
- 4) A written report referred to in subparagraph (3) must be submitted to the accounting officer, in the case of an award by a bid adjudication committee of which the chief financial officer or a senior manager is a member.
- 5) Subparagraphs (3) and (4) of this policy do not apply to procurement out of petty cash.
- 6) This paragraph may not be interpreted as permitting an official to whom the power to make final awards has been sub-delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in paragraph 26 of this Policy. Also refer to paragraph 4(4) and 5(2)(a) of this Policy.
- 7) No supply chain management decision-making powers may be delegated to an advisor or consultant.

## **6. OVERSIGHT ROLE OF COUNCIL**

- 1) Council must maintain oversight over the implementation of this Policy.
- 2) For the purposes of such oversight the Accounting Officer must –

- a) within 30 days of the end of each financial year, submit a report on the implementation of this Policy and the supply chain management policy of any municipal entity under the sole or shared control of the municipality, to the council of the municipality; and
  - b) Whenever there are serious and material problems in the implementation of this Policy, immediately submit a report to Council.
- 3) The accounting officer must, within ten (10) days of the end of each quarter, submit a report on the implementation of the supply chain management policy to the Executive Mayor through the Finance Portfolio Committee.
  - 4) The availability of these reports must be made public in accordance with section 21A of the Local Government Municipal Systems Act 32, 2002

#### **7. SUPPLY CHAIN MANAGEMENT UNIT**

- 1) A supply chain management unit is hereby established to implement this Policy.
- 2) The supply chain management unit operates under the direct supervision of the chief financial officer or an official to whom this duty has been delegated in terms of section 82 of the Act.

#### **8. TRAINING OF SUPPLY CHAIN MANAGEMENT OFFICIALS**

The training of officials involved in implementing this Policy should be in accordance with relevant legislation, including Treasury guidelines on supply chain management.

## **CHAPTER 2: SUPPLY CHAIN MANAGEMENT SYSTEM**

### **9. FORMAT OF SUPPLY CHAIN MANAGEMENT SYSTEM**

- 1) This Policy provides systems for –
  - a) demand management;
  - b) acquisition management;
  - c) logistics management;
  - d) disposal management;
  - e) risk management; and
  - f) performance management.

### **Part 1: DEMAND MANGEMENT**

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

- 1) An effective system of demand management is established and must be implemented in order to ensure that—
  - (a) the resources required by the municipality to support its operational commitments and its strategic goals as outlined in the Integrated Development Plan (IDP) are achieved; and
  - (b) the Performance Management System (PMS) must give the necessary support to ensure that the resources required, to support the strategic and operational commitments of the municipality, are delivered at the correct time, at the right price and at the right location, and that the quality and quantity satisfy the needs of the municipality
- 2) This Policy provides for an effective demand management system to ensure that user-departments—
  - (a) include timely planning and management processes to ensure that all goods and services required by the municipality are quantified, budgeted for and timeously and effectively delivered at the right locations and at the critical delivery dates, and are of the appropriate quality and quantity at a fair cost;
  - (b) take into account any benefits of economies of scale that may be derived in the case of acquisitions of a repetitive nature;
  - (c) provide for the compilation of the required specifications to ensure that its needs are met;
  - (d) undertake appropriate industry analyses and research to ensure that innovations and technological benefits are maximized;
  - (e) as far as possible, accurately estimate the cost of the provision of services, works or goods for which an invitation for bids is to be made;

- (f) determine the deliverables or performance indicators in terms of which a person awarded a contract will be assessed; and
  - (g) determine the appropriate preference point system to be utilised in the bid documentation.
- 3) The accounting officer may in terms of section 79 of the Act sub-delegate any supply chain management powers and duties, including those delegated to the accounting officer in terms of this Policy, but any such sub-delegation must be consistent with this Policy.

## **Part 2: ACQUISITION MANGEMENT**

### **11. SYSTEM OF ACQUISITION MANAGEMENT**

- 1) The accounting officer must implement the system of acquisition management set out in this Part in order to ensure –
- a) that goods and services are procured by the Municipality in accordance with authorised processes only;
  - b) that expenditure on goods and services is incurred in terms of an approved budget in terms of section 15 of the Act;
  - c) that the threshold values for the different procurement processes are complied with;



- d) that bid documentation, evaluation and adjudication criteria, and general conditions of a contract, are in accordance with any applicable legislation; and
  - e) that any Treasury guidelines on acquisition management are properly taken into account.
- 2) All requests (requisitions) for the procurement of goods and services shall be directed and submitted to the offices of the supply chain management unit in time for the unit to follow the procurement processes diligently and must be—
- a) on the specific requisition form clearly specifying—
    - i) the nature of the goods or the services required in terms of this policy;
    - ii) the specifications and quantity of the goods or duration of the services;
    - iii) the correct vote (line item) number with sufficient funding to conclude the process;
    - iv) the realistic estimated cost of the goods or services required;
    - v) any requirement in terms of the CIDBA;
    - vi) any requirement in terms of the PPPFA; and
    - vii) any other requirement (legislative, site meeting, contact details, etcetera).
  - b) signed by a duly authorised official of the user-department, as delegated.
- 3) When procuring goods and / or services of a capital nature section 19 of the Act regarding budgeting and costing of capital projects must be complied with.
- 4) When procuring goods and / or services which will have future budgetary implications section 33 and 116 of the Act regarding contracts must be complied with.
- 5) When procuring goods or services contemplated in section 110(2) of the Act, the accounting officer must make public the fact that such goods or services are procured otherwise than through the municipality's supply chain management system, including –
- a) the kind of goods or services; and
  - b) the name of the supplier.

## **12. RANGE OF PROCUREMENT PROCESSES**

- 1) Goods and services may only be procured by way of –
- a) petty cash purchases, up to a transaction value of R200 (VAT included);
  - b) petty cash purchases exceeding the amount of R200 up to an amount of R 2 000 (VAT included) to be authorised by the Chief Financial Officer or his delegate;
  - c) one written quotation for procurement transactions with values from R0 to R2 000 (VAT included);

- d) three formal written price quotations for procurement transactions with values over R2000 up to R30 000 (VAT included);
  - e) formal written price quotations for procurement transactions valued over R30 000 (VAT included) up to R200 000 (VAT included), subject to paragraph 18(b); and
  - f) a competitive bidding process for—
    - i) procurement above a transaction value of R200 000 (VAT included); and
    - ii) the procurement of long term contracts, i.e. longer than one year.
- 2) The accounting officer may, in writing-
    - a) lower, but not increase, the different threshold values specified in subparagraph (1); or
  - 3) Goods or services may not deliberately be split into parts or items of a lesser value merely to avoid complying with the requirements of the policy. 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) For quotations (up to R 30 000.00) bidders are required to be registered on the municipality's supplier database prior to the acceptance of their quotation in respect of the goods or services required.
  - 5) Formal (closed) written price quotations, from accredited suppliers, by means of advertisement on municipal website and notices on municipal notice boards for at least 7 days for procurements of a transaction value over R30 000.00 up to R200 000.00 (VAT included); and
  - 6) A competitive bidding process for -
    - (i) procurement above an estimated transaction value of R200 000.00 (VAT included); and
    - (ii) the procurement of long term contracts.
  - 7) Formal distinct municipal bidding documents, complying with National Treasury prescripts, must be utilised at all times.
  - 8) Obtaining a single written price quotation for the procurement of emergency repairs (strip and quote) with a transaction value up to R30 000.00 (VAT included) provided it is on a rotational basis and procured from accredited suppliers only;
  - 9) The procurement of the following services are excluded from subparagraph above—
    - (a) the serving of summonses on condition the service provider is listed on the database (must comply with all registration conditions) and is a registered messenger/sheriff of the court;
    - (b) any procurement in terms of a predetermined tariff/s by an organ of state, on condition the rotation system is applied where possible; and
    - (c) oil and fuel but only from authorised service stations.

### **13. GENERAL PRECONDITIONS FOR CONSIDERATION OF WRITTEN QUOTATIONS OR BIDS**

A written quotation or bid that exceeds R30 000 may not be considered unless the provider who submitted the quotation or bid –

- a) has furnished that provider's –
  - i) full name;
  - ii) identification number or company or other registration number; and iii) tax reference number and VAT registration number, if any;
  - iii) registration number in terms of section 18(1) of the Construction Industry Development Board Act, 2000 (Act No. 38 of 2000), should the provider quote or bid to undertake, carry out or complete any construction works or portion thereof;
  - iv) registration number of the NHBRC, should the provider bid or quote to undertake any housing construction works or portion thereof;
  - v) certificate of good standing with the Department of Labour in terms of the Compensation for Occupational Injuries and Diseases Act, 1993 (Act 130 of 1993);
  - vi) physical and postal address;
  - vii) telephone (land line and cell numbers), e-mail addresses and fax numbers, where possible;
  - viii) core business (what is the principle business);
  - ix) names of all directors/members/owners of enterprise;
  - x) specific expertise vested in the company;
  - xi) Broad-Based Black Empowerment of entity;
  - xii) the inclusion of valid tax details and original tax clearance certificate;
  - xiii) the inclusion of declaration in terms of required information;
  - xiv) permission that the financial position of the supplier and the ability to manufacture or to supply goods or to render a service may be examined before its offer is considered for acceptance;
  - xv) monetary value of contracts interested in;
  - xvi) maximum quantities that can be supplied; and/or
  - xvii) quantity and frequency of delivery.
- (b) has authorised the municipality to obtain a tax clearance from the South African Revenue Services that the provider's tax matters are in order;
- (c) has authorised the municipality to obtain a certificate clearance from the Construction Industry Development Board that the provider holds a valid registration certificate issued by the Board, if required;

- d) has indicated –
  - i) whether he or she is in the service of the state, or has been in the service of the state in the previous twelve months;
  - ii) if the provider is not a natural person, whether any of its directors, managers, principal shareholder or stakeholders are in the service of the state, or has been in the service of the state in the previous twelve months; or
  - iii) whether a close family member of the provider or of a director, manager, shareholder or stakeholder referred to in subparagraph (ii) is in the service of the state, or has been in the service of the state in the previous twelve months;
  - iv) that the tendering enterprise or any of its owners, directors, members or trustees, in their personal capacity are not in arrears with any account(s) with a Municipality for longer than 90 days / three months; or
  - v) whether any Municipal staff member is a close family member of an owner, his/her partner serves on the board of directors, or are members or trustees, of the tendering enterprise.
- e) has authorised the municipality to obtain or has submitted a certificate clearance from the Health and Safety Board that the provider holds a valid registration certificate issued by the Board, if required;
- f) has authorised the municipality to inspect the premises from which the provider operates, if required; and

#### **14. LIST OF ACCREDITED PROSPECTIVE PROVIDERS**

- 1) The accounting officer must –
  - a) keep a list of accredited prospective providers of goods and services that must be used for the procurement requirements through written or verbal quotations and formal written price quotations; and
  - b) at least once a year through newspapers commonly circulating locally, the website and any other appropriate ways, invite prospective providers of goods or services to apply for evaluation and listing as accredited prospective providers;
  - c) specify the listing criteria for accredited prospective providers which must include at least the requirement to submit proof of compliance with SARS tax clearance and proof that local municipal rates and services payments are not in arrears for more than three months;
  - d) disallow the listing of any prospective provider whose name appears on the National Treasury's database as a person prohibited from doing business with the public sector (check before listing if prospective provider is not registered on the List of Restricted Suppliers (forward e-mail to [restrictions@treasury.gov.za](mailto:restrictions@treasury.gov.za)) and the Register for Tender Defaulters – National Treasury website [www.treasury.gov.za](http://www.treasury.gov.za)].
- 2) The listing criteria for accredited prospective providers are as follows:
  - a) Certified Copy of Certificate of Incorporation/Registration: Company, Closed Corporation or Trust (Obtainable from CIPC);
  - b) Certified copies of Identity Document(s) of Owner(s), Member(s), Trustees or Shareholder(s) (Original Certified Copy);
  - c) Certified copies of Identity Document(s) of Authorised Person/Signatory (Original Certified Copy);

- d) Copy of Registration Documents of Construction Industry Development Board (Obtainable from CIDB) - applicable to construction industry only;
  - e) Organ of State: Resolution of the Board; Juristic person.
  - f) Copy of Joint Venture Agreement;
  - g) Original and Valid Tax Clearance Certificate (Obtainable from SARS) proof that tax matters are in order;
  - h) Copy of latest Municipal Account(s) or Affidavit confirming of residential address or renting of business premises;
  - i) Certified letter from banking institution, confirming banking details;
  - j) Health certificate (Catering Suppliers);
  - k) Copy of registration documentation if registered with Professional Board (e.g. engineering, accounting, law, architectural etc.);
  - l) Letter of good standing from the Office of the Compensation Commissioner;
  - m) Certified copy of original valid B-BBEE Rating certificate or EME letter (Obtainable from a SANAS accredited verification agency or if turnover is less than R5 million per annum the EME letter from a registered accountant/auditor);
  - n) Completion of all related Municipal Bidding Documents; and
  - o) Application to register as prospective provider must be duly completed, signed and submitted.
- 3) The list must be compiled from the applicants who have applied in terms of paragraph 14.1 (b) and who meets the listing criteria as specified in paragraph 14.1 (c) and 14.2.
  - 4) The list must be updated at least quarterly to include any additional prospective providers and any new commodities or types of services, if needed. Prospective providers must be allowed to submit applications for listing at any time.
  - 5) The list must be compiled per commodity and per type of service.

#### **15. PETTY CASH PURCHASES (Read together with the Petty Cash Policy)**

- 1) The general guideline is that petty cash purchases referred to in paragraph 12(1)(a) &(b) of this Policy are for minor items that are purchased for up to R2 000 (VAT included) where it is impractical, impossible or not cost-effective to follow formal procurement process and is strictly of a reimbursive nature and not for advances.
- 2) The Chief Financial Officer must keep the petty cash and apply the conditions as set out in the petty cash policy for the procurement of goods by means of petty cash purchases.
- 3) The Chief Financial Officer is authorised to increase the petty cash float as stipulated in the petty cash policy for a specific period and when justified.

#### **16. WRITTEN PRICE QUOTATIONS**

- 16.1) The conditions for the procurement of goods or services through written quotations for amounts under the threshold for formal quotations as stated in

paragraph 12(1)(c) are as follows:

- a) quotations for transactions with values from R0 to R2 000 (VAT included); must be obtained from at least one provider preferably from, but not limited to, providers whose names appear on the list of accredited prospective providers of the Municipality provided that if quotations are obtained from providers who are not listed, such providers must meet the listing criteria set out in paragraph 14(1)(c) and 14(2) of this Policy
- b) providers must be requested to submit such quotations in writing;
- c) the accounting officer must record the names of the potential providers requested to provide such quotations with their quoted prices; and
- d) if a quotation was submitted verbally, the order may be placed only against written confirmation by the selected provider.
- e) any other conditions determined by the Accounting Officer.

16.2) No orders may be placed based on verbal price quotations.

16.3) No quotation, written or verbal, may be made available by an official to a prospective bidder.

16.4) The conditions for the procurement of goods or services through written quotations for amounts under the threshold for formal quotations as stated in paragraph 12(1)(d) are as follows:

- a) quotations for transactions with values over R2000 up to R30 000 (VAT included); must be obtained from at least three providers preferably from, but not limited to, providers whose names appear on the list of accredited prospective providers of the Municipality provided that if quotations are obtained from providers who are not listed, such providers must meet the listing criteria set out in paragraph 14(1) (b), (c) and (d) of this Policy
- b) providers must be requested to submit such quotations in writing;
- c) if it is not possible to obtain at least three quotations, the reasons must be recorded and reported quarterly to the accounting officer or another official designated by the accounting officer;
- d) the accounting officer must record the names of the potential providers requested to provide such quotations with their quoted prices; and
- e) if a quotation was submitted verbally, the order may be placed only against written confirmation by the selected provider.
- g) any other conditions determined by the Accounting Officer.

2) No orders may be placed based on verbal price quotations.

3) No quotation, written or verbal, may be made available by an official to a prospective bidder.

## **17. FORMAL WRITTEN PRICE QUOTATIONS**

- 1) The conditions for the procurement of goods or services through formal written price quotations are as follows:
  - a) quotations must be obtained in writing from at least three different providers whose names appear on the list of accredited prospective providers of the Municipality;

- b) quotations may be obtained from providers who are not listed, provided that such providers meet the listing criteria set out in paragraph 14(1) (b), (c) and (d) of this Policy;
  - c) if it is not possible to obtain at least three quotations, the reasons must be recorded and approved by the chief financial officer or an official designated by the chief financial officer, and
  - d) the accounting officer must record the names of the potential providers and their written quotations.
  - e) any other conditions determined by the Accounting Officer.
- 2) A designated official referred to in subparagraph (1) (c) must within three (3) days of the end of each month report to the chief financial officer on any approvals given during that month by that official in terms of that sub-delegation.

## **18. PROCEDURES FOR PROCURING GOODS OR SERVICES THROUGH WRITTEN QUOTATIONS AND FORMAL WRITTEN PRICE QUOTATIONS**

- 1) The procedure for the procurement of goods or services through written quotations or formal written price quotations is as follows:
- a) when using the list of accredited prospective providers the accounting officer must promote ongoing competition amongst providers by inviting providers to submit quotations on a rotation basis;
  - b) quotes, of which the estimated amount is less than R30 000 (inclusive of VAT), must be obtained from locally accredited prospective providers, where possible
  - c) all requirements in excess of R30 000 (VAT included) that are to be procured by means of formal written price quotations must, in addition to the requirements of paragraph 17, be advertised for at least seven days on the website and an official notice board of the Municipality;
  - c) quotes received must be evaluated on a comparative basis taking into account unconditional discounts;
  - d) the accounting officer and chief financial officer must on a monthly basis be notified in writing of all written or verbal quotations and formal written price quotations accepted by an official acting in terms of a sub-delegation;
  - e) quotes must be awarded based on compliance to specifications and conditions of contract, ability and capability to deliver the goods and services and lowest price;
  - f) responsive and acceptable offers, which are subject to the preference points system (PPPFA and associated regulations and policy), must be awarded to the bidder who scored the highest points; (The prescripts of the Preferential Procurement Policy Framework Act, Act No.5 of 2000 will be applied for

procurement requirements above R30 000 (and with a lesser value where appropriate).

- g) the Chief Financial Officer must set requirements for proper record keeping of all formal written price quotations accepted on behalf of the municipality.
- 2) Notwithstanding the above requirements for consideration, quotations not to specification may not be accepted.
- 3) An order may only be issued after the final award is made provided sufficient funding exist within the appropriate vote.
- 4) The accounting officer, chief financial officer, accountant supply chain management and supply chain management practitioners must take all reasonable steps to ensure that the procurement of goods and services through written price and formal written price quotations is not abused.
- 5) No official placing a procurement requisition for goods or services shall understate the requirements of the estimated value with the intention of avoiding a more stringent procurement process. This includes the deliberate splitting of requirements to reduce individual order values. The accounting officer shall promptly institute disciplinary action against any official in terms of paragraph 38 and the code of conduct and ethical standards as contemplated in this policy.
- 6) No official shall engage in contact with a prospective supplier in respect of a quotation which the supplier intends to submit except where clarification of specifications is required from either party, or where the accounting officer or his delegate may negotiate with identified preferred bidders. Any such communication must be recorded and appropriately filed with the bid documentation.
- 7) The supply chain management unit must comply with all requirements for proper record keeping.

## **19. COMPETITIVE BIDS**

- 1) Goods or services above a transaction value of R200 000 (VAT included) and long term contracts may only be procured through a competitive bidding process, subject to paragraphs 11(2) and 36 of this Policy.
- 2) No requirement for goods or services above an estimated transaction value of R200 000 (VAT included), may deliberately be split into parts or items of lesser value merely for the sake of procuring the goods or services otherwise than through a competitive bidding process.
- 3) Goods of a repetitive nature and exceeds R200 000.00 (VAT included) per annum may only be procured through a competitive bidding process, subject to paragraph 11.2 of this Policy.
- 4) No official shall engage in contact with a prospective bidder in respect of a bid which the supplier intends to submit except where clarification of specifications is required from either party, or where the accounting officer may negotiate with identified preferred bidders. Any such communication must be recorded and appropriately filed with the bid documentation



## **20. PROCESS FOR COMPETITIVE BIDDING**

The procedures for the following stages of a competitive bidding process are as follows:

- a) Compilation of bidding documentation as detailed in paragraph 21;
- b) Public invitation of bids as detailed in paragraph 22;
- c) Site meetings or briefing sessions as detailed in paragraph 22;
- d) Handling of bids submitted in response to public invitation as detailed in paragraph 23;
- e) Evaluation of bids as detailed in paragraph 28;
- f) Award of contracts as detailed in paragraph 29;
- g) Administration of contracts: After approval of a bid, the accounting officer and the bidder must enter into a written agreement unless the bidding documentation constitutes an acceptable contract.
- h) Proper record keeping: Original and legal copies of written agreements should be kept in a secure place for reference purposes.

## **21. BID DOCUMENTATION FOR COMPETITIVE BIDS**

- 1) The criteria to which bid documentation for a competitive bidding process must comply, must –
  - a) take into account –
    - i) the general conditions of contract and any special conditions of contract, if specified;
    - ii) any Treasury guidelines on bid documentation;
    - iii) the requirements of the National Building Regulations
    - iv) the requirements of the Construction Industry Development Board (CIDB), in the case of a bid relating to construction, upgrading, refurbishment of buildings or infrastructure; and
    - v) a statement indicating whether any portion of the goods or services are expected to be sourced from outside the Republic, and, if so, what portion whether any portion of payment from the municipality is expected to be transferred out of the Republic;
  - b) include the preference points system to be used as contemplated in the Preferential Procurement Regulations and evaluation and adjudication criteria, including any criteria required by other applicable legislation;
  - c) determine and include the evaluation points and criteria for functionality to be used as contemplated in the Preferential Procurement Regulations and clearly specify the following aspects;
    - i) Evaluation criteria for functionality;

The evaluation criteria may include criteria such as consultant's relevant experience for the assignment, the quality of the methodology; qualifications of key personnel assigned to the project; transfer of knowledge, etc.

ii) Weight of each criterion;

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

iii) Applicable Value

iv) Minimum qualifying score for functionality

The minimum qualifying score that must be obtained for functionality in order for a bid to be considered further should not be generic. It should be determined separately for each bid on a case to case basis. The minimum qualifying score must not be prescribed so low that it may jeopardise the quality of the services nor so high that it may be restrictive to the extent that it jeopardizes the fairness of the SCM system.

- d) include any other criteria and or goals as contemplated in the Preferential Procurement Regulations;
- e) include the evaluation and adjudication criteria required by any other applicable legislation;
- f) compel bidders to declare any conflict of interest they may have in the transaction for which the bid is submitted;
- g) if the value of the transaction is expected to exceed R10 million (VAT included) –
  - i) the bidder is required by law to prepare annual financial statements for auditing, its audited annual financial statements –
    - (aa) for the past three years;  
or
    - (ba) since its establishment if established during the past three years;
  - ii) certificate signed by the bidder certifying that the bidder has no undisputed commitments for municipal services towards the Municipality or other service provider in respect of which payment is overdue for more than 30 calendar days;
  - iii) particulars of any contracts awarded to the bidder by the municipality during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract;
  - iv) a statement indicating whether any portion of the goods or services are expected to be sourced from outside the Republic, and, if so, what portion and whether any portion of payment from the municipality or municipal entity is expected to be transferred out of the Republic; and
- h) stipulate that disputes must be settled by means of mutual consultation, mediation (with or without legal representation), or, when unsuccessful, in a South African court of law.
- i) in the absence of formal construction or technical contracts, e.g. JBCC and General Conditions of Contract, in which guarantees / sureties are contained, the following shall apply:
  - i) where surety is required it shall be in the form of cash or a bank guarantee from a banking institution registered in terms of the Banks Act, 1990 (Act No. 94 of 1990) or from an insurer registered in terms of the Insurance Act, 2002 (Act No. 30 of 2002). Where bids in Category A cannot raise the

required surety of 2,5%, and it is feasible to deduct the amount from the Preliminary and General (P+G) payment certificate, such concessions may be granted;

Guarantees will be required as follows:

CATEGORY	PROJECT VALUE	GUARANTEE
A	≤ R500 000	2,5%
B	R500 001 – R1 000 000	5%
C	R1 000 001 – R2 000 000	7,5%
D	>R2 000 000	10%

- j) indicate the value or extent to which the execution of the contract should or should not be subcontracted;
  - k) submit a certificate from the Department of Labour indicating compliance with the Occupational Health & Safety Act, 1993 [Act No. 85 of 1993];
  - l) any other criteria determined by the Accounting Officer; and
  - m) the amount and period of retention.
- 2) A non-refundable charge shall be raised for bid forms, plans, specifications, samples and any other bid documentation, depending on the nature, magnitude and value of technical information or samples provided by the municipality for tenders in excess of R200 000.
  - 3) Bid documents may allow for bidders to bid for one or more items or for a part of one or more items but the Municipality reserves the right to accept part of a bid or a complete bid or quotation even if it is not the lowest, provided the interests of the Municipality are best served thereby. Bid documents must be specific as certain contracts, e.g. the construction of a bridge, may require that the whole contract is to be completed by the same contractor.
  - 4) Where bidders insert prices on price lists supplied by the Municipality they shall delete items for which they do not bid or if the price has been included elsewhere in the price list. After bid/quotations have been opened bidders may not supplement their original offer if the original offer was incomplete.

## 22. PUBLIC INVITATION FOR COMPETITIVE BIDS

- 1) The procedure for the invitation of competitive bids is as follows:
  - a) An invitation to prospective providers to submit bids must be by means of National Treasury's eTender Portal, a public advertisement in newspapers commonly circulating locally, the notice boards at selected offices of the Municipality, the website of the Municipality, or any other appropriate ways (which may include an advertisement in the Government Tender Bulletin); and

- b) the information contained in a public advertisement, must include –
- i) the closure date for the submission of bids, which may not be less than one calendar month in the case of transactions over R10 million (VAT included), or which are of a long term nature, or 14 days in any other case, from the date on which the advertisement is placed in a newspaper, subject to subparagraph (2) of this policy;
  - ii) a statement that bids may only be submitted on the bid documentation provided by the Municipality; **and**
  - iii) date, time and venue of any proposed site meetings or briefing sessions.
  - iv) the contact details of the official should enquiries be made with regard to technical detail of the bid
- c) All bids advertised on the eTender Publication Administrator must at least contain the following information:
- Bid description
  - Bid Number
  - Name of Municipality
  - The physical location where the goods, services or works specified in the bid are required;
  - The closing date and time of the bid;
  - Municipality contact details (postal and physical address, telephone number, email address, etc.);
  - The physical location where hard copies of bids can be collected
  - The physical location where bids should be delivered; and
  - The bid documents (MBDs, Terms of Reference, GCC and any other relevant documents)
- 2) The accounting officer may determine a closure date for the submission of bids which is less than one calendar month requirement, or 14 days, 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.
  - 3) Bids submitted must be sealed and marked as indicated in the bid advertisement and the bid document.
  - 4) Where bids are requested in electronic format, such bids must be supplemented by sealed hard copies.
  - 5) Site meetings and bid clarification meetings.
    - 1) Site meetings/ bid clarification meetings will, in general, not be compulsory. In exceptional circumstances however, a site meeting/ bid clarification meeting may be made compulsory with the approval of the relevant director.
    - 2) If site meetings/ bid clarification meeting are to be held, full details must be included in the bid notice and the bid document, including whether or not the site meeting/ bid clarification meeting is compulsory.
    - 3) Where site meetings/bid clarification meetings are made compulsory, the date for the site meetings/ bid clarification meeting shall be not less than 7 (seven) days after the bid has been advertised.
    - 4) Site meetings/ bid clarification meeting will be chaired by a duly authorised representative from the Supply Chain Management Unit. The relevant line manager responsible for a specific bid or the duly appointed consulting engineering firm

employee must be present at the site meetings/ bid clarification meeting in order to provide technical information and to answer technical related questions that might arise from the prospective bidders.

- 5) The chairperson of the site meeting/clarification meeting must explain the way how the site meetings/bid clarification will be conducted and must exclude prospective bidders that arrive after the meeting has been opened.
- 6) Prospective bidders present at the site meetings/bid clarification meeting, will be required to confirm their attendance by signing the attendance register as provided by the Supply Chain Management Unit.
- 7) In instances where bid documentation provides for an attendance certificate, such a certificate must be signed by the representative of the Supply Chain Management Unit who was present at the site meetings/ bid clarification meeting and submitted with the bid document.
- 8) If at a site meetings/ bid clarification meeting, any additional information is provided or clarification of vague points is given, such additional information or clarification must be conveyed to all bidders in writing within a time frame as determined by the municipality, but not later than 7 (seven) days before the bid closing date.
- 9) Drawings and other supplements to bid documents may be provided to prospective bidders at the site meetings/bid clarification meetings.
- 10) A bidder who failed to attend a compulsory site meeting/ bid clarification meeting will be disqualified from the bidding process.

#### 6) Validity periods

- 1) The period for which bids are to remain valid and binding must be indicated in the bid documents.
- 2) The validity period is calculated from the bid closure date and bids shall remain in force and binding until the end of the final day of that period.
- 3) This period of validity may be extended by the Supply Chain Management Unit, provided that the original validity period has not expired, and that all bidders are given an opportunity to extend such period. Any such extension shall be agreed to by a bidder in writing.
- 4) Bidders who fail to respond to such a request before the validity of their bid expires, or who decline such a request shall not be considered further in the bid evaluation process.
- 5) In the event that an appeal is received, the validity period is deemed to be extended until finalisation of the appeal.

#### 7) Samples

- 1) Bid documents may require samples that must be submitted.

- 2) Where samples are called for in the bid documents, samples (marked with the bid and item number as well as the bidder's name and address) shall be delivered separately (to the bid) to the Supply Chain Management representative mentioned in the bid document before the bid closing date.
- 3) A register will be kept by the Supply Chain Management representative of samples received from prospective bidders. An acknowledgement of receipt shall be issued to the prospective bidder as proof of delivery.
- 4) Bids may not be included in parcels containing samples.
- 5) If samples are not submitted as required in the bid documents then the bid concerned must be declared non-responsive.
- 6) Samples shall be supplied by a bidder at his/her own expense and risk. The municipality shall not be obliged to pay for such samples or compensate for the loss thereof, unless otherwise specified in the bid documents.
- 7) If a bid is accepted for the supply of goods according to a sample submitted by the bidder, that sample will become the contract sample. All goods/materials supplied shall comply in all respects to that contract sample. If not, it might be deemed as a breach in contract.
- 8) The municipality reserves the right not to return the contract sample and may dispose of it at its own discretion.

### **23. PROCEDURE FOR HANDLING, OPENING AND RECORDING OF BIDS**

- 1) The procedures for the handling, opening and recording of bids, are as follows:
  - a) Bids–
    - i) must be opened only in public;
    - ii) must be opened on the same date and as soon as possible after the period for the submission of bids has expired;
    - iii) received after the closing time should not be considered and must be returned unopened immediately;
    - iv) An independent observer from another internal department can be requested to attend the opening of bid documents at the request of the supply chain management representative.
  - b) Any bidder or member of the public has the right to request that the names of the bidders who submitted bids in time must be read out and, if practical, also each bidder's total bidding price;
  - c) No information, except the provisions in subparagraph (b), relating to the bid should be disclosed to bidders or other persons until the successful bidder is notified of the award; and
  - d) The accounting officer must
    - i) record in a register all bids received in time;
    - ii) make the register available for public inspection; and

iii) publish the entries in the register and the bid results on the website.

iv) notify the successful and unsuccessful bidders in writing.

3) Stamping of bids and reading out of names

a) As each bid is opened the name of the bidder and the amount shall be read out.

An employee shall date-stamp the bid or quotation and all enclosures related to prices, delivery periods and special conditions. Bids and quotations shall be numbered in the sequence in which they have been opened and the words "and last" shall be endorsed on the last bid or quotation. In instances where only one bid has been received the words "and only" shall be endorsed on such bid.

b) Where prices have not been inserted in all relevant spaces on the form and such items have not been deleted by bidders, such spaces shall be stamped "no price" by the employee who opens the bids or quotations.

**Note:** *It is the policy of the Municipality to disclose bid prices. With regard to quotations of a value below R200 000 (VAT included), names of bidders and prices will also be read out, will be registered in a register and will be available for inspection at the Supply Chain Management Unit.*

b) Details on how bidders responded to the relevant evaluation criteria e.g. SMME contribution, community benefits, job creation, environmental impact, etc. should not be disclosed.

4) Late Bids

a) Bids or quotations arriving after the specified closing time shall not be considered and where practicable and cost effective shall be returned to the bidder unopened with a letter explaining the circumstances.

b) Bid documents must clearly state the venue where the bidding box is situated for each bid. Any bid delivered to the wrong bid box will not be considered, even if it was delivered on time.

c) Where it's necessary to open a late bid or quotation to obtain the name and address of the sender, each page of the document shall be stamped "late bid" before the bid is returned to the bidder. The envelope must be stamped and initialled in like manner and must be retained for record purposes.

5) Amendments before the closing date.

The Municipality is entitled to amend any bid condition, validity period, specification or plan, or extend the closing date of such a bid or quotation before the closing date, provided that such amendments or extensions are advertised and/or that all bidders to whom bid documents have been issued, are advised in writing per registered post or by fax of such amendments or of the extension clearly reflecting the new closing date and time. For this reason, employees and authorised service providers issuing bids shall keep a record of the names, addresses and contact numbers of the persons or enterprises to whom bid documents have been issued.

6) Dealing with bids and quotations if the closing date thereof has been extended.

Where the closing date of a bid or quotation is extended, the notice which makes known such extensions shall also mention the bids or quotations already received, will be retained unopened in the bidding box and be duly considered after the expiry of the extended period, unless the bidder requests that such bid or quotation to be returned to the bidder or unless the bidder cancels it by submitting a later dated bid or quotation before the extended closing date.

- 7) No amendments after the closing date allowed
  - a) The municipality is not entitled to amend any bid condition, specification or plan, after the closing date of the bid and before the acceptance of a bid or quotation has been notified.
  - b) No person may amend or tamper with any tenders, quotations, contracts or bids after their submission.

#### **24. NEGOTIATIONS WITH PREFERRED BIDDERS AND COMMUNICATION WITH PROSPECTIVE PROVIDERS AND BIDDERS**

- 1) The accounting officer may negotiate the final terms of a contract with bidders identified through a competitive bidding process as preferred bidders, provided that such negotiation –
  - a) does not allow any preferred bidder a second or unfair opportunity;
  - b) is not to the detriment of any other bidder; and
  - c) does not lead to a higher price than the bid as submitted.
  - d) does not lead to a lower price in respect of sale of land / goods.
- 2) Minutes of such negotiations must be kept for record purposes and as far as practical be made part of the final contract.
- 3) No unauthorised communication with bidders and prospective providers
  - a) Where bids and quotations have been submitted to the municipality, a bidder may not communicate with any councillor, official, or authorised service provider on any matter regarding his bid, quotation or offer other than a notice of withdrawal.
  - b) No municipal personnel may communicate with a bidder or any other party who has an interest in a bid, during the period between the closing date for the receipt of the bid or quotation (or date of receipt of an offer), and the date of notification of the successful bidder of acceptance of his bid, quotation or offer, except as provided for in paragraph (c) below. Every such case of unauthorised communication shall forthwith be reported to the Supply Chain Management Unit as well as the relevant chairperson of the Bid Adjudication Committee. A bid or quotation in respect of which unauthorised communication has occurred may be disqualified.
  - c) The chairperson of the Bid Adjudication Committee, as determined in paragraph 29(2), may authorise an employee or authorised service provider, in writing, to communicate with a bidder during the period mentioned in subsection (b) above for the purpose of:-
    - i) explaining and verification of declarations made in the bid response;
    - ii) confirming technical particulars and the compliance thereof with specifications;



- iii) clarifying delivery times/quantities;
  - iv) extending the validity period of a bid;
  - v) clarifying any other commercial aspect.
- d) In all cases where authority has been granted to communicate with bidders in terms of paragraph (c) above, it should be clearly stated in the submission to the Bid Adjudication Committee the nature of the communication as well as by whom such authority to communicate has been granted.
- e) All changes and/or clarification of specifications shall be conveyed to all bidders by means or methods as specified in paragraph 23.

## **25. TWO- STAGE BIDDING PROCESS**

- 1) A two-stage bidding process is allowed for –
  - a) large complex projects; or
  - b) projects where it may be undesirable to prepare complete detailed technical specifications; or
  - c) long term projects with a duration period exceeding three years.
- 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.
- 3) In the second stage final technical proposals and priced bids should be invited.
- 4) A two envelope system differs from a two-stage (prequalification) bidding process in that a technical proposal and the financial offer are submitted in separate envelopes at the same place and time. The financial offers will only be opened once the technical proposals have been evaluated.

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

- 1) A committee system for competitive bids is hereby established, consisting of the following committees for each transaction or cluster of transactions as the accounting officer may determine:
  - a) a bid specification committee;
  - b) a bid evaluation committee; and
  - c) a bid adjudication committee;
- 2) The accounting officer appoints the members of each committee, taking into account section 117 of the Act; and
- 3) A neutral or independent observer, appointed by the accounting officer, must attend or oversee a committee when this is appropriate for ensuring fairness and promoting transparency.
- 4) The committee system must be consistent with –

- a) paragraph 27, 28 and 29 of this Policy; and
  - b) any other applicable legislation.
- 5) The accounting officer may apply the committee system to formal written price quotations.

## **27. BID SPECIFICATION COMMITTEES**

- 1) The appropriate bid specification committee must compile the specifications for each procurement transaction for goods or services by the Municipality, depending on the department involved.
- 2) Specifications –
  - a) must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services;
  - b) must take account of any accepted standards such as those issued by Standards South Africa, the International Standards Organization, or an authority accredited or recognised by the South African National Accreditation System with which the equipment or material or workmanship should comply;
  - c) must, where possible, be described in terms of performance required and / or in terms of descriptive characteristics for design;
  - d) 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;
  - e) may not make reference to any particular trade mark, name, patent, design, type, specific origin or producer unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the word “equivalent”;
  - f) must indicate each specific goal or functionality for which points may be awarded in terms of the points system set out in the Preferential Procurement Policy Framework Act, 2000, read with the Preferential Procurement Regulations 2011 as amended; and
  - g) must be approved by either the chief financial officer or relevant senior manager prior to publication of the invitation for bids in terms of paragraph 22 of this Policy.
- 3) The bid specification committee must be composed of the senior manager and at least one professional with required technical expertise from the department responsible for the function involved (requiring the goods or services), senior manager legal services and supply chain management practitioner from the supply chain management unit, and may, when appropriate, include local economic development officer and external specialist advisors
- 4) No person, advisor or corporate entity involved with the bid specification committee, or director of such a corporate entity, may bid for any resulting contracts.

## **28. BID EVALUATION COMMITTEES**

- 1) A bid evaluation committee must –
  - a) evaluate bids in accordance with –
    - i) the specifications for a specific procurement; and

- ii) the points system set out in terms of paragraph 27(2)(f).
  - iii) the general criteria to evaluate technical and financial ability as per **Annexure B**.
  - iv) the framework for the adjudication of bids as contained in Part B (Preferential Procurement Policy).
- b) evaluate each bidder's ability to execute the contract;
  - c) evaluate the tenders to ensure value for money for the municipality;
  - d) check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not in arrears for more than three months and;
  - e) consider only those bidders who has submitted and complied with the material terms and requirements of the bid documentation;
  - f) when calculating comparative prices, take into account any discounts which have been offered unconditionally, however, a discount which has been offered conditionally must, despite not being taken into account for evaluation purposes, be implemented when payment is effected;
  - g) submit to the adjudication committee a report and recommendations regarding the award of the bid or any other related matter.
  - h) submit to the adjudication committee a report and reasons in the event of a tender not being awarded.
- 2) A bid evaluation committee must as far as possible be composed of-
- a) Standing members
    - i) the relevant senior manager (or delegates);
    - ii) a delegated Manager: Treasury or senior supply chain management practitioner; and
    - iii) any other manager(s).
  - b) Other members:
    - i) At least one knowledgeable / professional official from the Directorate for whom the bid is called.
    - ii) Technical experts, consultants or advisors, provided that these experts may only actively contribute to discussions, but not vote on the items evaluated.
- 3) A manager: treasury or a senior supply chain manager practitioner nominated by the CFO will be the chairperson of the Bid Evaluation Committee.
- 4) The quorum for each meeting of the Bid Evaluation Committee is at least one senior supply chain management practitioner and a representative of the relevant directorate.

## **29. BID ADJUDICATION COMMITTEES**

- 1) A bid adjudication committee must –
  - a) consider the report and recommendations of the bid evaluation committee;

and

- b) either –
    - i) depending on its delegations, make a final award or a recommendation to the accounting officer to make the final award; or
    - ii) make another recommendation to the accounting officer how to proceed with the relevant procurement.
  - c) Consider the report and recommendations of the bid evaluation committee where it is recommended that the tender not be awarded; and either
    - i) Take a decision that the tender not be awarded for the reasons presented and that it be re-advertised or not be re-advertised; or
    - ii) take a decision that the tender be awarded and make a final award or a recommendation to the accounting officer to make the final award.
- 2) A bid adjudication committee shall be composed of the following: –
- a) the chief financial officer or, if the chief financial officer is not available, a manager in the budget and treasury office reporting directly to the chief financial officer and designated by the chief financial officer; and
  - b) the Manager: Treasury or senior supply chain management practitioner; and
  - c) Directors of each directorate or in their absence, a duly delegated official.
  - d) if deemed necessary, a technical expert in the relevant field who is an official, if such an expert exists
- 3) The accounting officer may appoint the CFO as chairperson of the committee. If the chairperson is absent from a meeting, the members of the committee who are present must elect one of them to preside at the meeting and will be documented in the minutes.
- 4) Neither a member of a bid evaluation committee, nor an advisor or person assisting the evaluation committee, may be a member of a bid adjudication committee.
- 5) The chairperson of the bid evaluation committee may present their reports to the bid adjudication committee and clarify any uncertainties. However, such members will not have any voting power or considered when determining a quorum.
- 6) A quorum is of 50 % plus 1, with the Chief Financial Officer or, if the chief financial officer is not available, another manager in the budget and treasury office reporting directly to the chief financial officer and designated by the chief financial officer being, at all times one of the quorum-forming members.
- 7) If the bid adjudication committee decides NOT to award a bid, either in support of the recommendation by the bid evaluation committee or on their own decision, the bid adjudication committee may:-
- a) refer the evaluation report back to the bid evaluation committee for review and/or reconsideration or clarification, or
  - b) refer the bid document to bid specification to revise and advertise; or
  - c) cancel the bidding process.

- 8) If the bid adjudication committee decides to award a bid other than the one recommended by the bid evaluation committee, the bid adjudication committee must prior to awarding the bid-
  - a) check in respect of the preferred bidder whether that bidder's municipal rates and taxes and municipal service charges are not in arrears, and;
  - b) notify the accounting officer.
- 9) The accounting officer may, in terms of a notice received as contemplated in paragraph 29.7—
  - a) after due consideration of the reasons for the deviation, ratify or reject the decision of the bid adjudication committee referred to; and
  - b) if the decision of the bid adjudication committee is rejected, refer the decision of the adjudication committee back to that committee for reconsideration.
- 10) The accounting officer may at any stage of a bidding process, refer any recommendation made by the evaluation committee or the adjudication committee back to that committee for reconsideration of the recommendation.
- 11) The accounting officer must comply with section 114 of the Act within 10 working days.
- 12) If the Bid Adjudication Committee or other delegated official has resolved that a bid be accepted, the successful and unsuccessful bidders shall be notified in writing of this decision.
- 13) Every notification of decision shall be sent via registered mail and either faxed or sent via electronic mail to the address chosen by the bidder, with a copy of proof of transmission kept for record purposes, or shall be delivered by hand, in which case acknowledgement of receipt must be signed and dated on a copy of such notification and kept for record purposes.
- 14) Members of the bid specification committee, bid evaluation committee and technical advisors may attend the bid adjudication committee to provide clarity, but has no decision making rights pertaining to the award.
- 15) The accounting officer may sub-delegate its power in terms of this policy to the bid evaluation committee, the bid adjudication committee and the Manager Supply Chain Management.
- 16) After approval of a bid, the accounting officer and the bidder must enter into a written agreement.
- 17) Original / legal copies of written contracts agreements must be kept in a secure place for reference purposes.
- 18) The accounting officer is empowered to condone non-compliance with peremptory requirements of bids in cases where the condonation is not incompatible with public interest and promote the values of fairness, competitiveness and cost-effectiveness which are listed in Section 217 of the Constitution.

### **Successful bidder briefing**

- 19) The notification to the successful bidder in terms of this Policy may require of the successful bidder to attend a compulsory briefing session with the municipality before commencement of the contract at no cost to the municipality.
- 20) The purpose of the briefing session is to:
  - a) Introduce the municipal contract manager allocated to the specific contract in terms of this policy and to meet the successful bidders contract manager;
  - b) Examine and analyse the bid document and contractual conditions to ensure that specific expectations of the municipality and the obligations of the successful bidder are well understood;
  - c) Discuss the strengths and weaknesses of the bidder's submission in relation to the specific evaluation criteria and the bidders evaluated score.
  - d) Communicate and document the anticipated contract risks and challenges as perceived by both the municipality and the successful bidders;
  - e) To develop mitigating strategies to address and mitigate the contract risk and challenges; and
  - f) Communicate the contract administration process as stated in legislation and this policy.
  - g) Formally sign the bid contract.
- 21) At least the following persons must attend the briefing session:
  - a) The municipal contract manager;
  - b) The authorised municipal supply chain official;
  - c) The successful bidders authorised contract signatory;
  - d) The successful bidders contract manager.
- 22) The notification to the successful bidder must state the date, time and place of the briefing session in writing:
  - a) Proper minutes must be kept of each briefing session;
  - b) All correspondence and documentation in relation to the briefing session must be maintained as part of the procurement documentation.

#### **Unsuccessful bidder debriefing**

- 23) The unsuccessful bidder debriefing service is offered by the municipality to unsuccessful bidders upon request.
- 24) During the debriefing unsuccessful bidders can find out how their proposal scored against required criteria and obtain comments from the evaluation team on their bid.
- 25) The debriefing should be a positive and constructive experience that explains how bidders can improve future submissions.

- 26) The debriefing an opportunity for unsuccessful bidders to:
- a) Learn more about the procurement and evaluation process in an informal setting.
  - b) Find out how their proposal scored against the required criteria.
  - c) Hear the overall comments from the evaluation team on your bid.
  - d) Gather information on how future submissions may be improved.
- 27) The debriefing is not part of the Supply Chain complaint or appeal process in terms of this policy.
- 28) The debriefing is not legal proceeding and no legal representation is permitted at the debriefing.
- 29) At the debriefing session the unsuccessful bid is not compared to other bids, nor will information be provided to the unsuccessful bidder about other bids.
- 30) In scheduling bidders debriefings session upon the request of the unsuccessful bidder, the municipality must:
- a) Confirm the date and time of the debriefing session in writing;
  - b) Conduct separate debriefings with each vendor;
  - c) Ensure that proper minutes are kept of each debriefing session;
  - d) Retain all correspondence and documentation relevant to the debriefing session as part of the procurement documentation.
- 31) In conducting bidders debriefings, the municipality may:
- a) Provide a general overview of the evaluation process set out in the bid documents;
  - b) Discuss the strengths and weaknesses of the bidder's submission in relation to the specific evaluation criteria and the bidders evaluated score.
  - c) Provide suggestions on how the supplier may improve future submissions;
  - d) Address specific questions and issues raised by the supplier in relation to their submission.

### **Acceptance of offers**

- 32) At the invitation of bids, or quotations:
- a) the municipality is not obliged to accept the lowest or any offer;
  - b) The municipality may, where an offer relates to more than one item, accept such offer in respect of or any specific item or items.
  - c) The municipality may accept any offer notwithstanding the fact that the offer does not comply with the bid invitation in respect of which the offer has been made subject to the conditions of this policy.



### **30. PROCUREMENT OF BANKING SERVICES**

- 1) A contract for banking services –
  - a) must be procured through competitive bids;
  - b) must be consistent with section 7 or 85 of the Act; and
  - c) may not be for a period of more than five years at a time.
- 2) The process for procuring a contract for banking services must commence at least nine months before the end of an existing contract.
- 3) The closure date for the submission of bids may not be less than 60 days from the date on which the advertisement is placed in a newspaper in terms of this policy. Bids must be restricted to banks registered in terms of the Banks Act, 1990 (Act No. 94 of 1990).

### **31. PROCUREMENT OF IT RELATED GOODS OR SERVICES**

- 1) The accounting officer may request the State Information Technology Agency (SITA) to assist with the acquisition of IT related goods or services through a competitive bidding process.
- 2) Both parties must enter into a written agreement to regulate the services rendered by, and the payments to be made to, SITA.
- 3) The accounting officer must notify SITA together with a motivation of the IT needs if–
  - a) the transaction value of IT related goods or services required in any financial year will exceed R50 million (VAT included); or
  - b) the transaction value of a contract to be procured whether for one or more years exceeds R50 million (VAT included).
- 4) If SITA comments on the submission and the Municipality disagree with such comments, the comments and the reasons for rejecting or not following such comments must be submitted to the council, the National Treasury, the relevant provincial treasury and the Auditor General.

### **32. PROCUREMENT OF GOODS AND SERVICES UNDER CONTRACTS SECURED BY OTHER ORGANS OF STATE**

- 1) The accounting officer may procure goods or services under a contract secured by another organ of state, but only if –
  - a) the contract has been secured by that other organ of state by means of a competitive bidding process applicable to that organ of state;
  - b) there is no reason to believe that such contract was not validly procured;
  - c) there are demonstrable discounts or benefits to do so; and
  - d) that other organ of state and the provider have consented to such procurement in

writing.

2) Subparagraphs (1)(c) and (d) do not apply if –

- a) a municipal entity procures goods or services through a contract secured by its parent municipality; or
- b) a municipality procures goods or services through a contract secured by a municipal entity of which it is the parent municipality.

### **33. PROCUREMENT OF GOODS NECESSITATING SPECIAL SAFETY ARRANGEMENTS**

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

### **34. PROUDLY SA CAMPAIGN**

- 1) The Municipality supports the Proudly SA Campaign to the extent that, as far as possible, preference is given to procuring local goods and services.
- 2) Bids in respect of services, works or goods that have been designated for local production and content, must contain a specific bidding condition that only locally produced goods, services or works or locally manufactured goods with a stipulated minimum threshold for local production and content will be considered.  
The National Department of Trade and Industry is empowered to designate industry sectors, in line with national development and industrial policies for local production, where only locally produced goods, services or construction works, or locally manufactured goods that meet a stipulated minimum threshold for local production and content, may be used.
- 3) In the case of designated sectors, where in the award of bids, local production and content is of critical importance, such bids must be advertised with a specific condition of bidding, that only locally produced goods, services or construction works or locally manufactured goods, with a stipulated minimum threshold for local production and content will be considered.
- 4) Any instructions, circulars and guidelines issued by National Treasury in the above regard must be complied with.
- 5) Where there is no designated sector, bids may include, as a specific condition of bidding, that only locally produced goods, services or construction works, or locally manufactured goods with a stipulated minimum threshold for local production and content, will be considered, on condition that such prescript and threshold(s) are in accordance with the specific directives issued for this purpose by the National Treasury in consultation with the Department of Trade and Industry.
- 6) Every bid where local production and content are used, it must be measurable and audited.
- 7) Bids must be evaluated in terms of the evaluation criteria stipulated in the bid documents. The amendment of the stipulated minimum threshold for local production and content after the closure of bids is not allowed as this may jeopardise the fairness of the process.

### **35. APPOINTMENT OF CONSULTANTS**

- 1) The accounting officer may procure consulting services provided that any Treasury guidelines and CIDB requirements in respect of consulting services are taken into account when such procurements are made.

- 2) Consultancy services must be procured through competitive bids if
  - a) the value of the contract exceeds R200 000 (VAT included); or
  - b) the duration period of the contract exceeds one year.
- 3) In addition to any requirements prescribed by this policy for competitive bids, bidders must furnish particulars of –
  - a) all consultancy services provided to the municipality in the last five years; and
  - b) any similar consultancy services provided to the municipality in the last five years.
- 4) The accounting officer 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.

### **36. DEVIATION FROM, AND RATIFICATION OF MINOR BREACHES OF, PROCUREMENT PROCESSES**

- 1) The accounting officer may –
  - a) Dispense with the official procurement processes established by this Policy and procure any required goods or services through any convenient process, which may include direct negotiations and through the process set out in this paragraph provided that the municipality shall adhere to fair, equitable, transparent, competitive and cost-effective, procurements to the maximum extent practicable.
  - b) Dispense with the official procurement processes established by this Policy 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;
    - v) Acquisition of animals for zoos and/or nature and game reserves; or
    - vi) In any other exceptional case where it is impractical or impossible to follow the official procurement processes; and
    - vii) ad-hoc repairs to plant and equipment where it is not possible to ascertain the nature or extent of the work required in order to call for bids; and
    - viii) workskop strip and quote
  - c) 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.
- 2) The accounting officer must record the reasons for any deviations in terms of subparagraphs (1)(a) and (b) of this policy and report them to the next meeting of the council and include as a note to the annual financial statements.

- 3) Subparagraph (2) does not apply to the procurement of goods and services contemplated in paragraph 11(2) of this policy.
- 4) All identified possible unauthorized, irregular and fruitless and wasteful expenditure must be referred to the Municipal Public Accounts Committee (MPAC) investigation and the MPAC makes recommendations to Council with the exception of minor breaches ratified by the accounting officer.
- 5) The following will be deemed not to be deviations from SCM processes:
  - (i) Advertisements that are placed in National Government and Provincial Government Gazettes.
  - (ii) The procurement of fuel from any recognised Fuel Company and their depots, except when fuel is procured for the Municipal Depot.
  - (iii) Vehicles serviced by the agent in terms of the warranty or service plan of the vehicle as well as any other repairs or maintenance that is identified when the vehicle is being serviced by an agent in terms of the warranty or service plan of the vehicle.
  - (iv) The acquisition of services of medical specialists as may be required from time to time and in terms of the Pension Funds Amendment Act, Act 65 of 2001 and related regulations and amendments.
  - (v) Any machinery or other equipment serviced by the agent in terms of the warranty or service plan of that machinery or equipment.
  - (vi) Training, courses, seminars and/or workshops advertised by a professional institution related to local government.
  - (vii) The use of restaurants for special functions where quotations cannot be obtained.
  - (viii) The procurement of newspapers for municipal libraries and other municipal offices.
  - (ix) The acquisition of driving license cards from the service provider officially appointed by the National Department of Transport to issue such cards.
  - (x) Pauper burials and cremations.
  - (xi) The acquisition of specialist services of attorneys, advocates and labour relations practitioners subject thereto that the acquisition of such services be dealt with in terms of the Municipality's Delegation of Powers and Duties as amended from time to time and any Bargaining Council Agreements on Disciplinary Procedures.

### **37. UNSOLICITED BIDS**

- 1) In accordance with section 113 of the Act there is no obligation to consider unsolicited bids received outside a normal bidding process.
- 2) The accounting officer may decide in terms of section 113(2) of the Act to consider an unsolicited bid, only if –
  - a) the product or service offered in terms of the bid is a demonstrably or proven unique innovative concept;
  - b) the product or service will be exceptionally beneficial to, or have exceptional cost advantages;
  - c) the person who made the bid is the sole provider of the product or service; and
  - d) the reasons for not going through the normal bidding processes are found to

be sound by the accounting officer.

- 3) If the accounting officer decides to consider an unsolicited bid that complies with subparagraph (2) of this policy, the decision must be made public in accordance with section 21A of the Municipal Systems Act, together with –
  - a) reasons as to why the bid should not be open to other competitors;
  - b) an explanation of the potential benefits if the unsolicited bid was to be accepted; and
  - c) an invitation to the public or other potential suppliers to submit their comments within 30 days of the notice.
- 4) The accounting officer must submit all written comments received pursuant to subparagraph (3), including any responses from the unsolicited bidder, to the National Treasury and the relevant provincial treasury for comment.
- 5) The adjudication committee must consider the unsolicited bid and may award the bid or make a recommendation to the accounting officer, depending on its delegations.
- 6) A meeting of the adjudication committee to consider an unsolicited bid must be open to the public.
- 7) When considering the matter, the adjudication committee must take into account –
  - a) any comments submitted by the public; and
  - b) any written comments and recommendations of the National Treasury or the relevant provincial treasury.
- 8) If any recommendations of the National Treasury or provincial treasury are rejected or not followed, the accounting officer must submit to the Auditor General, the relevant provincial treasury and the National Treasury the reasons for rejecting or not following those recommendations.
- 9) Such submission must be made within five business days after the decision on the award of the unsolicited bid is taken, but no contract committing the Municipality to the bid may be entered into or signed within 30 days of the submission.

### **38. COMABTING OF ABUSE OF SUPPLY CHAIN MANGEMENT SYSTEM**

- 1) The accounting officer is hereby enabled to–
  - a) take all reasonable steps to prevent abuse of the supply chain management system;
  - b) investigate any allegations against an official or other role player of fraud, corruption, favouritism, unfair or irregular practices or failure to comply with this Policy, and when justified –
    - i) take appropriate steps against such official or other role player; or
    - ii) report any alleged criminal conduct to the South African Police Service;
  - c) check the National Treasury's database prior to awarding any contract to ensure that no recommended bidder, or any of its directors, is listed as a person prohibited from doing business with the public sector;

- d) reject any bid from a bidder–
    - i) if any municipal rates and taxes or municipal service charges owed by that bidder or any of its directors to the Municipality, or to any other municipality or municipal entity are in arrears for more than three months; or
    - ii) who during the last five years has failed to perform satisfactorily on a previous contract with the Municipality or any other organ of state after written notice was given to that bidder that performance was unsatisfactory;
  - e) reject a recommendation for the award of a contract if the recommended bidder, or any of its directors, has committed a corrupt or fraudulent act in competing for the particular contract;
  - f) cancel a contract awarded to a person if –
    - i) the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract; or
    - ii) 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; and
  - g) reject the bid of any bidder if that bidder or any of its directors –
    - i) has abused the supply chain management system of the Municipality or has committed any improper conduct in relation to such system;
    - ii) has been convicted for fraud or corruption during the past five years;
    - iii) has wilfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
    - iv) has been listed in the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004).
- 2) The accounting officer must inform the National Treasury and relevant provincial treasury in writing of any actions taken in terms of subparagraphs (1)(b)(ii), (e) or (f) of this policy.
- 3) Restrictive practices are prohibited
- a) In terms of section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, an agreement between, or concerted practice by, firms, or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if a bidder is or a contractor was involved in collusive bidding.
  - b) If a bidder or contractor, based on reasonable grounds or evidence obtained by the municipality, has engaged in the restrictive practice referred to above, the municipality may refer the matter to the Competition Commission for investigation and possible imposition of administrative penalties as contemplated in section 59 of the Competition Act No. 89 of 1998.
  - c) If a bidder or contractor has been found guilty by the Competition Commission of the restrictive practice referred to above, the purchaser may, in addition and without prejudice to any other remedy provided for, invalidate the bid for such item(s) offered, and / or terminate the contract in whole or part, and / or restrict

the bidder or contractor from conducting business with the public sector for a period not exceeding ten (10) years and / or claim damages from the bidder or contractor concerned.



## **Part 3: LOGISTICS, DISPOSAL, RISK AND PERFORMANCE MANAGEMENT**

### **39. LOGISTICS MANGEMENT**

The accounting officer must establish and implement an effective system of logistics management, which must include -

- 1) the monitoring of spending patterns on types or classes of goods and services incorporating, where practical, the coding of items to ensure that each item has a unique number;
- 2) the setting of inventory levels that includes minimum and maximum levels and lead times wherever goods are placed in stock;
- 3) the placing of manual or electronic orders for all acquisitions other than those from petty cash;
- 4) before payment is approved, certification by the responsible officer that the goods and services are received or rendered on time and is in accordance with the order, the general conditions of contract and specifications where applicable and that the price charged is as quoted in terms of a contract;
- 5) appropriate standards of internal control and warehouse management to ensure that goods placed in stores are secure and only used for the purpose for which they were purchased;
- 6) regular checking to ensure that all assets are properly managed and maintained in terms of Council's Asset Management Policy; and
- 7) monitoring and review of the supply vendor performance to ensure compliance with specifications and contract conditions for particular goods or services.

### **40. DISPOSAL MANAGEMENT**

#### **DISPOSAL AND LETTING**

##### **40.1 Objective**

The main objective of this Chapter is to provide a regulatory framework for the disposal and letting of immovable assets and to provide a framework when the Municipality enter into lease agreements.

##### **40.2 Definitions**

For the purposes of this Chapter, unless the context indicates to the contrary

40.2.1 "**Asset Transfer Regulations**" means the Municipal Asset Transfer Regulations promulgated in terms of the MFMA;

40.2.2 "**BEE Act**" means the Broad-Based Black Economic Empowerment Act 53 of 2003;

40.2.3 "**BEE**" means the economic empowerment envisaged by the BEE Act of all black people including women, workers, youth, people with disabilities and people living in rural areas through diverse but integrated socio-economic strategies that include, but are not limited to-

- a) increasing the number of black people that manage, own and control enterprises and productive assets;
- b) facilitating ownership and management of enterprises and productive assets by communities, workers, cooperatives and other collective enterprises;
- c) human resource and skills development;
- d) achieving equitable representation in all occupational categories and levels in the workforce;
- e) preferential procurement; and
- f) investment in enterprises that are owned or managed by black people;

40.2.4 "**black people**" means Africans, Coloureds and Indians;

40.2.5 "**local**" in respect of persons, means inhabitants of Cederberg Municipality and in respect of geographical area, means the jurisdictional area of Cederberg Municipality;

40.2.6 "**MFMA**" means the Local Government: Municipal Finance Management Act 56 of 2003;

40.2.7 "**The Systems Act**" means the Local Government: Municipal Systems Act 32 of 2000.

### 40.3 General principles

40.3.1 Immovable property may only be sold at market related prices and let at market related rates except when the public interest or plight of the poor demands otherwise. For purposes of this Chapter:

- "**public interest**" means disposal or letting to:-

- a) promote the achievement of equality by taking measures to protect or advance persons or categories of persons, disadvantaged by unfair discrimination;
- b) afford black people who are South African citizens a preference in respect of the disposal and letting of immovable property as envisaged in section 9(2) of the Constitution;
- c) promote BEE through disposal and letting;
- d) ensure and promote home ownership and enterprise development of black people including but not limited to ensuring that people that qualify in terms of the Municipality's GAP housing policy have access to adequate housing on a progressive basis;
- e) advance agricultural projects for land reform purposes,
- f) promote welfare and charitable purposes including non-profit rehabilitation facilities; shelters for the indigent and destitute; youth development and drug counseling;
- g) promote sports development facilities and for sports development purposes;
- h) foster equitable access to public amenities, social and/or sports clubs and similar organisations by providing discounted prices or rates in the event that the beneficiaries or the membership component of such institution or body consist of at least 50% black people and/or the membership or subscription fee of black people is less than 50% of the normal membership or subscription fee;
- i) facilitate and promote local economic development activities.
  - **"plight of the poor"** means the needs of the people that are vulnerable and unable to meet their socio-economic needs independently or to support themselves and their dependants and are in need of social assistance.

40.3.2 Black people who are South African citizens will be afforded a preference in respect of the disposal and letting of immovable assets as envisaged in section 9(2) of the Constitution regardless of whether it is sold or let at market related prices or rates or not.

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

- 40.3.4 In the case of the disposal of firearms, the National Conventional Arms Control Committee must approve any sale or donation of firearms to any person or institution within or outside the Republic.
- 40.3.5 All fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property must be reviewed annually.
- 40.3.6 Where assets are traded in for other assets, the highest possible trade-in price must be negotiated.

#### **40.4 Methods of disposal**

- 40.4.1 Transferring assets to another organ of state in terms of a provision of the MFMA enabling the transfer of assets.
- 40.4.2 Transferring assets to another organ of state at market related value or free of charge when appropriate.
- 40.4.3 By destroying assets.
- 40.4.4 Assets may be disposed of by sale or other agreement after a process which is fair, equitable, transparent and competitive and which may include:
  - 40.4.4.1 a tender process which involves the call for purely financial offers for disposal or letting of immovable assets taking into account the general principles above; .
  - 40.4.4.2 a call for development proposals in order to fulfill the constitutional and legislative duties of the Municipality including but not limited to achieving the general principles and progressive realisation of the right to access to adequate housing and the fostering of conditions which enable citizens to gain access to land on an equitable basis such as the specific objective of addressing skewed land ownership or control patterns focusing on and incorporating ownership of or control by black people; and
  - 40.4.4.3 a two-stage bidding process for large complex projects; projects where it may be undesirable to prepare complete detailed technical specifications or long term projects with a duration period exceeding three years.

40.4.5 Granting of servitudes and similar rights which confers on the person to whom the right is granted the power to use, control or manage the immovable asset as if that person is the beneficial owner. These are subject to the process and requirements set for disposal of immovable assets contained in this Chapter including the general principles in 40.3 and which must be fair, equitable, transparent and competitive.

40.4.6 Movable assets may be sold by way of written price quotations, a competitive bidding process, auction or at market related prices, whichever is the most advantageous to the Municipality (applicable to movable assets).

## **40.5 Disposal of immovable assets**

### **40.5.1 Process**

40.5.1.1 An item consisting of the motivation for the disposal of immovable assets must be prepared by the Directorate: Corporate and Strategic Services enabling Mayco to make an informed decision in principle.

40.5.1.2 After a decision in principle is taken by Mayco, Supply Chain Management will embark on the applicable process after the Accounting Officer has determined the applicable scoring methodology and/or preference points and/or weights and/or specific goals.

40.5.1.3 After the competitive bidding process, the Supply Chain Management Unit will source the valuation of the asset concerned depicting its fair market value. Fair market value will be calculated as the average of the valuations sourced from two service providers for properties with a municipal valuation in excess of R1 million. In respect of properties with a municipal valuation below R 1 million the fair market value will be determined by the municipal valuator determining a current value for the said property and for purposes of this Chapter market related prices shall have the same meaning.

40.5.1.4 Depending on the fair market value as determined, either a request for authorisation of a public participation process will be submitted by the Accounting Officer to Council or a final submission prepared by Corporate Services in terms of Section 14 of the MFMA to Council must then follow.

## **40.6 Letting**

The letting of assets must adhere to and achieve the general principles contained in 40.3.

#### **40.6.1 Process**

- 40.6.1.1 An item must be prepared by the Directorate: Corporate and Strategic Services to Mayco to obtain a decision in principle to let the immovable asset.
- 40.6.1.2 After a decision in principle is taken by Mayco, the Accounting Officer must determine the applicable scoring methodology and/or preference points and/or weights and/or specific goals.
- 40.6.1.2 The Supply Chain Management Unit must then embark on the applicable process within the framework of the general principles contained in 40.3 which process must be fair, equitable, transparent and competitive. The normal rental stock of the Municipality for housing purposes is expressly excluded from this provision but the general principles contained in 40.3 must still be complied with.
- 40.6.1.3 The necessary contractual requirements must be drafted and finalised by Corporate and Strategic Services.

#### **40.7 General**

- 40.7.1 All items or reports to Council in terms of this Chapter must contain all the applicable and prescribed provisions in terms of the Asset Transfer Regulations including but not limited to factors that Council must consider as well as those pertaining to conditions that may be imposed.
- 40.7.2 All agreements concluded pursuant to disposal or letting must contain the minimum requirements stipulated in the Asset Transfer Regulations that are applicable to agreements as well as in the MFMA.

#### **40.8 Application**

This Chapter must be applied to all assets owned by the Municipality and must be complied with in every instance where the disposal or letting of assets is dealt with.

### **41. RISK MANAGEMENT**

- 1) The accounting officer has established and implemented an effective system of risk management for the identification, consideration and avoidance of potential risks in the supply chain management system.
- 2) Risk management include –
  - a) The early and systematic identification of risks on a case-by-case basis;

- b) The allocation and acceptance of risks to the party best suited to manage such risks;
  - c) Acceptance of the cost of the risk where the cost of transferring the risk is greater than that of retaining it;
  - d) The management of risks in a pro-active manner and the provision of adequate cover for residual risks; and
  - e) The assignment of relative risks to the contracting parties through clear and unambiguous contract documentation.
- 3) Due care must be taken in the bid administration and management process to minimise the risks of:
- a) litigation by unsatisfied service providers;
  - b) misinterpretation of municipal needs;
  - c) overstatement or understatement of municipal needs;
  - d) selecting or delivery of inappropriate goods and services;
  - e) poor value for money;
  - f) appointing inappropriate suppliers;
  - g) unethical conduct of suppliers and other official involved in the supply chain management process;
  - h) uneconomical, uncompetitive and inequitable procurement.
- 4) To give effect to paragraph 3 above, the municipality will identify risk inherent to a particular bid-
- a) Risks may be identified for all bids during the specification stage of the bid process.
  - b) Risks identified in (i) above may cover the entire life cycle of a contract from initiation to completion of the goods/services.
  - c) For contracts with a life cycle in excess of 3 months, the risks may be reviewed at least monthly by the contract manager as referred to in this policy.
  - d) The contract manager in conducting the review of the bid risks during the life cycle of the contract may add new or emerging risks when identified.
- 5) A risk table may be included at specification stage for each bid that may set out:
- a) Risk description;
  - b) Background to the risk;
  - c) Impact;

- d) Likelihood;
  - e) Inherent risk;
  - f) Current controls;
  - g) Perceived control effectiveness;
  - h) Residual risk;
  - i) Risk owner;
  - j) Actions to improve management of the risk;
  - k) Time scale.
- 6) The risk rating methodology will be in accordance with the Cederberg Municipality's risk management policy.
  - 7) The Evaluation and Adjudication Committee may review risks of bids received against the predetermined risk as identified at the bid specification stage and may in conducting the review of the bid add new or emerging risks and mitigating strategies when identified.
  - 8) At the briefing session with the successful bidder in terms of this policy:
    - a) Risks identified during the Bid specification, Bid evaluation and Bid adjudication process that pertains to the contract for goods or services may be disclosed to the successful bidder to improve mitigating factors.
    - b) New and emerging risks identified may be added.
    - c) Risks identified by the successful bidder may be added to the contract risks if agreed to by the municipality.

#### **42. PERFORMANCE MANAGEMENT**

- 1) The accounting officer must establish and implement an internal monitoring system in order to determine, on the basis of a retrospective analysis, whether the authorised supply chain management processes were followed and whether the objectives of this Policy were achieved.
- 2) The quarterly report and annual report on the implementation of this policy, the monitoring of the service delivery and budget implementation plan (SDBIP) and the Annual Report may be used as tools to perform a retrospective analysis of supply chain management processes.
- 3) Vendor performance-
  - a) Each project manager shall monitor the supplier's compliance and performance to the set of specifications.



- b) If the supplier fails to perform in accordance with the specification requirements, the project manager must report such failure to the supplier in writing immediately upon becoming aware of such non-compliance for them to correct the situation.
- c) The above information will be kept and made available for future evaluation purposes, contract negotiations and regular feedback to vendors.
- d) If vendors fail to deliver in terms of the General conditions of contract, the municipality reserves the right to make use of remedies at its disposal in terms of applicable law.

#### **Part 4: OTHER MATTERS**

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

- 1) Bids in excess of R30 000 will only be evaluated if the municipality is in possession of a bidder's valid original tax clearance certificate which declares that the bidder's tax matters have been declared to be in order by the South African Revenue Service (SARS).
- 2) It is the supplier's responsibility to provide the municipality with a valid and original tax clearance certificate or to prove that their tax matters are in order.

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

- 1) Irrespective of the procurement process followed, no award may be made to a person in terms of this Policy –
  - a) who is in the service of the state;
  - b) 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
  - c) a person who is an advisor or consultant contracted with the Municipality in respect of a contract that would cause a conflict of interest.
- 2) Persons and business must declare their interest as stated in this policy when completing their supplier database application forms and bid documents. Failure to do so may lead to disqualification.
- 3) The municipality may utilise mechanisms at its disposal to determine whether a person is in the service of the state

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

- 1) The municipality does not encourage the awarding of contract by employees in decision-making positions to close family members or friends. To this extent the municipality requires all employees to make full disclosures of businesses owned by close family members and/ or friends and it is further expected that such individuals must not directly or indirectly be involved in the awarding of such

business.

- 2) The accounting officer must ensure that the notes to the annual financial statements disclose particulars of any award of more than R2 000 (VAT included) to a close family member of a person in the service of the state, or has been in the service of the state in the previous twelve months, including –
  - a) the name of that person;
  - b) the capacity in which that person is in the service of the state; and
  - c) the amount of the award.

#### **46. ETHICAL STANDARDS**

- 1) A code of ethical standards for supply chain management practitioners and other role players involved in supply chain management is hereby established in accordance with sub-paragraph (2) in order to promote –
  - a) mutual trust and respect; and
  - b) an environment where business can be conducted with integrity and in a fair and reasonable manner.
- 2) An official or other role player involved in the implementation of the supply chain management policy –
  - a) must treat all providers and potential providers equitably;
  - b) may not use his or her position for private gain or to improperly benefit another person;
  - c) may not accept any reward, gift, favour, hospitality or other benefit directly or indirectly, including to any close family member, partner or associate of that person, of a value more than R350;
  - d) notwithstanding subparagraph (2)(c), must declare to the accounting officer details of any reward, gift, favour, hospitality or other benefit promised, offered or granted to that person or to any close family member, partner or associate of that person;
  - e) must declare to the accounting officer details of any private or business interest which that person, or any close family member, partner or associate, may have in any proposed procurement or disposal process of, or in any award of a contract by, the Municipality;
  - f) must immediately withdraw from participating in any manner whatsoever in a procurement or disposal process or in the award of a contract in which that person, or any close family member, partner or associate, has any private or business interest;
  - g) must be scrupulous in his or her use of property belonging to the municipality;
  - h) must assist the accounting officer in combating fraud, corruption, favouritism

and unfair and irregular practices in the supply chain management system;  
and

- i) must report to the accounting officer any alleged irregular conduct in the supply chain management system which that person may become aware of, including –
  - i) any alleged fraud, corruption, favouritism or unfair conduct;
  - ii) any alleged contravention of paragraph 47(1) of this policy; or
  - iii) any alleged breach of this code of ethical standards.

3) Declarations in terms of subparagraphs (2)(d) and (e) –

- a) must be recorded in a register which the accounting officer must keep for this purpose;
  - i) by the accounting officer must be made to the mayor of the municipality who must ensure that such declarations are recorded in the register.

4) A breach of the code of ethics must be dealt with as follows –

- a) in the case of an employee, in terms of the disciplinary procedures of the Municipality envisaged in section 67(1)(h) of the Municipal Systems Act;
- b) in the case a councillor, in terms of Schedule 1 of the Systems Act;
- c) in the case a role player who is not an employee, or a councillor through other appropriate means in recognition of the severity of the breach; and
- d) in all cases, financial misconduct must be dealt with in terms of Chapter 15 of the Act.
- e) in the case of SCM practitioners and the other role players involved in SCM, in terms of National Treasury's code of conduct

#### **47. INDUCEMENTS, REWARDS, GIFTS AND FAVOURS**

- 1) No person who is a provider or prospective provider of goods or services, or a recipient or prospective recipient of goods disposed or to be disposed of may either directly or through a representative or intermediary promise, offer or grant –
  - a) any inducement or reward to the Municipality for or in connection with the award of a contract; or
  - b) any reward, gift, favour or hospitality to –
    - i) any official; or
    - ii) any other role player involved in the implementation of this Policy.
- 2) The accounting officer must promptly report any alleged contravention of subparagraph (1) to the National Treasury for considering whether the offending person, and any representative or intermediary through which such

person is alleged to have acted, should be listed in the National Treasury's database of persons prohibited from doing business with the public sector.

- 3) Subparagraph (1) does not apply to gifts less than R350 in value.

#### **48.SPONSORSHIPS**

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

- a) a provider or prospective provider of goods or services; or
- b) a recipient or prospective recipient of goods disposed or to be disposed.

#### **49. OBJECTIONS AND COMPLAINTS**

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

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

- 1) The accounting officer must appoint an independent and impartial person or persons, not directly involved in the supply chain management processes –
  - a) to assist in the resolution of disputes between the Municipality and other persons regarding –
    - i) any decisions or actions taken in the implementation of the supply chain management system; or
    - ii) any matter arising from a contract awarded in the course of the supply chain management system;
  - b) to deal with objections, complaints or queries regarding any such decisions or actions or any matters arising from such contract.
- 2) The accounting officer, or another official designated by the accounting officer, is responsible for assisting the appointed person to perform his or her functions effectively.
- 3) The person appointed must –
  - a) strive to resolve promptly all disputes, objections, complaints or queries received; and
  - b) submit monthly reports to the accounting officer on all disputes, objections, complaints or queries received, attended to or resolved.
- 4) A dispute, objection, complaint or query may be referred to the relevant provincial treasury if –
  - a) the dispute, objection, complaint or query is not resolved within 60 days; or
  - b) no response is forthcoming within 60 days.

- 5) If the provincial treasury does not or cannot resolve the matter, the dispute, objection, complaint or query will be referred to the National Treasury for resolution.
- 6) This paragraph must not be read as affecting a person's rights to approach a court at any time.

## **51. RIGHT OF APPEAL**

- 1) In terms of Section 62 of the Municipal Systems Act (Act 32 of 2000 as amended), a person whose rights are affected by a decision taken by the municipality, in terms of a delegated authority, in the implementation of its supply chain management system, may appeal against that decision by giving written notice of the appeal and reasons to the Municipal Manager within 21 days of the date of receipt of the notification of the decision.
- 2) Bid documents must state that any appeal in terms of this policy must be submitted to the Municipal Manager, and must contain the following:
  - a) reasons and/or grounds for the appeal;
  - b) the way in which the appellants rights have been affected; and
  - c) the remedy sought by the appellant.
- 3) The Municipal manager shall establish an appropriate appeal authority in terms of section 62 of the Systems Act, to consider appeals received in terms of paragraph 64(1) above.
- 4) The appeal authority must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.

## **52. CONTRACT MANAGEMENT**

- 1) Contract administration includes all administrative duties associated with a contract that has arisen through the acquisition/procurement processes described in this policy.
- 2) All contracts must be administered by a contract manager, who will be an internal official assigned to ensure the effective administration of the contract.
- 3) The contract manager will typically be the internal project manager assigned to the project as a whole, but may also be a cost centre owner or other responsible official.
- 4) A contract manager must be assigned to each contract and, where possible, should be involved from the earliest stages of the acquisition process.
- 5) The contract manager's duties and powers shall be governed by the conditions of contract and the general law.
- 6) In administering a contract, the contract manager will be required to form opinions and make decisions which, while in the Cederberg Municipality's best interests, must be fair to all parties concerned.

- 7) Directors shall be responsible for ensuring that contract managers are:
  - a) assigned to all contracts within the Director's area of responsibility; and
  - b) adequately trained so that they can exercise the necessary level of responsibility in the performance of their duties.
- 8) The contract manager must-
  - a) ensure that all the necessary formalities in signing up the contract and/or issuing the purchase order(s) are adhered to;
  - b) ensure that purchase order are captured on the municipality's financial system in the form in accordance with the pricing schedule;
  - c) ensure that all original contract documentation is lodged with Archives for record purposes;
  - d) monitor on a monthly basis the performance of the service provider order to ensure that all of the terms and conditions of the contract are met;
  - e) regularly report to the accounting officer on the management of the contract and the performance of the service provider;
  - f) conduct contract risk assessments for contracts longer than 3 months as stated in this Policy;
  - g) where necessary, take appropriate action where a service provider is underperforming or is in default or breach of the contract and to report such failures promptly to the accounting officer;
  - h) where appropriate, authorise payments due in terms of the contract by processing payment certificates (if applicable), and ensuring that the necessary Service Entry Sheets or Goods Received Notes are lodged with the Finance Department for capturing on the municipality's financial system;
  - i) contract variation or change procedures are approved by the accounting officer in writing which must be in line with the applicable general conditions of contract and this policy;
  - j) administer disputes, in consultation with the Supply Chain Management Unit, in terms of this policy and the applicable conditions of contract;
  - k) conduct, as appropriate, post contract reviews;
  - l) maintain adequate records (paper and/or electronic) in sufficient detail on an appropriate contract file to provide an audit trail;
  - m) act with care and diligence and observe all accounting and legal requirements;
  - n) inform the Asset Management section of the location of newly procured assets for asset register and insurance purposes; and

- o) provide contract information to the Supply Chain Management Unit, as determined by the unit, after a contract has ended.

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

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

- 1) a cap on the compensation payable to the service provider; and
- 2) that such compensation must be performance based.

### **54. UNSATISFACTORY PERFORMANCE**

- 1) When an order is placed according to a contract, the following information should be attached to the order forms to assist the transit personnel with enquiries to contractors:
  - i) Postal address;
  - ii) Telephone /Facsimile number;
  - iii) Contact person (person who will handle the order on behalf of the contractor)

#### **2) Unsatisfactory performance of contractor-**

- 1) Unsatisfactory performance occurs when performance is not in accordance with the contract conditions, e.g.:
  - i) If the contractor fails to deliver any or all the goods, works or services within the period(s) specified in the contract, or within extension thereof granted by the SCMU pursuant to GCC;
  - ii) If the contractor fails to perform any other obligation(s) under the contract, e.g.:

If, during the guarantee period, a supplier does not comply with the requirements because of faulty material used during manufacture, or faulty finishing, or any deficiency, latent or otherwise, the contractor must be requested without delay, by registered mail, to replace or repair the supply depending on the circumstances. Supplies thus replaced or repaired or services thus rendered must be guaranteed for the same period as the original supplies or services.
  - iii) If the contractor, in the judgement of the SCMU, has engaged in corrupt or fraudulent practices in competing for or in executing the contract.

#### **3) Procedure applicable to non-performance**

- 1) Should the contractor not adhere to the contract conditions (non-delivery, delivery of an inferior product, etc.), the following procedure should be followed:
  - (i) A registered letter must be sent to the supplier to inform him/her that he/she did not honour the contract conditions. The waybill number of the letter must be quoted on the relevant SCMUs copy.

- (ii) The letter must be typed and concept letters should not be used. Each case should be handled individually.
  - (iii) The intention must be clearly stated in the letter (e.g. reprimand him on his delivery; etc.).
  - (iv) The contents of GCC paragraph 21 must be quoted for the contractor's convenience.
  - (v) The bid/contract number, order-number, description of the item(s), quantities and value of contract must be clearly indicated in the letter.
  - (vi) The contractor must be afforded an opportunity of at least fourteen (14) but not less than seven (7) days to comment.
  - (vii) If the supplier fails to deliver any or all of the goods or to perform the service within the period(s) specified in the contract, the purchaser shall, without prejudice to its other remedies under the contract, deduct from the contract price, as a penalty, a sum calculated on the delivered price of the delayed goods or unperformed services using the current prime interest rate calculated for each day of the delayed until actual delivery or performance. The purchaser may also consider termination of the contract pursuant to GCC clause 23.
- 2) Whilst the above-mentioned procedure is in process and there is a need for the item/service, the minimum quantity must be purchased in accordance with delegated powers and properly recorded to be able to recover any adverse cost from the contractor.

#### **4) Procedure applicable to Buy-out transactions**

- 1) When the time provided for the contractor to respond to the claim of non-performance has lapsed, the SCMU can proceed with the buy-out transaction. Another registered letter must be issued to the contractor, informing him/her that a buy-out transaction is now being initiated against him/her and that no further deliveries will be accepted as from date of the relevant letter in rectification of the breach of contract.
  - 1.1) When the Municipality has to buy out at the contractor's expense, the loss to the Municipality must always be restricted to the minimum since it is difficult to justify the recovery of unreasonable additional costs from the contractor.
  - 1.2) Only goods, works and services of the same quality can be obtained within delegated powers.
  - 1.3) The difference in cost must be determined and any adverse costs must be recovered from the contractor.
  - 1.4) The Senior Manager: Legal Services must therefore be furnished with all relevant information/documentation in order to act on behalf of the Municipality.
  - 1.5) It is therefore important to keep proper record of all buy-out transactions.
- 2) To ensure uniformity, a register should be kept in which all buy-out/unsatisfactory performance transactions must be registered under the following headings:
  - i) Order Number;
  - ii) Date of Order;



- iii) Name and address of contractor;
  - iv) Description of item(s) (as it appears on contract/order);
  - v) Value of order;
  - vi) Contractual delivery date;
  - vii) Date of letter addressed to contractor;
  - viii) Due date of response from contractor;
  - ix) Date of buy-out transaction;
  - x) Price quotations/Bids obtained;
  - xi) Difference in cost (Latest price paid versa contract price);
  - xii) Invoice number issued to contractor – adverse cost incurred due to buy-out transaction.
- 3) A file should be opened for each and every case and copies of all relevant documents and correspondence (copy of the order, letters addressed to the supplier, price quotations/bids invited in order to obtain the product, claim against the contractor, etc.)
  - 4) Cases, which can be dealt with satisfactorily by the SCMU need not be referred to the Senior Manager: Legal Services for action. However, if a contractor repeatedly gives trouble and his/her actions cause the Municipality serious inconvenience, loss or embarrassment, the matter must be reported to the Senior Manager: Legal Services and a recommendation made regarding corrective steps which should be taken.

## **5) Cancellation of contracts**

- 1) If acceptable reasons exist, in the event the amount exceeds R200 000.00 (inclusive of VAT), the Bid Adjudication Committee has the power to resile (“daaruit terugtree”) from an agreement without detracting from any of the Municipality’s rights and in appropriate cases, to claim compensation.
- 2) Cancellation of a contract may be considered for a variety of reasons, such as wrong preferences claimed, non-compliance with contract conditions, delayed deliveries, bribery, death or sequestration/liquidation of the contractor, etc.
- 3) Cancellation of a contract is usually prejudicial to the Municipality. Therefore serious thought must be given to the grounds for considering cancellation. Clarity must be reached beforehand on the question of whether the contractor will have a claim against the Municipality or not, and if so, whether cancellation can be justified. If cancellation is decided upon, the matter must be explained fully in a memorandum to the CFO and, in the event the amount exceeds R200 000.00 (inclusive of VAT), the Bid Adjudication Committee and the following must be addressed:
  - i) The particular contract condition or section of the Act empowering the action;
  - ii) what further arrangements will be made for completing the contract; and

- iii) whether additional costs will be recovered from the contractor.
- 4) If the additional costs cannot be determined precisely, a careful estimate must be made and mentioned in the submission to the relevant Bid Adjudication Committee.
- 5) Any claim for the recovery of additional costs must be limited to the minimum actual amounts. Therefore, in such cases, purchasing organisations cannot summarily authorise purchasing to the best advantage of the Municipality, since this might prejudice the recovery of the additional costs from the original contractor. There may be other avenues of action, which might result in lower additional costs. Consequently, thought must also be given to the possibility of considering the next lowest acceptable bid received in response to the particular bid invitation, for acceptance. As an alternative, a fresh contract may be concluded through the normal bid procedures. In this process, account must be taken of the time elapsed between the closing of bids and the cancellation of the contract and the effect of the cancellation on the Municipality's schedules.

## **6) Restrictions**

- 1) Circumstances may exist, when it might be an option to restrict a person/contractor or organisation from obtaining business from the public sector.
- 2) Should the Municipality opt to restrict the contractor and/or any other person(s) from obtaining business from the public sector, the Municipality must:
  - a) inform the contractor or person(s) by registered mail or by delivery of the notice by hand of the intention to impose the restriction, provide the reasons for such decision and the envisaged period of restriction;
  - b) allow the contractor and/or person(s) fourteen (14) days to provide reasons why the envisaged restriction should not be imposed;
  - c) consider any reasons, submitted by the contractor and/or person(s) in terms of paragraph (b) above;
  - d) impose the restriction or amended restriction; and
  - e) inform the National Treasury within five (5) working days of such imposition of the name of the restricted person(s); the reason for restriction; the period of restriction and the date of commencement of the restriction.
- 3) Any restriction imposed on any person by the Municipality will, at the discretion of the Municipality also be applicable to any other enterprise or any partner, manager, director or other person who wholly or partly exercises or exercised or may exercise control over the enterprise of the first-mentioned person, and with which enterprise or person the first-mentioned person, is or was in the opinion of the Municipality actively associated.
- 4) However, when considering the restriction of a contractor/person, care must be taken that the prescribed procedures have been strictly adhered to since the court may find that an administrative action, such as the imposition of a restriction, is not valid in cases where the person or organisation, for example, has not been given a reasonable time to put the other side of the case, or has not been fully informed of the results of his failure to react. It is also possible that, where contradictions or

ambiguities exist, the court will give the benefit of doubt to the persons or organisations against whom a restriction has been imposed and may pass judgment in their favour.

#### **7) Amendment/ upliftment of restrictions**

- 1) Based on sound reasons, the Municipality is empowered to amend/ uplift any restriction imposed and must then inform the National Treasury accordingly.
- 2) A contractor or any other person restricted by the Municipality has a right to contest the restriction in a Court of Law, and the Municipality who imposed the relevant restriction will be responsible and accountable for the Court proceedings.

#### **55.HANDLING OF PROPRIETARY INFORMATION**

- 1) All information designed and prepared for the municipality is deemed as proprietary. No such information may be distributed, modified or customised for third parties without the written permission of the accounting officer.
- 2) All supplier information shall be treated as confidential.
- 3) In appropriate instances, the municipality may require security clearance and confidentiality agreements to be entered into with suppliers.

#### **56. SHORT TITLE AND COMMENCEMENT**

This part of the policy is called the Cederberg Municipality **Supply Chain Management Policy**.

The first policy was adopted 10 July 2007 and takes effect 11 July 2007.

# CEDERBERG MUNICIPALITY



## PREFERENTIAL PROCUREMENT POLICY

### PART B

**CEDERBERG MUNICIPALITY**  
**SUPPLY CHAIN MANAGEMENT POLICY – PART B**

---

**Part B**

**PREFERENTIAL PROCUREMENT POLICY** adopted in terms of section 5 of the Preferential Procurement Policy Framework Act, No. 5 of 2000 and the Preferential Procurement Regulations, 2017

**PREAMBLE**

**WHEREAS** the Cederberg Municipality aims to improve the quality of life of the local community and to free the potential of each person within a framework of facilitating service delivery, through effective governance and the Council takes into account the need for transparent procedures that give the effect to the principle of preferential procurement;

**AND WHEREAS** local economic development plays a crucial role in creating a prosperous, equitable, stable and democratic society and the overall national vision of economic development is one of decent work and living standards for all in the context of qualitative improved equality in ownership, skills and access to opportunities;

**NOW THEREFORE** the Council of the Cederberg Municipality resolves in terms of section 5 of the Preferential Procurement Policy Framework Act, No. 5 of 2000 that the principles embodied in the Preferential Procurement Regulations, 2017 are herewith integrated into the Cederberg Municipality's Supply Chain Management Policy to form the basis of the evaluation criteria for quotations and competitive bids.

**CEDERBERG MUNICIPALITY**  
**SUPPLY CHAIN MANAGEMENT POLICY – PART B**

---

**Preferential Procurement Regulations, 2017**

**Contents**

1. Definitions
2. Application
3. Identification of preference point system, designated sector, pre-qualification criteria, objective criteria and subcontracting
4. Prequalification criteria for preferential procurement
5. Tenders to be evaluated on functionality
6. 80/20 preference point system for acquisition of goods or services for Rand value equal to or above R30 000 and up to R50 million
7. 90/10 preference point system for acquisition of goods or services with Rand value above R50 million
8. Local production and content
9. Subcontracting as condition of tender
10. Criteria for breaking deadlock in scoring
11. Award of contracts to tenderers not scoring highest points
12. Subcontracting after award of tender
13. Cancellation of tender
14. Remedies
15. Short title and commencement

1. In these Regulations, unless the context indicates otherwise, any word or expression to which a meaning has been assigned in the Act must bear the meaning so assigned-

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

**“B-BBEE status level of contributor”** means the B-BBEE status of an entity in terms of a code of good practice on black economic empowerment issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;

**“black designated groups”** has the meaning assigned to it in the codes of good practice issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;

**“black people”** has the meaning assigned to it in section 1 of the Broad-Based Black Economic Empowerment Act;

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

**“co-operative”** means a co-operative registered in terms of section 7 of the Cooperatives Act, 2005 (Act No. 14 of 2005);

**“designated group”** means-

(a) black designated groups;

(b) black people;

(c) women;

(d) people with disabilities; or

(e) small enterprises, as defined in section 1 of the National Small Enterprise Act, 1996 (Act No. 102 of 1996);

**“designated sector”** means a sector, sub-sector or industry or product designated in terms of regulation 8(1)(a);

**“EME”** means an exempted micro enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;

**“functionality”** means the ability of a tenderer to provide goods or services in accordance with specifications as set out in the tender documents;

**“military veteran”** has the meaning assigned to it in section 1 of the Military Veterans Act, 2011 (Act No. 18 of 2011);

**“National Treasury”** has the meaning assigned to it in section 1 of the Public Finance Management Act, 1999 (Act No. 1 of 1999);

**“people with disabilities”** has the meaning assigned to it in section 1 of the Employment Equity Act, 1998 (Act No. 55 of 1998);

“**price**” includes all applicable taxes less all unconditional discounts;

“**proof of B-BBEE status level of contributor**” means-

- (a) the B-BBEE status level certificate issued by an authorised body or person;
- (b) a sworn affidavit as prescribed by the B-BBEE Codes of Good Practice; or
- (c) any other requirement prescribed in terms of the Broad-Based Black Economic Empowerment Act;

“**QSE**” means a qualifying small business enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;

“**Rand value**” means the total estimated value of a contract in Rand, calculated at the time of the tender invitation;

“**rural area**” means-

- (a) a sparsely populated area in which people farm or depend on natural resources, including villages and small towns that are dispersed through the area; or
- (b) an area including a large settlement which depends on migratory labour and remittances and government social grants for survival, and may have a traditional land tenure system;

“**stipulated minimum threshold**” means the minimum threshold stipulated in terms of regulation 8(1)(b);

“**the Act**” means the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000);

“**township**” means an urban living area that any time from the late 19th century until 27 April 1994, was reserved for black people, including areas developed for historically disadvantaged individuals post 27 April 1994;

“**treasury**” has the meaning assigned to it in section 1 of the Public Finance Management Act, 1999 (Act No. 1 of 1999); and

“**youth**” has the meaning assigned to it in section 1 of the National Youth Development Agency Act, 2008 (Act No. 54 of 2008).

## **Application**

2. These Regulations apply to organs of state as envisaged in the definition of organ of state in section 1 of the Act.

## **Identification of preference point system, designated sector, pre-qualification criteria, objective criteria and subcontracting**

3. An organ of state must-



- (a) determine and stipulate in the tender documents-
  - (i) the preference point system applicable to the tender as envisaged in regulation 6 or 7; or
  - (ii) if it is unclear which preference point system will be applicable, that either the 80/20 or 90/10 preference point system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system;
- (b) determine whether pre-qualification criteria are applicable to the tender as envisaged in regulation 4;
- (c) determine whether the goods or services for which a tender is to be invited, are in a designated sector for local production and content as envisaged in regulation 8;
- (d) determine whether compulsory subcontracting is applicable to the tender as envisaged in regulation 9; and
- (e) determine whether objective criteria are applicable to the tender as envisaged in regulation 11.

---

1 The definition of “organ of state” in section 1 of the Act in paragraph (a) to (e) includes-

- a national or provincial department as defined in the Public Finance Management Act, 1999;
- a municipality as contemplated in the Constitution;
- a constitutional institution as defined in the Public Finance Management Act;
- Parliament;
- a provincial legislature.

Paragraph (f) of the definition of organ of state in section 1 of the Act includes any other institution or category of institutions included in the definition of “organ of state” in section 239 of the Constitution and recognised by the Minister by notice in the Government Gazette as an institution or category of institutions to which the Act applies. Government Notice R. 501 of 8 June 2011 recognises, with effect from 7 December 2011, all public entities listed in Schedules 2 and 3 to the Public Finance Management Act, 1999, as institutions to which the Act applies. Note should be taken of notices issued from time to time in terms of paragraph (f) of this definition. The application of these Regulations is also subject to applicable exemptions approved in terms of section 3 of the Act

**Pre-qualification criteria for preferential procurement**

- 4.(1) If an organ of state decides to apply pre-qualifying criteria to advance certain designated groups, that organ of state must advertise the tender with a specific tendering condition that only one or more of the following tenderers may respond-

- (a) a tenderer having a stipulated minimum B-BBEE status level of contributor;
- (b) an EME or QSE;
- (c) a tenderer subcontracting a minimum of 30% to-
  - (i) an EME or QSE which is at least 51% owned by black people;
  - (ii) an EME or QSE which is at least 51% owned by black people who are youth;
  - (iii) an EME or QSE which is at least 51% owned by black people who are women;
  - (iv) an EME or QSE which is at least 51% owned by black people with disabilities;
  - (v) an EME or QSE which is 51% owned by black people living in rural or underdeveloped areas or townships;
  - (vi) a cooperative which is at least 51% owned by black people;
  - (vii) an EME or QSE which is at least 51% owned by black people who are military veterans;
  - (viii) an EME or QSE.
- (2) A tender that fails to meet any pre-qualifying criteria stipulated in the tender documents is an unacceptable tender.

**Tenders to be evaluated on functionality**

- 5.(1) An organ of state must state in the tender documents if the tender will be evaluated on functionality.
- (2) The evaluation criteria for measuring functionality must be objective.
- (3) The tender documents must specify-
  - (a) the evaluation criteria for measuring functionality;
  - (b) the points for each criteria and, if any, each sub-criterion; and
  - (c) the minimum qualifying score for functionality.
- (4) The minimum qualifying score for functionality for a tender to be considered further-
  - (a) must be determined separately for each tender; and
  - (b) may not be so-
    - (i) low that it may jeopardise the quality of the required goods or services; or
    - (ii) high that it is unreasonably restrictive.
- (5) Points scored for functionality must be rounded off to the nearest two decimal places.
- (6) A tender that fails to obtain the minimum qualifying score for functionality as indicated in the tender documents is not an acceptable tender.

- (7) Each tender that obtained the minimum qualifying score for functionality must be evaluated further in terms of price and the preference point system and any objective criteria envisaged in regulation 11.

**80/20 preference point system for acquisition of goods or services for Rand value equal to or above R30 000 and up to R50 million**

- 6.(1) The following formula must be used to calculate the points out of 80 for price in respect of a tender with a Rand value equal to or above R30 000 and up to a Rand value of R50 million, inclusive of all applicable taxes:

$$P_s = 80 \left( 1 - \frac{P_t - P_{\min}}{P_{\min}} \right)$$

Where

- Ps = Points scored for price of bid under consideration  
 Pt = Price of bid under consideration; and  
 Pmin = Price of lowest acceptable bid

- (2) The following table must be used to calculate the score out of 20 for BBEE:

<b>B-BBEE Status Level of Contributor</b>	<b>Number of points (80/20 system)</b>
1	20
2	18
3	14
4	12
5	8
6	6
7	4
8	2
Non-compliant contributor	0

- (3) A tenderer must submit proof of its B-BBEE status level of contributor.
- (4) A tenderer failing to submit proof of B-BBEE status level of contributor or is a non-compliant contributor to B-BBEE may not be disqualified, but-
- (a) may only score points out of 80 for price; and

- (b) scores 0 points out of 20 for B-BBEE.
- (5) A tenderer may not be awarded points for B-BBEE status level of contributor if the tender documents indicate that the tenderer intends subcontracting more than 25% of the value of the contract to any other person not qualifying for at least the points that the tenderer qualifies for, unless the intended subcontractor is an EME that has the capability to execute the subcontract.
- (6) The points scored by a tenderer for B-BBEE in terms of subregulation (2) must be added to the points scored for price under subregulation (1).
- (7) The points scored must be rounded off to the nearest two decimal places.
- (8) Subject to subregulation (9) and regulation 11, the contract must be awarded to the tenderer scoring the highest points.
- (9) (a) If the price offered by a tenderer scoring the highest points is not market-related, the organ of state may not award the contract to that tenderer.
- (b) The organs of state may-
- (i) negotiate a market-related price with the tenderer scoring the highest points or cancel the tender;
- (ii) if the tenderer does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the second highest points or cancel the tender;
- (iii) if the tenderer scoring the second highest points does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the third highest points or cancel the tender.
- (c) If a market-related price is not agreed as envisaged in paragraph (b)(iii), the organ of state must cancel the tender.

**90/10 preference point system for acquisition of goods or services with Rand value above R50 million**

- 7.(1) The following formula must be used to calculate the points out of 90 for price in respect of a tender with a Rand value above R50 million, inclusive of all applicable taxes:

Where-

$$P_s = 90 \left( 1 - \frac{P_t - P_{\min}}{P_{\min}} \right)$$

$P_s$  = Points scored for price of bid under consideration

$P_t$  = Price of bid under consideration; and

$P_{\min}$  = Price of lowest acceptable bid

- (2) The following table must be used to calculate the score out of 10 for BBEE:

<b>B-BBEE Status Level of Contributor</b>	<b>Number of points (80/20 system)</b>
1	10
2	9
3	6
4	5
5	4
6	3
7	2
8	1
Non-compliant contributor	0

- (3) A tenderer must submit proof of its B-BBEE status level of contributor.
- (4) A tenderer failing to submit proof of B-BBEE status level of contributor or is a non-compliant contributor to B-BBEE may not be disqualified, but-
- (a) may only score points out of 90 for price; and
  - (b) scores 0 points out of 10 for B-BBEE.
- (5) A tenderer may not be awarded points for B-BBEE status level of contributor if the tender documents indicate that the tenderer intends subcontracting more than 25% of the value of the contract to any other person not qualifying for at least the points that the tenderer qualifies for, unless the intended subcontractor is an EME that has the capability to execute the subcontract.
- (6) The points scored by a tenderer for B-BBEE in terms of subregulation (2) must be added to the points scored for price under subregulation (1).
- (7) The points scored must be rounded off to the nearest two decimal places.
- (8) Subject to subregulation (9) and regulation 11, the contract must be awarded to the tenderer scoring the highest points.
- (9)(a) If the price offered by a tenderer scoring the highest points is not market-related, the organ of state may not award the contract to that tenderer.
- (b) The organs of state may-
    - (i) negotiate a market-related price with the tenderer scoring the highest points or cancel the tender;
    - (ii) if the tenderer does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the second highest points or cancel the tender;

- (iii) if the tenderer scoring the second highest points does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the third highest points or cancel the tender.
- (c) If a market-related price is not agreed as envisaged in paragraph (b)(iii), the organ of state must cancel the tender.

### **Local production and content**

8.(1) The Department of Trade and Industry may, in consultation with the National

Treasury-

- (a) designate a sector, sub-sector or industry or product in accordance with national development and industrial policies for local production and content, where only locally produced services or goods or locally manufactured goods meet the stipulated minimum threshold for local production and content, taking into account economic and other relevant factors; and
  - (b) stipulate a minimum threshold for local production and content.
- (2) An organ of state must, in the case of a designated sector, advertise the invitation to tender with a specific condition that only locally produced goods or locally manufactured goods, meeting the stipulated minimum threshold for local production and content, will be considered.
- (3) The National Treasury must inform organs of state of any designation made in terms of regulation 8(1) through a circular.
- (4)(a) If there is no designated sector, an organ of state may include, as a specific condition of the tender, that only locally produced services or goods or locally manufactured goods with a stipulated minimum threshold for local production and content, will be considered.
- (b) The threshold referred to in paragraph (a) must be in accordance with the standards determined by the Department of Trade and Industry in consultation with the National Treasury.
- (5) A tender that fails to meet the minimum stipulated threshold for local production and content is an unacceptable tender.

### **Subcontracting as condition of tender**

9.(1) If feasible to subcontract for a contract above R30 million, an organ of state must apply subcontracting to advance designated groups.

- (2) If an organ of state applies subcontracting as contemplated in subregulation (1), the organ of state must advertise the tender with a specific tendering condition that the successful tenderer must subcontract a minimum of 30% of the value of the contract to-
- (a) an EME or QSE;
  - (b) an EME or QSE which is at least 51% owned by black people;
  - (c) an EME or QSE which is at least 51% owned by black people who are youth;
  - (d) an EME or QSE which is at least 51% owned by black people who are women;
  - (e) an EME or QSE which is at least 51% owned by black people with disabilities;
  - (f) an EME or QSE which is 51% owned by black people living in rural or underdeveloped areas or townships;
  - (g) a cooperative which is at least 51% owned by black people;
  - (h) an EME or QSE which is at least 51% owned by black people who are military veterans; or
- (i) more than one of the categories referred to in paragraphs (a) to (h).
- (3) The organ of state must make available the list of all suppliers registered on a database approved by the National Treasury to provide the required goods or services in respect of the applicable designated groups mentioned in subregulation (2) from which the tenderer must select a supplier.

#### **Criteria for breaking deadlock in scoring**

- 10.(1) If two or more tenderers score an equal total number of points, the contract must be awarded to the tenderer that scored the highest points for B-BBEE.
- (2) If functionality is part of the evaluation process and two or more tenderers score equal total points and equal preference points for B-BBEE, the contract must be awarded to the tenderer that scored the highest points for functionality.
- (3) If two or more tenderers score equal total points in all respects, the award must be decided by the drawing of lots.

#### **Award of contracts to tenderers not scoring highest points**

- 11.(1) A contract may be awarded to a tenderer that did not score the highest points only in accordance with section 2(1)(f) of the Act.
- (2) If an organ of state intends to apply objective criteria in terms of section 2(1)(f) of the Act, the organ of state must stipulate the objective criteria in the tender documents.

#### **Subcontracting after award of tender**

- 12.(1) A person awarded a contract may only enter into a subcontracting arrangement with the approval of the organ of state.
- (2) A person awarded a contract in relation to a designated sector, may not subcontract in such a manner that the local production and content of the overall value of the contract is reduced to below the stipulated minimum threshold.
- (3) A person awarded a contract may not subcontract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level of contributor than the person concerned, unless the contract is subcontracted to an EME that has the capability and ability to execute the subcontract.

### **Cancellation of tender**

13. (1) An organ of state may, before the award of a tender, cancel a tender invitation if-
  - (a) due to changed circumstances, there is no longer a need for the goods or services specified in the invitation;
  - (b) funds are no longer available to cover the total envisaged expenditure;
  - (c) no acceptable tender is received; or
  - (d) there is a material irregularity in the tender process.
- (2) The decision to cancel a tender invitation in terms of subregulation (1) must be published in the same manner in which the original tender invitation was advertised.
- (3) An organ of state may only with the prior approval of the relevant treasury cancel a tender invitation for the second time.

### **Remedies**

- 14.(1) Upon detecting that a tenderer submitted false information regarding its BBBEE status level of contributor, local production and content, or any other matter required in terms of these Regulations which will affect or has affected the evaluation of a tender, or where a tenderer has failed to declare any subcontracting arrangements, the organ of state must-
  - (a) inform the tenderer accordingly;
  - (b) give the tenderer an opportunity to make representations within 14 days as to why-
    - (i) the tender submitted should not be disqualified or, if the tender has already been awarded to the tenderer, the contract should not be terminated in whole or in part;
    - (ii) if the successful tenderer subcontracted a portion of the tender to another person without disclosing it, the tenderer should not be penalised up to 10 percent of the value of the contract; and



- (iii) the tenderer should not be restricted by the National Treasury from conducting any business for a period not exceeding 10 years with any organ of state; and
- (c) if it concludes, after considering the representations referred to in subregulation (1)(b), that-
  - (i) such false information was submitted by the tenderer-
    - (aa) disqualify the tenderer or terminate the contract in whole or in part;
      - and
    - (bb) if applicable, claim damages from the tenderer; or
  - (ii) the successful tenderer subcontracted a portion of the tender to another person without disclosing, penalise the tenderer up to 10 percent of the value of the contract.
- (2)(a) An organ of state must-
  - (i) inform the National Treasury, in writing, of any actions taken in terms of subregulation (1);
  - (ii) provide written submissions as to whether the tenderer should be restricted from conducting business with any organ of state; and
  - (iii) submit written representations from the tenderer as to why that tenderer should not be restricted from conducting business with any organ of state.
- (b) The National Treasury may request an organ of state to submit further information pertaining to subregulation (1) within a specified period.
- (3) The National Treasury must-
  - (a) after considering the representations of the tenderer and any other relevant information, decide whether to restrict the tenderer from doing business with any organ of state for a period not exceeding 10 years; and
  - (b) maintain and publish on its official website a list of restricted suppliers.

#### **Short title and commencement**

These Regulations are called the Preferential Procurement Regulations, 2017 and take effect on 1 April 2017.

**CEDERBERG MUNICIPALITY**  
**SUPPLY CHAIN MANAGEMENT POLICY – PART B**

---

**ANNEXURE A**

**GENERAL PRINCIPLES GOVERNING THE MUNICIPALITY IN ITS INTERACTION WITH BIDDERS**

In dealing with bidders bidding for municipal work, the municipality will adhere to the basic principles of:

**1 Efficiency**

- a) The municipal officials must administer the procurement process in the most efficient manner possible, avoiding time delays and duplication of activities.
- b) Where such delays are unavoidable, the municipal officials must inform all bidders of the nature of the delay and the revised time frames.

**2 Courtesy**

All staff members of the Municipality will deal with bidders in a courteous and respectful manner.

**3 Transparency**

- a) All bid processes will be open to the legal scrutiny of the public and interested parties.
- b) The Municipality will take all reasonable steps to ensure that the processes are clearly defined and understandable to all interested parties.

**4 Access to information**

The Municipality will take reasonable steps to ensure that all bidders have equal access to information on the goods or services to be bid for, as well as the bid process itself.

**5 Fair distribution of work**

The Municipality will take reasonable steps to make sure that the procurement of goods or services is fairly distributed amongst the service providers in the event of equality of bids. This will be done to avoid the excessive procurement of goods or services from one provider/supplier only.

**6 Competition**

The municipality will encourage fair competition between suppliers that provide goods and services to it.

**CEDERBERG MUNICIPALITY**  
**SUPPLY CHAIN MANAGEMENT POLICY – PART B**

---

**ANNEXURE B**

**CRITERIA TO EVALUATE TECHNICAL AND FINANCIAL ABILITY**

Regardless of the scope and value of the contracts involved, all contracts will be judged on grounds of:

**1 Compliance with bid conditions:**

- a) Bids submitted on time.
- b) Bid forms signed.
- c) All essential information provided

**2 Meeting technical specifications and compliance with bid conditions**

- a) Where requested in bid documentation, bidders must describe how they will produce the required outputs outlined in the bid documentation in terms of either goods or services.
- b) The ability to produce the required goods or services within the stated time frame may be included as criteria for compliance.

**3 Infrastructure and resources available.**

Bidders must indicate their capacity i.e. the extent of infrastructure under their control and resources available to enable them to execute the contract.

**4 Quality/ Durability**

- a) Where requested, bidders must provide evidence that they will be able to adhere to generally accepted levels of quality in the provision of the product or services under consideration.
- b) Where bidders are so requested, they must clearly explain their mechanisms for quality assurance and review.

**5 Size of enterprise and current workload**

- a) Bidders must give an indication of the resources available for the contract they are bidding on.
- b) Bidders must give an indication of the number and value of other contracts being undertaken by them at the date of bid, as to enable the Municipality to ascertain their ability to execute the contract.

**6 Staffing profile**

- a) Bidders must indicate the number of full-time employees employed by the company in Cederberg and West Coast at the time of bidding. Such information must include a breakdown in terms of race and gender at top and middle management levels.
- b) Bidders must also indicate the experience of top and middle management staff, especially where the experience of the company as a whole is limited.
- c) Bidders must indicate the number of disabled persons employed.

**7 Previous experience**

- a) Bidders must indicate the number of years that they have been operating their business.
- b) Bidders must provide evidence of previous experience in providing the goods or services under consideration, by providing a minimum of three contactable and relevant references.

**8 Financial ability to execute the contract**

- a) Bidders must indicate the revenue generated by their company in the previous financial year.
- b) Bidders must provide an indication of their financial ability to execute the contract.

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

---

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

**1. General Principles**

- 1.1. The municipality commits itself to a policy of fair dealing and integrity in the conducting of its business. Officials and other role players involved in supply chain management (SCM) are in a position of trust, implying a duty to act in the public interest. Officials and other role players should not perform their duties to unlawfully gain any form of compensation, payment or gratuities from any person, or provider/contractor for themselves, their family or their friends.
- 1.2. Officials and other role players involved in SCM should ensure that they perform their duties efficiently, effectively and with integrity, in accordance with the relevant legislation, policies and guidelines. They should ensure that public resources are administered responsibly.
- 1.3. Officials and other role players involved in SCM should be fair and impartial in the performance of their functions. They should at no time afford any undue preferential treatment to any group or individual or unfairly discriminate against any group or individual. They should not abuse the power and authority vested in them.

**2. Conflict of interest**

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

- 2.1. must treat all providers and potential providers equitably;
- 2.2. may not use his or her position for private gain or to improperly benefit another person;
- 2.3. may not accept any reward, gift, favour, hospitality or other benefit directly or indirectly, including to any close family member, partner or associate of that person, of a value more than R350;
- 2.4. must declare to the accounting officer details of any reward, gift, favour, hospitality or other benefit promised, offered or granted to that person or to any close family member, partner or associate of that person;
- 2.5. must declare to the accounting officer details of any private or business interest which that person, or any close family member, partner or associate, may have in any proposed procurement or disposal process, or in any award of a contract by the **municipality / municipal entity** *select which is applicable* ;
- 2.6. 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;

**CEDERBERG MUNICIPALITY**  
**SUPPLY CHAIN MANAGEMENT POLICY – PART B**

---

- 2.7. must declare any business, commercial and financial interests or activities undertaken for financial gain that may raise a possible conflict of interest;
- 2.8. should not place him/herself under any financial or other obligation to outside individuals or organizations that might seek to influence them in the performance of their official duties; and
- 2.9. should not take improper advantage of their previous office after leaving their official position.

**3. Accountability**

- 3.1. Practitioners are accountable for their decisions and actions to the public.
- 3.2. Practitioners should use public property scrupulously.
- 3.3. Only accounting officers or their delegates have the authority to commit the **municipality / municipal entity** *select which is applicable* to any transaction for the procurement of goods and / or services.
- 3.4. All transactions conducted by a practitioner should be recorded and accounted for in an appropriate accounting system.
- 3.5. Practitioners should not make any false or misleading entries into such a system for any reason whatsoever.
- 3.6. Practitioners must assist the accounting officer in combating fraud, corruption, favouritism and unfair and irregular practices in the supply chain management system.
- 3.7. Practitioners must report to the accounting officer any alleged irregular conduct in the supply chain management system which that person may become aware of, including:
  - (i) any alleged fraud, corruption, favouritism or unfair conduct;
  - (ii) any alleged contravention of the policy on inducements, rewards, gifts and favours to municipalities or municipal entities, officials or other role players; and
  - (iii) any alleged breach of this code of conduct.
- 3.8. Any declarations made must be recorded in a register which the accounting officer must keep for this purpose.
- 3.9. Any declarations made by the accounting officer must be made to the **mayor** who must ensure that such declaration is recorded in the register.

**4. Openness**

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

**5. Confidentiality**

- 5.1. Any information that is the property of the **municipality** or its providers should be protected at all times. No information regarding any bid / contract / bidder / contractor may be revealed if such an action will infringe on the relevant bidder's / contractor's personal rights.
- 5.2. Matters of confidential nature in the possession of officials and other role players involved in SCM should be kept confidential unless legislation, the performance of duty or the provisions of law requires otherwise. Such restrictions also apply to officials and other role players involved in SCM after separation from service.

**6. Bid Specification / Evaluation / Adjudication Committees**

- 6.1. Bid specification, evaluation and adjudication committees should implement supply chain management on behalf of the **municipality** in an honest, fair, impartial, transparent, cost-effective and accountable manner.

**CEDERBERG MUNICIPALITY**  
**SUPPLY CHAIN MANAGEMENT POLICY – PART B**

---

- 6.2. Bid evaluation / adjudication committees should be familiar with and adhere to the prescribed legislation, directives and procedures in respect of supply chain management in order to perform effectively and efficiently.
- 6.3. All members of bid adjudication committees should be cleared by the accounting officer at the level of "CONFIDENTIAL" and should be required to declare their financial interest annually.
- 6.4. No person should –
  - (i) interfere with the supply chain management system of the **municipality**; or
  - (ii) amend or tamper with any price quotation / bid after its submission.

**7. Combative Practices**

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

- 7.1. Suggestions to fictitious lower quotations;
- 7.2. Reference to non-existent competition;
- 7.3. Exploiting errors in price quotations / bids;
- 7.4. Soliciting price quotations / bids from bidders / contractors whose names appear on the Register for Tender Defaulters

**CEDERBERG MUNICIPALITY**  
**SUPPLY CHAIN MANAGEMENT POLICY – PART B**

**ANNEXURE D**

8 No. 25763	GOVERNMENT GAZETTE, 26 NOVEMBER 2003
Act No. 26,2003	NATIONAL SMALL BUSINESS AMENDMENT ACT, 2003

**SCHEDULE**

Column 1	Column 2	Column 3	Column 4	Column 5
Sector or sub-sector in accordance with the Standard Industrial Classification	Size of class	The total full-time equivalent of paid employees	Total turnover	Total gross asset value (fixed property excluded)
<b>Agriculture</b>	<b>Medium</b>	100	R5M	R5M
	<b>Small</b>	50	R3M	R3M
	<b>Very small</b>	10	R0.50M	R0.50M
	<b>Micro</b>	5	R0.20M	R0.10M
<b>Mining and Quarrying</b>	<b>Medium</b>	200	R39M	R23M
	<b>Small</b>	50	R10M	R6M
	<b>Very small</b>	20	R4M	R2M
	<b>Micro</b>	5	R0.20M	R0.10M
<b>Manufacturing</b>	<b>Medium</b>	200	R51M	R19M
	<b>Small</b>	50	R13M	R5M
	<b>Very small</b>	20	R5M	R2M
	<b>Micro</b>	5	R0.20M	R0.10M
<b>Electricity, Gas &amp; Water</b>	<b>Medium</b>	200	R51M	R19M
	<b>Small</b>	50	R13M	R5M
	<b>Very small</b>	20	R5.10M	R1.90M
	<b>Micro</b>	5	R0.20M	R0.10M
<b>Construction</b>	<b>Medium</b>	200	R26M	R5M
	<b>Small</b>	50	R6M	R1M
	<b>Very small</b>	20	R3M	R0.50M
	<b>Micro</b>	5	R0.20M	R0.10M
<b>Retail and Motor Trade and Repair Services</b>	<b>Medium</b>	200	R39M	R6M
	<b>Small</b>	50	R19M	R3M
	<b>Very small</b>	20	R4M	R0.60M
	<b>Micro</b>	5	R0.20M	R0.10M
<b>Wholesale Trade, Commercial Agents and Allied Services</b>	<b>Medium</b>	200	R64M	R10M
	<b>Small</b>	50	R32M	R5M
	<b>Very small</b>	20	R6M	R0.60M
	<b>Micro</b>	5	R0.20M	R0.10M
<b>Catering, Accommodation and other Trade</b>	<b>Medium</b>	200	R13M	R3M
	<b>Small</b>	50	R6M	R1M
	<b>Very small</b>	20	R5.10M	R1.90M
	<b>Micro</b>	5	R0.20M	R0.10M
<b>Transport, Storage and Communications</b>	<b>Medium</b>	200	R26M	R6M
	<b>Small</b>	50	R13M	R3M
	<b>Very small</b>	20	R3M	R0.60M
	<b>Micro</b>	5	R0.20M	R0.10M
<b>Finance and Business Services</b>	<b>Medium</b>	200	R26M	R5M
	<b>Small</b>	50	R13M	R3M
	<b>Very small</b>	20	R3M	R0.50M
	<b>Micro</b>	5	R0.20M	R0.10M
<b>Community, Social and Personal Services</b>	<b>Medium</b>	200	R13M	R6M
	<b>Small</b>	50	R6M	R3M
	<b>Very small</b>	20	R1M	R0.60M
	<b>Micro</b>	5	R0.20M	R0.10M

**CEDERBERG MUNICIPALITY**  
**SUPPLY CHAIN MANAGEMENT POLICY – PART B**

**ANNEXURE E**

**DELEGATION OF POWERS AND DUTIES**

<b>Approval of requests for requisitions for direct purchases and municipal store issues and certifying of payments.</b>	- Municipal Manager - Directors	Personnel to be nominated in writing by the Municipal Manager, and Directors	Subject to the under mentioned criteria, and further subject to the municipality's Supply Chain Management Policy, financial regulations and council resolutions where applicable.
--	------------------------------------	--	--

CRITERIA FOR PURPOSES		REQUESTING OFFICIAL/ UNIT	LEVEL OF APPROVAL <i>With due regard to proper segregation of duties</i>
PURCHASES BETWEEN (VAT)	QUOTATIONS / TENDERS		
R0 – R200	No quotations: direct purchases	TEAM LEADER	SUPERVISOR
Between R200 – R500 000	One telephonic or written quotations *1	SUPERVISOR	MANAGER
Between R2 000 – R500 000	Three written quotations	MANAGER	DIRECTOR
Between R30 000 – R500 000	Formal Quotation requests	SUPPLY CHAIN MANAGEMENT	USER DIRECTOR
Between R200 000 – R500 000	Competitive Bidding	Municipal Manager after recommendation from the Bid Adjudication Committee	
Over R1000 000		Municipal Manager after recommendation from the Bid Adjudication Committee	

\*1.

Winner to submit quotation in writing

Approval of deviations in terms of paragraph 36 of the Supply Chain Management Policy	- Municipal Manager	Personnel to be nominated in writing by the Municipal Manager, and Directors	Subject to the under mentioned criteria, and further subject to the municipality's procurement policy, financial regulations and council resolutions where applicable.
---	---------------------	--	--

**CRITERIA for DEVIATONS**

PURCHASES BETWEEN (VAT)	LEVEL OF APPROVAL
R0 – R30 000	Accounting Officer
Over R30 000 – R200 000	Accounting Officer
Over R200 000	Accounting Officer



