

SUPPLY CHAIN MANAGEMENT POLICY



CAPRICORN DISTRICT MUNICIPALITY

DRAFT

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1. DEFINITIONS

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

Acceptable Bid”- means any bid or quotation which, in all respects, complies with the specification and conditions as set out in the procurement document, upon which a final award will be made in writing;

“Accounting Officer” means a municipal official appointed in terms of section 60 of Municipal Finance Management Act, 2003 or the person who has been appointed to perform the functions in the absence of the accounting officer or during a vacancy;

“Closing time” - means the day and time as specified in the bid documents for the purpose of receipts by Capricorn District Municipality.

“Bid” – means a written offer in a prescribed or stipulated form in response and compliance to the invitation by the Capricorn District Municipality’s requirements and further in compliance with the specifications and conditions of the bid as set out in the procurement document as part of competitive bidding process.

“Bidder” means any legal person/entity submitting a bid. This refers to service providers invited by the municipality for the required service.

“Bid Committees” – refers to the Specification Committee, Evaluation Committee and Adjudication Committee. The Adjudication Committee is responsible for adjudicating the award of bids on the basis of the recommendation or recommendations as submitted by the Evaluation Committee.

“Competitive bidding” – means competitive bidding process as envisaged by the SCM Regulations; or competitive bidding process.

“Categories of projects” in relation to this policy means projects within the following price range:

- a) Micro : 150 001 – 300 000
- b) Small : 300 001 – 750 000
- c) Medium : 750 001 – 1 500 000
- d) Large A : 1 500 001 – 2 500 000
- e) Large B : 2 500 001

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

“Consultant” means a professional service provider which is a partnership, sole trader or legal entity which provides on a fiduciary basis, labour and knowledge-based expertise which is applied with reasonable skill, care and diligence, and adheres to statutory labour practices;

“Council” means the Municipal Council of Capricorn District Municipality, its legal successor in title and its delegates;

“Delegation” means the issuing of a written authorization by a delegating authority to a delegated body to act in his stead, and in relation to a sub-delegation of a power, means that delegated body;

“Disability” means a permanent impairment of a physical, intellectual or sensory function which results in a restricted, or lack of ability to perform an activity in the manner or range considered to be normal;

“Equity ownership” means the percentage of an enterprise or business owned by individuals or in respect of a private company, the percentage of a company’s shares that are owned by the individuals, who are actively involved in the management of the enterprise or business and exercise control over the enterprise or business, commensurate with their degree of ownership at the closing date of the bid; as envisaged by the Supply Chain Management Policy Framework;

“Goods” means those raw material or commodities which are available for general sale;

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

“Functionality” means the suitability of a proposal, design or product for the use for which it is intended, also referred to as “Quality.”

“HDI” means a Historically Disadvantaged Individual that is a South African citizen:

- a) who, due to the apartheid policy that had been in place, had no franchise in National elections prior to the introduction of the Constitution of the Republic of South Africa, 1993 or the Constitution of the Republic of South Africa, 1993; and/or
- b) who is a female; and/or
- c) who has a disability

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

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

“Consultant” means a natural or juristic person or partnership who or which, as an independent contractor, provides any of the following services on an ad hoc basis to the Capricorn District Municipality against remuneration:

- a) Expert advice;
- b) Drafting of proposals for the execution of specific tasks; and/or
- c) Execution of specific tasks, which are of a technical or intellectual nature;

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

“Contract” means the agreement that results from the acceptance of a quotation or bid by the Municipality or agreement which is concluded when Capricorn District Municipality accepts in writing a bid or a quote submitted by a service provider;

“List of accredited prospective providers” means the list of accredited prospective providers which the municipality must keep in terms of paragraph 3.2.5 of this policy;

“Municipality” means Capricorn District Municipality, and when referred to as-

- a) an entity, means a municipality as described in section 2 of the Municipal System’s Act; and
- b) a geographic area, means the municipal area determined in terms of Local Government: Municipal Demarcation Act, 1998;

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

- a) Preferential Procurement Regulation, 2022
- b) The Reconstruction and Development Programme as published in Government Gazette No. 16085 dated 23 November 1994.
- c) the Construction Industry Development Board Act, 2000 (Act No.38 of 2000);

“Procurement” means a process of preparing, negotiating and concluding a contract, whether verbally or in writing, which involve the acquiring of goods, services, engineering and construction works or any combination thereof, or the acquiring of capital assets or any rights in respect of the above, by means of a purchase, lease or donation;

“Formal written price quotation” means a written offer made on the prescribed forms by a supplier or service provider in response to a request from the Municipality and in compliance with the prescribed thresholds in this policy;

“Informal price quotation,” means a written offer made by a person, business or enterprise in response to a request from the Municipality;

“quotation” means a written offer which not submitted in the form of a bid document prescribed by the Municipality, but is none-the less subject to a specification, conditions of purchase and any schedule and annexure;

“Responsive bid” means a bid which conforms to all the terms, conditions and specifications contained in the bid documentation without material deviation or qualification;

“services” means the provision of labour and work carried out by hand, or with the assistance of plant and equipment, including input, as necessary, of knowledge-based expertise;

“Service provider” means a current or potential supplier, manufacturer, contractor, vendor, agent or consultant;

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

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

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

“Youth” means any person who is thirty-five years old and below.

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

NOTES

Reference, in this document, to one gender shall apply equally to the other gender unless the contrary is clearly and explicitly indicated.

The term “competitive bid” has replaced the term “tender” in all the applicable legislation. The term “tender,” which refers to both procurement and asset disposal, has been in use for many years and will remain in popular usage for some time to come.

The terms “competitive bid” and “tender” will thus be taken to have the same meaning in all documentation used by Capricorn District Municipality pertaining to supply chain management.

2. POLICY STATEMENT

2.1 Introduction

The Constitution of the Republic of South Africa (RSA), 1996 in Section 217 stipulates that an organ of state in national, provincial or local sphere of government, or any other institution identified in national legislation, contracts for goods or services, must do so in accordance with a system which is fair, equitable, transparent, competitive and cost effective.

The Municipal Finance Management Act No. 56 of 2003, Section 111 requires each municipality and municipal entity to adopt and implement a supply chain management policy, which gives effect to the requirements of the Act.

2.2 Goal

The goal of this Policy is to provide a framework to ensure a sound and accountable system of supply chain management within the **Capricorn District Municipality**, whilst promoting the following five pillars of procurement:

- 2.2.1 Value for money
- 2.2.2 Open and effective competition
- 2.2.3 Ethics and fair dealing
- 2.2.4 Accounting and reporting
- 2.2.5 Equity

Capricorn District Municipality intends to further use the supply chain management policy as a tool to achieve the following;

- 2.2.6 stimulate economic growth;
- 2.2.7 stimulate socio economic development;
- 2.2.8 enhance quality services;
- 2.2.9 empower local communities;
- 2.2.10 create opportunities for local SMME's;
- 2.2.11 eliminate and counter any form of corruption; and

2.3 Objectives

The objectives of this Policy are:

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

- 2.3.2 to comply with all applicable provisions of the Municipal Finance Management Act including the Municipal Supply Chain Management Regulations published under GN868 in Government Gazette 27636 30 May 2005 and any National Treasury Guidelines issued in terms of the MFMA;
- 2.3.3 to ensure consistency with all other applicable legislation and any regulations pertaining thereto, including:
 - 2.3.3.1 *The Constitution of the Republic of South Africa (Section 217);*
 - 2.3.3.2 *The Reconstruction and Development Programme as published in Government Gazette No. 16085 dated 23 November 1994.*
 - 2.3.3.3 *The Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003), the regulations and all amendments;*
 - 2.3.3.4 *The Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), the regulations and all amendments;*
 - 2.3.3.5 *The Construction Industry and Development Board Act, 2000 (Act No. 38 of 2000), the regulations and all amendments;*
 - 2.3.3.6 *The Prevention and Combating of Corrupt Activities Act, 2004, (Act No. 12 of 2004);*
 - 2.3.3.7 *The Competition Act, 1998 (Act No. 89 of 1998);*
 - 2.3.3.8 *The State Information Technology Agency, 1998, (Act No. 88 of 1998 as amended by Act No. 38 of 2002);*
 - 2.3.3.9 *The National Small Business Act, 1996 (Act No. 102 of 1996);*
 - 2.3.3.10 *Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000);*
 - 2.3.3.11 *Protected Disclosures Act, 2000 (Act No. 26 of 2000);*
 - 2.3.3.12 *Treasury regulations;*
 - 2.3.3.13 *National Treasury Circulars and Letters;*
 - 2.3.3.14 *Supply Chain Management: A guide to Accounting Officers and Accounting Authorities; and*
 - 2.3.3.15 *The King III Report on Corporate Governance for South Africa.*

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

2.4 Core Principles

In order to achieve value for money, Capricorn District Municipality will base procurement outcomes around core principles of government procurement. As a result, Capricorn District Municipality is committed to:

- 2.4.1 Transparency
The procurement process shall be opened and predictable and shall afford prospective bidders' timely access to the same and accurate information.
- 2.4.2 Equal treatment
All bidders and providers shall be treated equally throughout the whole procurement process and shall be given access to the same information.
- 2.4.3 Effectiveness
The municipality shall strive to standardise and simplify procedures where appropriate to enhance the SCM system's effectiveness and shall carry out its SCM processes as cost-effectively and efficiently as possible. The municipality shall strive to build relationships with providers, shall ensure good working practices and shall encourage innovative solutions for providers.
- 2.4.4 Competitiveness
The municipality shall satisfy its requirements through competition unless there are justifiable reasons to the contrary.
- 2.4.5 Fairness
All bidders shall be dealt with fairly and without unfair discrimination. Unnecessary constraints shall not be imposed on bidders/contractors and commercial confidentiality shall be protected.
- 2.4.6 Ethics
All bidders shall be treated equally whilst promoting certain empowerment objectives, all stakeholders shall conduct business and themselves professionally, fairly, reasonably and with integrity, all interest shall be disclosed and all breach shall be reported.
- 2.4.7 Proportionality
The product/service requirements stipulated in the specification/TOR and the qualification requirements attached thereto must be appropriate, necessary and in reasonable proportion to the product/service being procured.
- 2.4.8 Uniform application
The municipality shall ensure the application of a SCM policy and a streamlined SCM process and documentation that is uniformly applied by the municipality, all things being equal. The procurement processes shall be simple and adaptable to advances in modern technology to ensure efficiency and effectiveness.

2.4.9 Responsibility

Each practitioner shall be responsible for their decisions and actions relative to their SCM responsibilities, the SCM process as well as in the implementation of concluded contracts. The municipality shall develop a system, when warranted by circumstances, to investigate and hold liable both employees and relevant private parties dealing with municipality, for their decisions and actions relative to their procurement responsibilities, the procurement process as well as in the implementation of concluded contracts.

2.4.10 Openness

The municipality shall ensure a procurement process and a subsequent contract award and implementation according to the predetermined specifications in line with the best practice procurement principles.

2.4.11 Value for money

The municipality shall achieve value for money through the optimum combination of whole life cost and quality (or fitness for purpose) to meet the customer's requirements while maximising efficiency, effectiveness and flexibility.

2.5 Oversight

The Municipal Finance Management Act No. 56 of 2003, Section 117 prohibits a Municipal Councillor from being a member of a bid committee or any other committee evaluating or approving quotations or bids nor May a Municipal Councillor attend any such meeting as an observer.

Council, however, has an oversight role to ensure that the Municipality implements the Municipal Supply Chain Management policy and other relevant legislations.

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

In addition, if any serious problem arises in relation to the implementation of this Policy, the Municipality Manager shall immediately report to Council accordingly.

All such reports shall be made public in accordance with section 21(1)(a) of the Systems Act.

2.6 Compliance with Ethical Standards

In order to create an environment where business can be conducted with integrity and in a fair and reasonable manner, this Policy will strive to

ensure that the Municipality Manager and all representatives of the Capricorn District Municipality involved in supply chain management activities shall act with integrity and in accordance with the highest ethical standards.

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

3. GENERAL PROVISIONS AND APPLICATION

3.1 Commencement and Review

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

The CFO will be the official responsible for implementation of this policy. The implementation of this policy must be reviewed at least annually to ensure that it is aligned with the legislative environment.

When deemed necessary on an ad hoc basis, the CFO must submit proposals for the amendment of the policy to Council through the relevant structures.

If the CFO submits proposed amendments to the Council that differ from the model policy issued by National Treasury, the CFO must-

- 3.1.1 Ensure that, such proposed amendments comply with the Regulations.
- 3.1.2 Report any deviation from the model policy to National Treasury and the relevant Provincial Treasury.

3.2 Application of Policy

3.2.1 This Policy applies to:

- 3.2.1.1 *the procuring of goods or services, including construction works and consultant services;*
- 3.2.1.2 *the disposal by the Municipality of assets (movable/immovable) no longer needed;*
- 3.2.1.3 *the selection of contractors to provide assistance in the provision of municipal services otherwise than in circumstances where chapter 8 of the Systems Act applies; or*
- 3.2.1.4 *the selection of external mechanisms referred to in section 80 (1) (b) of the Systems Act for the provision of municipal services in circumstances contemplated in section 83 of that Act.*

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

- 3.2.2.1 *the provision of goods or services to the Municipality;*
- 3.2.2.2 *the provision of a municipal service; or*

3.2.3 In respect to the above, the Bid Adjudication Committee should consider a request to contract services and or goods from another organ of state and recommend accordingly to the Accounting Officer.

3.2.4 The Policy provides for the following supply chain management systems:

- 3.2.4.1 *demand management system;*
- 3.2.4.2 *acquisition management system;*

- 3.2.4.3 *logistics management system;*
 - 3.2.4.4 *disposal management system;*
 - 3.2.4.5 *risk management system;*
 - 3.2.4.6 *performance management system.*
 - 3.2.4.7 *Preferential Procurement system*
- 3.2.5 These systems must be adhered to in all supply chain management activities undertaken by the Municipality.

3.3 Roles and Responsibilities

3.3.1 Role of Council

The Council has an oversight role as far as the supply chain management is concerned, to ensure that the Municipal Manager as the accounting officer executes the Supply Chain Management Policy within the ambit of the applicable legislation.

3.3.2 Role of the Accounting Officer

The Accounting Officer must:

- 3.3.2.1 *On a monthly basis report to the Executive Mayor, and at least on a quarterly basis to the Council on the implementation of the SCM policy.*
- 3.3.2.2 *Ensure strict adherence to the guidelines provided in the SCM policy;*
- 3.3.2.3 *Implement of the SCM policy;*
- 3.3.2.4 *Annually review the targets and the SCM policy;*
- 3.3.2.5 *Approve the inclusion of a service provider in the Municipality's database of service providers;*
- 3.3.2.6 *Appoints the members of the bid committees;*
- 3.3.2.7 *Whenever there are serious and material problems in the implementation of this Policy, immediately submit a report to Council.*

3.3.3 Role of Executive Managers, Managers and/or Deputy Managers

Each Manager shall be responsible for:

- 3.3.3.1 *Exercising the powers, performing the functions and discharging the duties conferred or assigned to him/her;*
- 3.3.3.2 *Implementing the SCM policy and any procedural or prescripts issued in terms of the policy within his/her area of responsibility;*
- 3.3.3.3 *Ensuring compliance with the SCM policy and any procedural or prescripts issued in terms of the policy within his/her area of responsibility;*

- 3.3.3.4 *Developing draft specifications for the procurement by his /her department,*
- 3.3.3.5 *Asset utilisation management in his/her area of responsibility;*
- 3.3.3.6 *Properly planning for and as far as possible, accurately estimating the costs of the provision of services, works or goods for which offers are to be solicited;*
- 3.3.3.7 *Selecting the preference point system to be utilized in the evaluation of offers;*
- 3.3.3.8 *Achieving any objectives and targets set with regard to procurements and disposals.*

- 3.3.4 **Role of the Chief Finance Officer (CFO)**
The CFO shall be responsible for:
 - 3.3.4.1 *Custodian of the SCM policy;*
 - 3.3.4.2 *Conducts procurement audits of the entire supply chain management to identify successes and failures for incorporation into a “**lesson learnt**” database;*
 - 3.3.4.3 *Overall management of the quotation and competitive bidding process from solicitation to processing of invoice payment;*
 - 3.3.4.4 *Promotes corporate approach by encouraging standardization of items purchased within the Municipality to realize economies of scale;*
 - 3.3.4.5 *Provides supplier interface on supplier information;*
 - 3.3.4.6 *Ensures that the procurement and disposal process followed adheres to preference targets without compromising price, quality, service delivery and developmental objectives;*
 - 3.3.4.7 *Ensures that all employees involved in the supply chain management process receive the necessary training to support implementation of the SCM policy;*
 - 3.3.4.8 *Responsible for the verification of the application of service providers for inclusion in the database,*
 - 3.3.4.9 *Submits monthly reports to the Finance Portfolio Committee regarding progress and any matters of importance relating to the SCM policy.*

- 3.3.5 **Role of Internal Audit**
Internal audit shall be responsible for:
 - 3.3.5.1 *Internal audit units must compile risk-based audit plans, review internal control measures, and ensure that supply chain management, is sufficiently and adequately covered in the annual coverage plan.*
 - 3.3.5.2 *Internal auditors must be alert to fraud risks and design audit procedures and indicators that would assist in preventing and*

detecting potential or actual fraud and corruption.

- 3.3.5.3 *During competitive bidding and adjudication processes or before the award of a contract, the accounting officer may, at his or her discretion, specifically request the internal audit function to carry out audit procedures and provide an opinion on compliance of the bidding process with the Municipal Supply Chain Management Regulations.*
- 3.3.5.4 *Where bids involve internal audit service, the audit of the bidding process may be outsourced to an independent external service provider or internal audit function of another organ of state, subject to the oversight of the audit committee.*
- 3.3.5.5 *The accounting officer may, at his or her discretion, decide to have a specific contract audited by external service providers prior to the award of the contract.*

3.4 Institutional Arrangements

3.4.1 Supply Chain Management Unit

- 3.4.1.1 *The municipality must establish a supply chain management unit within finance department to implement the supply chain management policy.*
- 3.4.1.2 *The supply chain management unit must, where possible operate 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 MFMA.*
- 3.4.1.3 *The Municipal Manager must ensure that all persons involved in the implementation of this Policy meets the prescribed competency levels, and where necessary, shall provide relevant training.*

3.4.2 Training of Supply Chain Management Officials

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

3.4.3 Delegations

- 3.4.3.1 *The Council hereby delegates all powers and duties to the Accounting Officer which are necessary to enable the Accounting Officer-*
 - 3.4.3.1.1 To discharge the supply chain management responsibilities conferred on the Accounting Officer in terms of:
 - 3.4.3.1.1.1 *Chapter 8 or 10 of the Act; and*
 - 3.4.3.1.1.2 *This Policy.*
 - 3.4.3.1.2 To maximize administrative and operational efficiency in the implementation of this policy;

- 3.4.3.1.3 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
- 3.4.3.1.4 To comply with his responsibilities in terms of section 115 and other applicable provisions of the Act.
- 3.4.3.2 *All SCM activities shall be executed in accordance with pre-established levels of authority through delegations to ensure that control and segregation of responsibility.*
- 3.4.3.3 *Delegations shall be in writing to a specific individual or the holder of a post and shall be in line with Council's system of delegations.*
- 3.4.3.4 *A delegation shall be subjected to such limitations and conditions as the Council may impose in a specific case.*
- 3.4.3.5 *A delegation may only be revoked by the person who approved the delegation in the first place or any higher authority.*
- 3.4.3.6 *The Council/Accounting Officer is entitled to confirm, vary or revoke any decision taken in consequence of a delegation by such lower authority, provided that no such variation or revocation of a decision should detract from any rights that may have accrued as a result of the decision.*
- 3.4.3.7 *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.*
- 3.4.4 Sub-delegation
 - 3.4.4.1 *The accounting officer may in terms of section 79 or 106 of the MFMA sub- delegate any supply chain management powers and duties, including those delegated to the accounting officer in terms of the above delegations.*
 - 3.4.4.2 *The power to make a final award –*
 - 3.4.4.2.1 above R10 million (VAT included) may not be sub delegated by the accounting officer;
 - 3.4.4.2.2 above R2 million (VAT included), but not exceeding R10 million (VAT included), may be sub delegated but only to –
 - 3.4.4.2.2.1 *the chief financial officer;*
 - 3.4.4.2.2.2 *a senior manager; or*
 - 3.4.4.2.2.3 *a bid adjudication committee of which the chief financial officer or a senior manager is a member; or*
 - 3.4.4.2.3 not exceeding R2 million (VAT included) may be sub-delegated but only to –
 - 3.4.4.2.3.1 *the chief financial officer;*
 - 3.4.4.2.3.2 *a senior manager;*
 - 3.4.4.2.3.3 *a manager directly accountable to the chief financial officer or a senior manager; or*

- 3.4.4.2.3.4 *a bid adjudication committee.*
- 3.4.4.3 *An official or bid adjudication committee to which the power to make final awards has been sub delegated in accordance with subparagraph (b) must within five days of the end of each month submit to the official referred to in subparagraph (d) a written report containing particulars of each final award made by such official or committee during that month, including–*
 - 3.4.4.3.1 *the amount of the award;*
 - 3.4.4.3.2 *the name of the person to whom the award was made; and*
 - 3.4.4.3.3 *the reason why the award was made to that person.*
- 3.4.4.4 *A written report referred to in subparagraph (c) must be submitted*
 - 3.4.4.4.1 *to the accounting officer, in the case of an award by –*
 - 3.4.4.4.1.1 *the chief financial officer;*
 - 3.4.4.4.1.2 *a senior manager; or*
 - 3.4.4.4.1.3 *a bid adjudication committee of which the chief financial officer or a senior manager is a member; or*
 - 3.4.4.4.2 *to the chief financial officer or the senior manager responsible for the relevant bid, in the case of an award by*
 - 3.4.4.4.2.1 *a manager referred to in subparagraph (2)(c)(iii); or*
 - 3.4.4.4.2.2 *a bid adjudication committee of which the chief financial officer or a senior manager is not a member.*
- 3.4.4.5 *Subparagraphs (c) and (d) of this policy do not apply to procurements out of petty cash.*
- 3.4.4.6 *This policy 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 section 26 of SCM regulation.*
- 3.4.4.7 *No supply chain management decision-making powers may be delegated to an advisor or consultant.*
- 3.4.4.8 *To the extent that it may be necessary, Council authorises the Municipal Manager to delegate or sub-delegate to a staff member any power conferred on the Municipal Manager in terms of the MFMA and the Supply Chain Management Regulations relating to supply chain management.*

4. FRAMEWORK FOR SUPPLY CHAIN MANAGEMENT

4.1 Supply Chain Management System

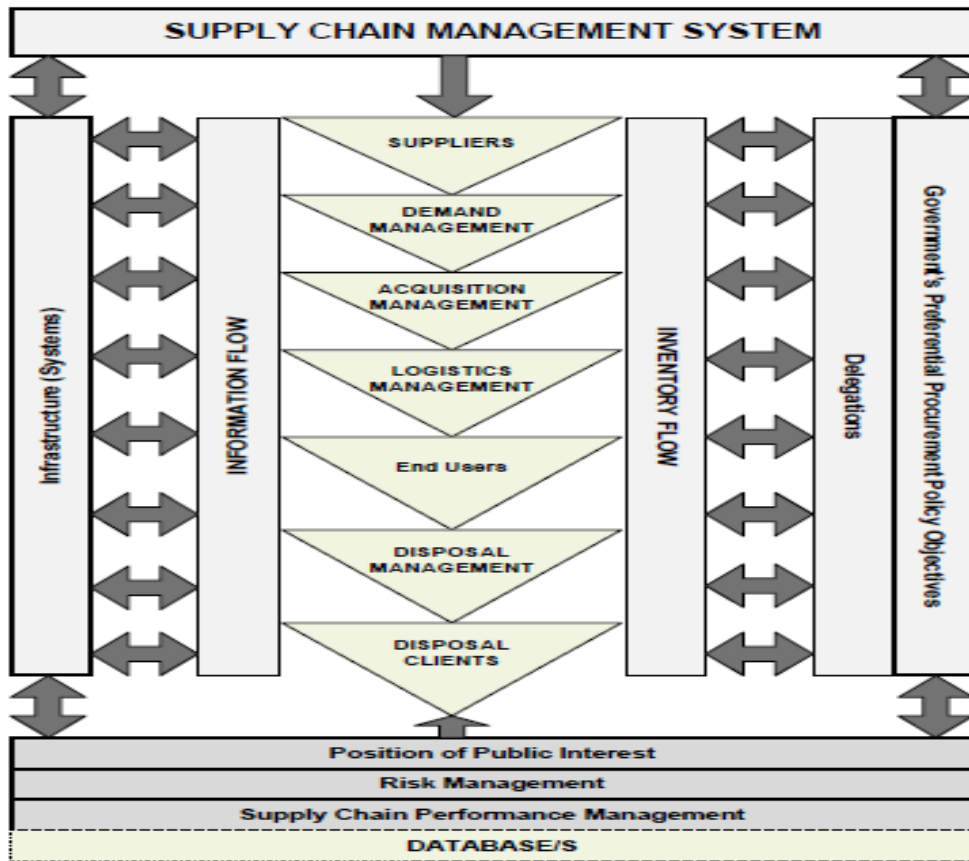
4.1.1 Format of supply chain management system - This Policy provides for systems of –

- 4.1.1.1 *Demand management;*
- 4.1.1.2 *Acquisition management;*
- 4.1.1.3 *Preferential Procurement*
- 4.1.1.4 *Logistics management;*
- 4.1.1.5 *Disposal management;*
- 4.1.1.6 *Risk management;*
- 4.1.1.7 *Performance management; and*
- 4.1.1.8 *Other matters*
- 4.1.1.9 *Preference points system*

4.1.2 The system must in the case of procurement through bidding process, provide for:

- 4.1.2.1 *Bidding procedures;*
- 4.1.2.2 *The establishment, composition and functioning of a bid specification, bid evaluation and bid adjudication committees.*
- 4.1.2.3 *Adjudication of bids through a bid adjudication committee.*
- 4.1.2.4 *Consideration of bid evaluation recommendations.*

The system takes into account the main influencers such as suppliers, clients, information and inventory flow.



4.2 Demand Management

The accounting officer must establish and implement an appropriate demand management system in order to ensure that the resources required by the municipality supports its operational commitments and its strategic goals as outlined in the Integrated Development Plan of Capricorn District Municipality.

Demand Management is the first element of the SCM function. The objective is to ensure that the resources required to fulfil the needs identified in the Integrated Development Plan (IDP) of municipality are delivered at the right time, price and place and that the quantity and quality will satisfy those needs of the municipality.

The municipality's Integrated Development Plan (IDP) is a comprehensive strategy document setting out how the municipality intends to tackle its developmental challenges in a financial year. It is on the basis of the IDP that the resources of the municipality will be allocated and on which the budget is based.

Demand management within SCM forms an integral part of a series of activities that will contribute to achieving the measured goals of the institution by ensuring that goods, works or services are delivered as originally envisaged; with a reliable standard of quality and to the satisfaction of end-users. Correct implementation also ensures that, controls exist for management to detect variances early and rectify them

in a planned and orderly manner and to foster a culture of compliance, thereby assisting management to achieve its goals and satisfy the executive and general public.

Each Executive Manager must during the preparation of his/her departmental estimates for the budget year:-

- 4.2.1 Determine which project and/or programs it must perform;
- 4.2.2 Determine the goods and services it must provide in the performance of those functions and compile a procurement plan.
- 4.2.3 Determine the quantity and specifications for goods and services required;
- 4.2.4 Embark on expenditure analysis of goods and services required;
- 4.2.5 Embark on market/industry analysis;
- 4.2.6 Before the procurement of assets, conduct a condition assessment of the assets managed by his/her department and determine its financial needs during the budget year for:
 - 4.2.6.1 *Maintaining existing assets;*
 - 4.2.6.2 *Repairing existing assets;*
 - 4.2.6.3 *Refurbishing or renovating existing assets;*
 - 4.2.6.4 *Replacing existing assets; and*
 - 4.2.6.5 *Acquiring new assets.*
- 4.2.7 Procurement planning

Procurement planning should take place at the beginning of the financial year when Capricorn District Municipality's IDP, SDBIP and annual budget have been approved. Procurement plans cannot be developed in isolation; it should instead form part of the municipalities and other functional strategies. The SCM Unit must perform hand-in-hand with End-End-user departments / directorates in the formulation of procurement plans.

The SCM Unit shall after consultation with Departmental Managers, compile a consolidated procurement plan for all capital and operational projects in respect of each financial year;

- 4.2.8 Analysis of the goods, works or services required

During the strategic planning phase of the municipality, the goods, works or services required to execute the identified functions are determined. The SCM Unit should assist the process in ensuring that the identified goods, works or services are the optimum resources required to achieve the goals and objectives of the municipality.

The SCM unit must analyse the goods, works or services required and execute, among others, the following:

- 4.2.8.1 *List the functions to be executed by the institution;*
- 4.2.8.2 *Conduct an analysis of the past expenditure as this exercise may, among others, contribute in determining the manner in which the institution fulfilled its needs in the past; and*
- 4.2.8.3 *Compile a detailed list of the goods, works or services required to execute the functions.*

- 4.2.9 Planning to obtain the required goods, works or services
 Together with the end-user, the SCM Unit should apply strategic sourcing principles to determine the optimum manner in which to acquire the required goods, works or services.

- 4.2.10 This entails, among others, the following:
 - 4.2.10.1 *Conducting an industry and market analysis of the goods, works or services to be obtained. This must include the determination of a reasonable price for the required goods, works or services;*
 - 4.2.10.2 *Confirmation that sufficient funds have been allocated for the procurement of the required goods, works or services. If this is not so, the end-user must be informed accordingly. The procurement process should not proceed if funds are not available. Documentary proof must be obtained to substantiate the availability of budgetary provisions;*
 - 4.2.10.3 *Considering the optimum method to satisfy the need, for example whether the procurement should be by means of price quotation, advertised competitive bids, limited bids; procuring the goods, works or services from other institutions, or on transversal term contracts nor ad hoc contracts;*
 - 4.2.10.4 *The frequency of the requirement(s) must be established in order to determine whether it would be cost-effective to arrange a specific term contract for the goods, works or service;*
 - 4.2.10.5 *Establishing whether it would be cost-effective to have the goods available as a store item within the institution. Should this be the case, the minimum and maximum storage levels of these items should be determined and managed; and*
 - 4.2.10.6 *Establishing the lead time required by the potential suppliers to deliver the required goods, works or services after receipt of an official order.*

4.3 Acquisition management

- 4.3.1 The accounting officer must implement the system of acquisition management set out below in order to ensure –
 - 4.3.1.1 *that goods and services are procured by the municipality in accordance with authorised processes only;*
 - 4.3.1.2 *that expenditure on goods and services is incurred in terms of an*

- approved budget in terms of section 15 of the MFMA;*
- 4.3.1.3 *that the threshold values for the different procurement processes are complied with;*
- 4.3.1.4 *that bid documentation, evaluation and adjudication criteria, and general conditions of a contract, are in accordance with any applicable legislation; and*
- 4.3.1.5 *that any Treasury guidelines on acquisition management are properly taken into account.*
- 4.3.2 This Policy, except where provided otherwise, does not apply in respect of the procurement of goods and services contemplated in section 110(2) of the MFMA, including –
- 4.3.2.1 *water from the Department of Water Affairs or a public entity, another municipality or a municipal entity; and*
- 4.3.2.2 *electricity from Eskom or another public entity, another municipality or a municipal entity.*
- 4.3.3 When procuring goods or services contemplated in section 110(2) of the MFMA, 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-
- 4.3.3.1 *the kind of goods or services; and*
- 4.3.3.2 *the name of the supplier.*
- 4.3.4 Range of procurement processes
- 4.3.4.1 *Goods and services may only be procured by way of –*
- 4.3.4.1.1 Petty cash purchases, up to a maximum transaction value of R2 000 (VAT included);
- 4.3.4.1.2 Formal written price quotations for procurements of a transaction value over R2 000 up to R200 000 (VAT included); and
- 4.3.4.1.3 a competitive bidding process for–
- 4.3.4.1.3.1 *Procurements above a transaction value of R200 000 (VAT included); and*
- 4.3.4.1.3.2 *the procurement of long-term contracts.*
- 4.3.4.2 *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.*
- 4.3.4.3 *The Accounting Officer, may lower, but not increase, the different threshold values specified above, or direct that:*
- 4.3.4.3.1 Formal written quotations be obtained for a specific

- procurement of a transaction value lower than R 10 000.
- 4.3.4.3.2 A competitive bidding process be followed for any specific procurement of a transaction value lower than the competitive bidding threshold specified in sub regulation (a) (v).
- 4.3.5 General preconditions for consideration of written quotations or bids
- A formal written quotation or bid may not be considered unless the provider who submitted the quotation or bid –
- 4.3.5.1 *has furnished that provider's –*
- 4.3.5.1.1 Full name;
- 4.3.5.1.2 Identification number or company or other registration number;
- 4.3.5.1.3 Tax reference number and VAT registration number, where applicable;
- 4.3.5.2 *It is a specific requisite that the provider must submit a valid Tax Clearance Certificate/ Tax Compliance Status Pin issued by the SA Revenue Services as part of the quotation. The municipality will not conduct business with service providers whose tax matters are not in order.*
- 4.3.5.3 *has declared–*
- 4.3.5.3.1 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;
- 4.3.5.3.2 if the provider is not a natural person, whether any of its directors, managers, principal shareholders or stakeholder is in the service of the state, or has been in the service of the state in the previous twelve months; or
- 4.3.5.3.3 whether a spouse, child or parent of the provider or of a director, manager, shareholder or stakeholder referred to in subparagraph (ii) is in the service of the state, or has been in the service of the state in the previous twelve months; and
- 4.3.5.4 *In case of a joint venture, no bid document will be considered without a valid Joint Venture Agreement attached to the document at the date of opening where applicable.*
- 4.3.5.5 *The minimum qualifying score for functionality for the tender to be considered:*
- 4.3.5.5.1 Must be determined separately for each tender
- 4.3.5.5.2 May not be so
- 4.3.5.5.2.1 *Low that it may jeopardise the quality of the required goods or services or*
- 4.3.5.5.2.2 *High that it is unreasonably restrictive*
- 4.3.6 List of accredited prospective providers - The accounting officer must –

- 4.3.6.1 *Keep a list of accredited prospective providers of goods and services that must be used for procurement requirements of the municipality through formal written price quotation;*
- 4.3.6.2 *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;*
- 4.3.6.3 *specify the listing criteria for accredited prospective providers, and 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;*
- 4.3.6.4 *the list must be updated at least quarterly to include any additional prospective service provider and any new commodities or type of service;*
- 4.3.6.5 *the list must be compiled per commodity and per type of service.*

- 4.3.7 Evaluation of applications
 - 4.3.7.1 *The Accounting Officer shall, after consultation with the Managers of other Departments:*
 - 4.3.7.1.1 Evaluate an applicant's capacity and ability to supply goods and services and to complete work, in order to ensure that all contracts or orders awarded are within the capabilities of the enterprise; and
 - 4.3.7.1.2 Evaluate the amount of assistance that may be required by each applicant.
 - 4.3.7.2 *Evaluation criteria shall be based on the following:*
 - 4.3.7.2.1 Experience and expertise;
 - 4.3.7.2.2 Contracts awarded as a main contractor or a sub-contractor;
 - 4.3.7.2.3 Contracts completed on time and within budget;
 - 4.3.7.2.4 Value of contracts completed in the past year;
 - 4.3.7.2.5 Value of and duration of current contracts;
 - 4.3.7.2.6 Qualifications of owner(s), directors, members, trustees and staff;
 - 4.3.7.3 *The Accounting Officer shall as soon as possible after closing date and time of invitation evaluate and assess all applications submitted.*

- 4.3.8 Petty cash purchases
 - Petty cash purchases shall be done in line with the petty cash policy

- 4.3.9 Quotations
 - 4.3.9.1 *Formal written price quotations*

The conditions for the procurement of goods or services above R2 000 and below R200 000, are as follows:

- 4.3.9.1.1 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.
- 4.3.9.1.2 quotations may be obtained from providers who are not listed, provided that such providers meet the listing criteria;
- 4.3.9.1.3 if it is not possible to obtain at least three quotations, the reasons must be recorded and approved by the Accounting Officer or an official designated by the chief financial officer,
- 4.3.9.1.4 ;quotations must be awarded based on compliance to specification, conditions of contract, ability and capability to deliver the goods, functionality for services and price and must be subjected to the preference point system;
- 4.3.9.1.5 acceptable offers, which are subject to the preference points system (PPR Regulations and associated regulations), must be awarded to the bidder who scored the highest points;
- 4.3.9.1.6 the Accounting Officer must record the names of the potential providers and their written quotations;
- 4.3.9.1.7 The SCM unit should keep proper records for procurement through quotations for reference purposes.

4.3.9.2 *Procedure for procuring goods or services through formal written price quotations*

The procedure for procuring goods and services through formal written quotations are as follows;

- 4.3.9.2.1 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 regulation 17, be advertised for at least seven days on the website and an official notice board of the municipality.
- 4.3.9.2.2 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;
- 4.3.9.2.3 That the accounting officer must take all reasonable steps to ensure that the procurement of goods and services through formal written price quotations is not abused; and
- 4.3.9.2.4 That the accounting officer or chief financial officer must on a monthly basis be notified in writing of all formal written price quotations accepted by an official in terms of sub delegation; and

4.3.10 Competitive bids

4.3.10.1 *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 regulation 11(2).

4.3.10.2 *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.*

4.3.11 Bids Exceeding R10 million (VAT included)

The following information must be submitted by the Executive Manager responsible for the Vote to the CFO prior to the public advertisement of any bids in excess of R10 million (all applicable taxes included):

- 4.3.11.1 *Proof of budgetary provision exists for procurement of the goods, services and or infrastructure projects;*
- 4.3.11.2 *Any ancillary budgetary implications related to the bid, for example, if the project is for the acquisition of municipal asset, does budgetary provision exist for the operation of the asset, maintenance costs relating to the asset, administration cost and rehabilitation/renewal costs; and*
- 4.3.11.3 *Any multi-year budgetary implications, for example if a project will take more than one financial year, the estimated expenditure for financial year.*
- 4.3.11.4 *Goods, services and/or infrastructure projects above the value of R10 million (all applicable taxes included) may only be awarded to the preferred bidder after the CFO has verified that budgetary provision exist for the acquisition of the goods, infrastructure, projects and/or services and that is consistent with the Integrated Development Plan. Confirmation of bidding process for bids in excess of R10 million (all applicable taxes included)*
- 4.3.11.5 *Internal Audit Unit must compile risk-based audit plans, review internal control measures, and ensure that supply chain management, including the requirements of Circular 62, is sufficiently and adequately covered in the annual coverage plan;*
- 4.3.11.6 *Internal Auditors must be alert to fraud risks and design audit procedures and indicators that would assist in preventing and detecting potential or actual fraud and corruption;*
- 4.3.11.7 *During the competitive bidding and adjudication process or before the award of a contract, the Accounting Officer may, at his discretion, specifically request the Internal Audit function to carry out audit procedures and provide an opinion on compliance of bidding process with the Municipal Supply Chain Management Regulations;*
- 4.3.11.8 *Where bids involve the Internal Audit Service, the audit of the bidding process may be outsourced to an independent external service provider or internal audit function of another organ of the*

- state, subject to the oversight of the Audit Committee; and*
- 4.3.11.9 *The Accounting Officer may, at his own discretion, decide to have a specific contract audited by external service providers prior to the award of the contract.*
- 4.3.11.10 *If the bidder is required by law to prepare annual financial statements for auditing purposes, the audited financial statements*
- 4.3.11.10.1 For the past three years; or
- 4.3.11.10.2 Since their establishment if established during the past three years;
- 4.3.11.11 *A certificate signed by the bidder certifying that the bidder has no undisputed commitments for municipal service/s towards a municipality or other service provider in respect of which the payment is overdue for more than 90 days;*
- 4.3.11.12 *Particulars of any contracts awarded to the bidder by an organ of state during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such a contract, and*
- 4.3.11.13 *A statement indicating whether any portion of the goods or services are expected to be sourced from outside the Republic and, if so, what portion and whether any portion of payment from the municipality is expected to be transferred out of the Republic.*
- 4.3.12 Process for competitive bidding - The procedures for the following stages of a competitive bidding process are as follows:
- 4.3.12.1 *Compilation of bidding documentation;*
- 4.3.12.2 *Public invitation of bids;*
- 4.3.12.3 *Site meetings or briefing sessions;*
- 4.3.12.4 *Handling of bids submitted in response to public invitation;*
- 4.3.12.5 *Evaluation of bids;*
- 4.3.12.6 *Award of contracts;*
- 4.3.12.7 *Administration of contracts*
- 4.3.12.7.1 After approval of a bid, the accounting officer and the bidder must enter into a written agreement.
- 4.3.12.8 *Proper record keeping*
- 4.3.12.8.1 Original / legal copies of written contracts agreements should be kept in a secure place for reference purposes.
- 4.3.13 Bid documentation for competitive bids - The criteria to which bid documentation for a competitive bidding process must
- 4.3.13.1 *take into account –*
- 4.3.13.1.1 the general conditions of contract and any special conditions of contract, if specified;

- 4.3.13.1.2 any Treasury guidelines on bid documentation; and the requirements of the CIDB, in the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure
- 4.3.13.1.3 the requirement of Construction industry Development board, in the case of a bid relating to construction, upgrading or refurbishment of building or infrastructure;
- 4.3.13.2 *include the preference points system to be used, goals as contemplated in the Preferential Procurement Regulations and evaluation and adjudication criteria, including any criteria required by other applicable legislation;*
- 4.3.13.3 *compel bidders to declare any conflict of interest they may have in the transaction for which the bid is submitted;*
- 4.3.13.4 *if the value of the transaction is expected to exceed R10 million (VAT included), require bidders to furnish–*
 - 4.3.13.4.1 if the bidder is required by law to prepare annual financial statements for auditing, their audited annual financial statements –
 - 4.3.13.4.1.1 *for the past three years; or*
 - 4.3.13.4.1.2 *since their establishment if established during the past three years;*
 - 4.3.13.4.2 a certificate signed by the bidder certifying that the bidder has no undisputed commitments for municipal services towards a municipality or other service provider in respect of which payment is overdue for more than 30 days;
 - 4.3.13.4.3 particulars of any contracts awarded to the bidder by an organ of state during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract;
 - 4.3.13.4.4 a statement indicating whether any portion of the goods or services are expected to be sourced from outside the Republic, and, if so, what portion and whether any portion of payment from the municipality or municipal entity is expected to be transferred out of the Republic; and
- 4.3.13.5 *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.*

4.3.14 Invitation for competitive bids

Bids shall be invited publicly by means of advertising in a newspaper/s commonly circulating within the district, the website and or any other appropriate ways; the intention is to ensure that communities who may not be in a position to access the general press are also reached.

- 4.3.14.1 *A fully explanatory site inspection may be conducted before the close of tenders to ensure that the bidders understand the scope of the project and that they can comply with the conditions and requirements*
- 4.3.14.2 *Non-attendance of compulsory site inspection or briefing meetings shall invalidate the bid. This condition shall be indicated in the bid invitation.*
- 4.3.14.3 *The closing date for the submission of bids, will be 30 days in the case of transactions over R10 million (VAT included), or which are of a long-term nature, or 14 days in any other case, from the date of which the advertisement is placed in a newspaper.*
- 4.3.14.4 *The accounting officer can determine a closure date for the submission of bids which is less than 14- or 30-days requirement, but only if such shorter period can be justified on the grounds of urgency or emergency or any exceptional case where it is impracticable or impossible to follow the official procurement process.*
- 4.3.14.5 *Provided that the foregoing provisions shall not apply where the accounting officer, after considering a report of the relevant Manager, is of the opinion that the proposed contract is an urgent case or a special case of necessity for which tenders need not be invited or where the proposed contract is for the sale or purchase of goods, that such goods should be bought or sold by public auction. Specialised or sensitive areas shall be subjected to the closed bidding process.*
- 4.3.14.6 *Bids may only be submitted on the bid documentation purchased from the municipality. Or downloaded from the municipal website and/ e-tender website.*
- 4.3.14.7 *The bid invitation must clearly indicate that it is Municipality's prerogative not to award the tender or any part thereof to the lowest or any bidder.*
- 4.3.14.8 *Bids submitted to the municipality must be sealed*
- 4.3.14.9 *Bid results and awards must be made available to bidders when requested. The results must be published on the website. This process, which will ensure transparency, will also enable bidders to evaluate their performance and competitiveness for future tenders.*
- 4.3.15 Issuing and submission of bid documents
- 4.3.15.1 *Bid documents shall be collected from locations as specified in the bid invitation upon payment of the following non – refundable bid deposit as prescribed by Council, where applicable;*
- 4.3.15.2 *The SCM unit shall record details of all prospective bidders, who have been issued with bid documents.*
- 4.3.15.3 *Completed bid documents shall be deposited in a bid deposit box,*

which is at specified locations on or before the stipulated closing date and time.

4.3.15.4 *The period for which the bids are to remain valid shall be indicated in the bid document and is calculated from the closing date until the end of the final day of the period.*

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

4.3.16 Closing of Bids

4.3.16.1 *Bids shall close on the date and time stipulated in the bid invitation.*

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

4.3.17 Late Bids

4.3.17.1 *Bids are late if received after the closing date and the time.*

4.3.17.2 *A late bid shall not be considered for evaluation*

4.3.18 Opening of Tenders

4.3.18.1 *Immediately after the closing time, the assigned Officials will be responsible for the process of receiving and recording the bids.*

4.3.18.2 *Bid may be opened only in public and must be opened at the same time and as soon as the possible after the period for the submission of bids has expired.*

4.3.18.3 *As soon as the bids have been opened:*

4.3.18.3.1 The person opening the bids shall in each case read out the name of the bidder and the bidding price;

4.3.18.3.2 The bid document shall be stamped with the official stamp of the Municipality and endorsed with the signatures of the person opening it and of the person in whose presence it was opened;

4.3.18.3.3 The name of the bidder and the bidding price shall be recorded in a register kept for that purpose; and

4.3.18.3.4 All bids received in time must be recorded in the register and the register must be available for public inspection as stipulated in the SCM regulation.

4.3.18.3.5 The municipality shall publish the entries in the register and the bid results on its website.

4.3.18.3.6 Supply Chain Management Unit remains the custodian of the Bid Documents during the supply chain management process.

4.3.19 Invalid and Non – responsive bids

4.3.19.1 *Invalid Bids*

4.3.19.1.1 Where administrative documentation is either incomplete or not attached in the bid document, the service provider will be given notice (by either sms, telephone or email) to complete or submit in two (2) days,

4.3.19.1.2 Appropriate records should be kept indicating communication with such service providers,

4.3.19.1.3 If the service provider does not respond accordingly in the period referred above, bids shall be considered invalid and shall be endorsed as such by the responsible official who opened the bid in the following instances:

4.3.19.1.3.1 *Where the bid is not submitted on the official bid form;*

4.3.19.1.3.2 *Where the bid is completed in non-erasable ink;*

4.3.19.1.3.3 *Where the bid form has not been signed;*

4.3.19.1.3.4 *Where the bid form is signed, but the name of the bidder is not stated or is indecipherable.*

4.3.19.1.4 When bids are declared invalid at the opening, the bid of such bids shall not be read out; however, the name of the bidder and the reason for the bid having been declared invalid shall be announced.

4.3.19.2 *Non–responsive bids*

4.3.19.2.1 Non – responsive tenders

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

4.3.19.2.2 Non – responsible tenders

These refer to tenders with a price that are very high or very low and is therefore not considered a fair and acceptable price.

4.3.20 Negotiations with preferred bidders

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:

4.3.20.1 *does not allow any preferred bidder a second or unfair opportunity;*

4.3.20.2 *is not to the detriment of any other bidder; and*

4.3.20.3 *does not lead to a higher price than the bid as submitted.*

- 4.3.20.4 *Minutes of such negotiations must be kept for record purposes.*
- 4.3.21 Two-stage bidding process
- 4.3.21.1 *A two-stage bidding process is allowed for –*
- 4.3.21.1.1 large complex projects;
- 4.3.21.1.2 projects where it may be undesirable to prepare complete detailed technical specifications; or
- 4.3.21.1.3 long term projects with a duration period exceeding three years.
- 4.3.21.2 *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.*
- 4.3.21.3 *In the second stage final technical proposals and priced bids should be invited.*
- 4.3.22 Closed tender bidding
- The municipality may use a closed selection process where:
- 4.3.22.1 *There is only a limited number of potential providers of the services;*
- 4.3.22.2 *A contract with poorly performing contractors have been cancelled/terminated;*
- 4.3.22.3 *There is an emergency as provided for in terms of Section 4.11*
- 4.3.22.4 *In all these cases, at least three best performing service providers registered on the municipal database of service provider must be invited for competitive bidding process.*
- 4.3.22.5 *Sole sourcing bidding*
- 4.3.22.6 *The system will be used in the absence of competition and where only one bidder exists;*
- 4.3.22.7 *A sole source bidder normally has patent rights or sole distribution rights.*
- 4.3.23 Public / Private Partnership (PPP)
- Whenever goods, works and/ or services are procured by means of public private partnership or as part thereof, section 120 of the MFMA should be adhered to.
- 4.3.24 Unsolicited bids
- 4.3.24.1 *In accordance with section 113 of the Act, the municipality is not obliged to consider unsolicited bids received outside a normal bidding process;*
- 4.3.24.2 *The Accounting Officer may decide in terms of section 113(2) of*

the Act to consider an unsolicited bid only if –

- 4.3.24.2.1 the product or service offered in terms of the bid is demonstrably or
- 4.3.24.2.2 proven unique innovative concept;
- 4.3.24.2.3 the product or service will be exceptionally beneficial to, or have exceptional cost advantages for the municipality
- 4.3.24.2.4 the person who made the bid is the sole provider of the product or service; and
- 4.3.24.2.5 the reasons for not going through the normal bidding processes are found to be sound by the Accounting Officer.
- 4.3.24.3 *If the Accounting Officer decides to consider an unsolicited bid that complies with subparagraph (2) above, the decision must be made public in accordance with section 21A of the Municipal System Act, together with –*
- 4.3.24.3.1 reasons as to why the bid should not be open to other competitors;
- 4.3.24.3.2 an explanation of the potential benefits for the municipality were it accept the unsolicited bid;
- 4.3.24.3.3 an invitation to public or other potential suppliers to submit their comments within 30 days of the notice.
- 4.3.24.4 *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.*
- 4.3.24.5 *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.*
- 4.3.24.6 *A meeting of the adjudication committee to consider an unsolicited bid must be open to the public.*
- 4.3.24.7 *When considering the matter, the adjudication committee must take into account –*
- 4.3.24.7.1 any comments submitted by the public; and
- 4.3.24.7.2 any written comments and recommendations of the National Treasury or the relevant provincial treasury.
- 4.3.24.8 *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.*
- 4.3.24.9 *Such submission must be made within seven days after the decision on the award of the unsolicited bid is taken, but no contract committing the municipality to the bid may be entered into or signed within 30 days of the submission.*

- 4.3.24.10 *Before deciding to consider an unsolicited bid there must be compelling reasons not to use the competitive bidding process which in some cases will bring other innovative or unique processes / products to light.*
- 4.3.25 Tax compliance status
- 4.3.25.1 *The municipality shall reject any bid from a supplier who fails to provide written proof from SARS that the supplier either has no outstanding tax obligations or has made arrangements to meet outstanding tax obligations;*
- 4.3.25.2 *The CSD and tax compliance status PIN are the approved methods to be used to prove tax compliance as the SARS no longer issues Tax Clearance Certificates but has made provision online, via e-Filing, for bidders to print their own Tax Clearance Certificates which they can submit with their bids or price quotations*
- 4.3.25.3 *Accounting Officers may, therefore, accept printed or copies of Tax Clearance Certificates submitted by bidders and verify them on e-Filing. The verification result should be filed for audit purposes.*
- 4.3.25.4 *Where the recommended bidder is not tax compliant, the bidder should be notified of their non-compliant status and the bidder must be requested to submit to the municipality, within 7 working days, written proof from SARS of their tax compliance status or proof from SARS that they have made an arrangement to meet their outstanding tax obligations. The proof of tax compliance status submitted by the bidder to the municipality is verified via the CSD or e-Filing.*
- 4.3.26 Committee system for competitive bids
- 4.3.26.1 *The Municipality's committee system for competitive bids shall consist of the following committees:*
- 4.3.26.1.1 a bid specification committee;
- 4.3.26.1.2 a bid evaluation committee; and
- 4.3.26.1.3 a bid adjudication committee;
- 4.3.26.2 *The accounting officer appoints the members of each committee, taking into account section 117 of the MFMA.*
- 4.3.26.3 *The accounting officer may appoint an independent observer or a neutral person to attend SCM committee meeting when it is appropriate for ensuring fairness and promoting transparency.*
- 4.3.26.4 *The Accounting Officer may apply the bid committee system to written priced quotation if he deems it necessary.*
- 4.3.26.5 *A bid committee established in terms of the policy shall perform its functions, exercise its powers and discharge its duties independently and without fear, favour or prejudice and shall be*

accountable to the accounting officer.

4.3.27 Bid specification committees

4.3.27.1 *A bid specification committee must compile the specifications for goods or services that must be procured by the municipality.*

4.3.27.2 *Specifications –*

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

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

4.3.27.2.3 must where possible, be described in terms of performance required rather than in terms of descriptive characteristics for design;

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

4.3.27.2.5 may not make reference to any particular trade mark, name, patent, design, type, specific origin or producer unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the word “equivalent”.

4.3.27.2.6 must be approved by the accounting officer prior to publication of the invitation for bids.

4.3.27.3 *A bid specification committee must be composed of one or more officials of the preferably the manager responsible for the function involved, and may, when appropriate, include external specialist advisors.*

4.3.27.4 *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.*

4.3.27.5 *All bid specifications and bid documentation must be compiled by the bid specification committee*

4.3.27.6 *The Bid Specification Committee shall be comprised of at least three municipal officials, an appointed Chairperson, the responsible official in the unit requiring service and at least one Supply Chain Management Practitioner/Official of the district.*

4.3.27.7 *Where necessary a representative of Internal Audit and/or Legal Services and/or an external specialist advisor may form part of this committee.*

- 4.3.27.8 *The Municipal Manager, or his/her delegated authority, shall, taking into account section 117 of the MFMA, appoint the members of the Bid Specification Committee.*
- 4.3.28 Bid evaluation committee - A bid evaluation committee must
- 4.3.28.1 *evaluate bids in accordance with –*
- 4.3.28.1.1 the specifications for a specific procurement; and
- 4.3.28.1.2 the preference points system set out in terms of paragraph
- 4.3.28.2 *evaluate each bidder's ability to execute the contract;*
- 4.3.28.3 *check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not in arrears, and verify whether any of the directors are in service of the state*
- 4.3.28.4 *verify the validity of the tax clearance certificate issued by SARS;*
- 4.3.29 A bid evaluation committee must as far as possible be composed of-
- 4.3.29.1 *at least three officials, an appointed Chairperson, the responsible official and at least one Supply Chain Management Practitioner/personnel.*
- 4.3.29.2 *officials from departments requiring the goods or services; and*
- 4.3.29.3 *at least one supply chain management practitioner of the CDM.*
- 4.3.30 The bid evaluation committee will evaluate all bids received in accordance with the criteria specified in the bid specifications and submit a report and recommendations regarding the award of a bid to the adjudication committee.
- 4.3.31 Evaluation of Bid
- 4.3.31.1 *Any evaluation of a bid shall consider the bids received and shall note for inclusion in the evaluation report, a bidder:*
- 4.3.31.1.1 whose bid was endorsed as being invalid by the responsible official at the bid opening;
- 4.3.31.1.2 bid does not comply with the provisions for combating abuse of this Policy;
- 4.3.31.1.3 whose bid does not comply with the general conditions applicable to bids and quotations of this Policy;
- 4.3.31.1.4 whose bid is not in compliance with the specification;
- 4.3.31.1.5 whose bid is not in compliance with the terms and conditions of the bid documentation;
- 4.3.31.1.6 whose bid does not comply with any minimum goals stipulated in terms of the preferential procurement section of this Policy;
- 4.3.31.1.7 who, in the case of construction works acquisitions, does not comply with the requirements of the Construction Industry Development Board Act regarding registration of contractors;

- 4.3.31.1.8 who has failed to submit an original and valid tax clearance certificate from the South African Revenue Services (SARS) certifying that the taxes of the bidder are in order or that suitable arrangements have been made with SARS, and
- 4.3.31.2 *Bids shall be evaluated according to the following as applicable:*
- 4.3.31.2.1 bid price (corrected if applicable and brought to a comparative level where necessary), the unit rates and prices, the bidder's ability to fulfil its obligations in terms of the bid documents,
- 4.3.31.2.2 any qualifications to the bid,
- 4.3.31.2.3 the bid ranking obtained in respect of preferential procurement as required by this Policy,
- 4.3.31.2.4 the financial standing of the bidder, including its ability to furnish the required institutional guarantee, where applicable,
- 4.3.31.2.5 Any other criteria specified in the bid documents.
- 4.3.31.2.6 No bidder may be recommended for an award unless the bidder has demonstrated that it has the resources and skills required to fulfil its obligations in terms of the bid document.
- 4.3.31.2.7 The Bid Evaluation Committee shall check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not in arrears.
- 4.3.31.2.8 Additional information or clarification of bids may be called for if required but only in writing.
- 4.3.31.2.9 Alternative bids may be considered, provided that a bid free of qualifications and strictly in accordance with the bid documents is also submitted. The municipality shall not be bound to consider alternative bids.
- 4.3.31.2.10 If a bidder requests in writing, after the closing of bids, that his/her bid be withdrawn, then such a request may be considered and reported in the bid evaluation report.
- 4.3.31.2.11 The bidder obtaining the highest number of points must be recommended for acceptance unless there are reasonable and justifiable grounds to recommend another bidder.
- 4.3.31.2.12 If, after bids have been brought to a comparative level, two or more score equal total adjudication points, the recommended bidder shall be the one scoring the highest preference points.
- 4.3.31.2.13 Review thoroughly the evaluation report prepared and submitted by the appointed professional consultant
- 4.3.31.2.14 If two or more bids are equal in all respects, the Bid Evaluation Committee shall draw lots to decide on the recommendation for award, or may, in the case of goods and services, recommend splitting the award proportionately, where applicable.
- 4.3.31.2.15 All disclosures of a conflict of interest shall be considered by the Bid Evaluation Committee and shall be reported to the Bid

Adjudication Committee.

4.3.31.3 *Recommendation to Bid Adjudication Committee*

The Bid Evaluation Committee having considered the evaluation report, submit a report including recommendations regarding the award of the bid or any other related matter, to the Bid Adjudication Committee for award or further recommendation to the Accounting Officer for final award.

4.3.32 Bid adjudication committee

4.3.32.1 *A bid adjudication committee must –*

4.3.32.1.1 consider the report and recommendations of the bid evaluation committee; and

4.3.32.1.2 either –

4.3.32.1.2.1 *depending on its delegations, make a final award or a recommendation to the approving authority to make the final award; or*

4.3.32.1.2.2 *make another recommendation to the accounting officer how to proceed with the relevant procurement*

4.3.32.2 *The Bid Adjudication Committee shall comprise at least four senior managers, and shall include:*

4.3.32.2.1 the Chief Financial Officer or a Manager designated by the Chief Financial Officer;

4.3.32.2.2 at least one senior supply chain management practitioner of the District to serve as secretariat; and

4.3.32.2.3 a technical expert in the relevant field who is an official of the District if the District has such an expert.

4.3.32.3 *The accounting officer must appoint the 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.*

4.3.32.4 *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.*

4.3.32.5 *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.*

4.3.32.6 *The accounting officer must comply with section 114 of the MFMA within 10 working days.*

4.3.32.7 *Adjudication and Award*

4.3.32.7.1 The Bid Adjudication Committee shall consider the report and

recommendations of the Bid Evaluation Committee and make a final award or make another recommendation to the Municipal Manager on how to proceed with the relevant procurement.

4.3.32.7.2 During competitive bidding and adjudication processes or before the award of a contract, the accounting officer may, at his or her discretion, specifically request the internal audit function to carry out audit procedures and provide an opinion on compliance of the bidding process with the Municipal Supply Chain Management Regulations

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

4.3.33 Approval of Bid not recommended

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

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

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

4.3.33.1.3 notify the Municipal Manager.

4.3.33.2 *The Municipal Manager may:*

4.3.33.2.1 After due consideration of the reasons for the deviation ratify or reject the decision of the Bid Adjudication Committee referred to above.

4.3.33.2.2 If the decision of the Bid Adjudication Committee is rejected, refer the decision of the adjudication committee back to that committee for consideration.

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

4.3.33.3 *Reconsideration of Recommendations*

The Municipal Manager may, at any stage of a bidding process, refer any recommendation made by the Bid Evaluation

Committee or Bid Adjudication Committee back to that Committee for reconsideration of the recommendation.

- 4.3.34 Publication of names of bidders in respect of advertised competitive bids, above threshold value of R200 000(all applicable taxes included)
- 4.3.34.1 *Once bids have been closed, the following information must be published on the municipality's website:*
- 4.3.34.1.1 The reference number of the bid;
- 4.3.34.1.2 Contract description of the goods, services or infrastructure project;
- 4.3.34.1.3 Names of all bidders and;
- 4.3.34.1.4 Where applicable, and where practical total price of the bids, by all bidders that submitted bids in relation to that particular advertisement; and
- 4.3.34.1.5 The aforementioned information should be published within ten (10) working days after closure of the bid and should remain on the website of MUNICIPALITY for at least thirty (30) days.
- 4.3.34.2 *Once bids have been awarded, the following information must be published on CDM' s website:*
- 4.3.34.2.1 Contract numbers and description of goods, services or infrastructure projects;
- 4.3.34.2.2 Names of successful bidder (s) and
- 4.3.34.2.3 The contract price(s), and
- 4.3.34.2.4 Brand names and dates for completion of contracts.
- 4.3.34.3 *Records of such information must be retained for audit purposes*
- 4.3.35 Notification of Decision and Award of Contract
- 4.3.35.1 *If the Bid Adjudication Committee or other delegated official has resolved that a bid be accepted, the successful bidder shall be notified in writing of this decision.*
- 4.3.35.2 *Every notification of decision and/or formal acceptance/award of a bid must be in writing and shall:*
- 4.3.35.2.1 be delivered by hand on the day that it was signed and dated; or
- 4.3.35.2.2 be emailed to the address chosen by the bidder on the day that it was signed and dated, with a copy of the transmission verification report kept for record purposes.
- 4.3.36 Procurement of banking services
- 4.3.36.1 *A contract for banking services –*

- 4.3.36.1.1 must be procured through competitive bids;
- 4.3.36.1.2 must be consistent with section 7 or 85 of the Act; and
- 4.3.36.1.3 may not be for a period of more than five years at a time.
- 4.3.36.2 *The process for procuring a contract for banking services must commence at least nine months before the end of an existing contract.*
- 4.3.36.3 *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 paragraph 22(1). Bids must be restricted to banks registered in terms of the Banks Act, 1990 (Act No. 94 of 1990).*
- 4.3.37 Procurement of IT related goods or services
 - 4.3.37.1 *The accounting officer may request the services of IT specialists to assist with the acquisition of IT related goods or services through a competitive bidding process.*
 - 4.3.37.2 *Both parties must enter into a written agreement to regulate the services rendered by, and the payments to be made,*
 - 4.3.37.3 *The accounting officer must notify the IT specialists together with a motivation of the IT needs if –*
 - 4.3.37.3.1 the transaction value of IT related goods or services required in any financial year will exceed R50 million (VAT included); or
 - 4.3.37.3.2 the transaction value of a contract to be procured whether for one or more years exceeds R50 million (VAT included).
 - 4.3.37.4 *If SITA comments on the submission and the municipality disagrees with such comments, the comments and the reasons for rejecting or not following such comments must be submitted to council, national treasury, the provincial treasury and the auditor-general*
- 4.3.38 Procurement of goods necessitating special safety requirements
 - 4.3.38.1 *The accounting officer must restrict the acquisition and storage of goods in bulk (other than water) which necessitate safety arrangements, including gasses and fuel.*
 - 4.3.38.2 *Storage of goods in bulk must be justified, such justification must be based on sound reasons, including the total cost of ownership and cost advantages for the municipality.*
- 4.3.39 Procurement of goods and services under contracts secured by other organs of state
 - 4.3.39.1 *The accounting officer may procure goods or services under a contract secured by another organ of state, but only if –*
 - 4.3.39.1.1 Transversal Contract process is being followed.

- 4.3.39.2 *Conditions*
- 4.3.39.2.1 Only a tenderer who has completed and signed the declaration part of the tender's documentation may be considered.
- 4.3.39.2.2 An organ of state must, when calculating comparative prices, take into account any discounts which have been offered unconditionally.
- 4.3.39.2.3 A discount which has been offered conditionally must, despite not being taken into account for evaluation purposes, be implemented when payment is affected.
- 4.3.39.2.4 Points scored must be rounded off to the nearest 2 decimal places.
- 4.3.39.2.5 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 specific goals. .
- 4.3.39.2.6 Should two or more tender be equal in all respect, the award shall be decided by the drawing of lots as stipulated in the regulation.
- 4.3.40 Procurement of services by tertiary institution
- When an organ of the state is in need of a service provided by only tertiary institution, such services must be procured through a tendering process from the identified tertiary institutions.
- 4.3.41 Appointment of consultants
- 4.3.41.1 *The consultants shall be appointed according to the applicable Acts as amended and remunerated according to the latest applicable Government Gazette regarding professional fees;*
- 4.3.41.2 *Consultancy services must be procured through competitive bids if*
- 4.3.41.2.1 the value of the contract exceeds R200 000 (VAT included); or
- 4.3.41.2.2 the duration period of the contract exceeds one year.
- 4.3.41.3 *In addition to any requirements prescribed by this policy for competitive bids, bidders must furnish particulars of –*
- 4.3.41.3.1 all consultancy services provided to an organ of state in the last five years; and
- 4.3.41.3.2 any similar consultancy services provided to an organ of state in the last five years.
- 4.3.41.4 *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*

4.3.42 Non-technical projects and consultants

The evaluation and appointment of consultants and professional service providers involved in services other than physical infrastructure shall be subjected to the same criteria provided that the base value is calculated on the strength of price and shall include factors related to cost, expertise, experience, methodology, deliverables and the remainder to specific goals.

4.4 Deviation from, and ratification of minor breaches of, procurement processes

4.4.1 The accounting officer may – dispense with the official procurement processes established by this Policy and to procure any required goods or services through any convenient process, which may include direct negotiations, but only –

4.4.1.1 *in an emergency¹;*

4.4.1.2 *if such goods or services are produced or available from a single provider only;*

4.4.1.3 *for the acquisition of special works of art or historical objects where specifications are difficult to compile;*

4.4.1.4 *acquisition of animals for zoos and/or nature and game reserves; or*

4.4.1.5 *in any other exceptional case where it is impractical or impossible to follow the official procurement processes; and*

4.4.2 to 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.

4.4.3 In extreme cases where life and property are threatened the most senior person available shall authorize emergency measures which shall be reported to the Accounting Officer as soon as reasonably possible.

4.4.4 The accounting officer must record the reasons for any deviations in terms of subparagraphs (a)(i) and (ii) of this policy and report them to the next meeting of the council and include a note to the annual financial statements.

4.5 Avoiding abuse of supply chain management system

The Accounting Officer:

4.5.1 must take all reasonable steps to prevent abuse of the supply chain management system;

¹ The delivery of water services, electricity by its nature, will from time to time require emergency procurement and / or the obtaining of less than three quotes to avoid risking the health and safety of the consumers. In such cases the prior approval of the Accounting Officer shall be obtained. In extreme cases where life and property are threatened the most senior person.

- 4.5.2 investigate any allegations against an official or other role player, of corruption, improper conduct or failure to comply with the supply chain management system. The justified, the Accounting Officer must take steps against such official or other role player and inform the provincial treasury of such steps, and report any conduct that may constitute a criminal offence to the South African Police Service;
- 4.5.3 must check the National Treasury's database prior to awarding any contract to ensure that no recommended bidder, nor any of its directors are listed as companies or persons prohibited from doing business with the public sector;
- 4.5.4 must 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.
- 4.5.5 must reject the bid from a service provider: -
 - 4.5.5.1 *who fails to provide written proof from the from SARS that the supplier either has no outstanding tax obligation;*
 - 4.5.5.2 *who has any outstanding obligations in respect of municipal rates and taxes or any other charged as prescribed by the Municipality;*
 - 4.5.5.3 *who has during the last five years failed to perform satisfactory 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;*
- 4.5.6 may disregard the bid of any bidder if that bidder, or any of its directors:
 - 4.5.6.1 *has abused the national or provincial departments or the Municipalities supply chain management system;*
 - 4.5.6.2 *has committed fraud or any other improper conduct in relation to such system;*
- 4.5.7 must inform the relevant the relevant treasury of any action taken in terms of this paragraph;
- 4.5.8 may cancel the contract awarded to a person:
 - 4.5.8.1 *the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract;*
 - 4.5.8.2 *an official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of the contract.*
- 4.5.9 must reject the bid of any bidder if that bidder or any of its directors inform the relevant the relevant treasury of any action taken in terms of this paragraph:
 - 4.5.9.1 *has abused the supply chain management system of the municipality or has committed any improper conduct in relation to such system.*
 - 4.5.9.2 *has been convicted for fraud or corruption during the past five years.*

4.5.9.3 *Has wilfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or*

4.5.9.4 *Has been listed in the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (12 of 2004).*

4.5.10 Taking action against a contractor

In the event of a contravention, the municipality's success to impose its available remedies and exercise its powers in this regard will be improved if the process requirements when inviting and awarding the bid have been correctly followed by the municipality or entity.

In each case the municipality or entity should consider whether it has appropriate skills/knowledge internally to investigate the matter or whether such skills/ knowledge or the circumstances of a specific case require such to be sourced externally. For some types of contracts breaches it may be necessary to obtain independent advice. For example, a registered engineer should confirm inferior quality in terms of construction breaches. In less severe cases it may be appropriate to obtain an internal report or statement from a suitably qualified official. Legal advice may also be required in some instances.

In all instances where a criminal offence is suspected, and immediately after its discovery, the matter must be reported by the Accounting Officer/ Chief Financial Officer to the South African Police Service (SAPS). This is over and above the municipality's own internal investigation and action. In the event that the Accounting Officer or Chief Financial Officer is implicated, the Speaker of Council or the person delegated by council in the interim with the responsibilities of the Accounting Officer should immediately report the matter to the SAPS.

The municipality or entity, over and above its contractual and other remedies, is also entitled to the remedies included in the Preferential Procurement Regulations.

4.5.11 Right of appeal by the contractor

A contractor or any other person restricted by the Accounting Officer in this manner has a right to contest this restriction in a Court of Law. The municipality or entity that imposed the restriction is responsible and accountable for any costs associated with court proceedings and for the cost of any decision that may result.

5. MINUTES, RECORDS AND THRESHOLDS

5.1 Non-attendance

Non-attendance of meeting will be noted “with” or “without apology.” Repeated failure to attend meetings without valid reasons for three consecutive meetings shall result in the matter being reported to the Accounting Officer for action.

5.2 Minutes keeping

5.2.1 The SCM Unit shall be responsible for the secretarial work, including minute taking. The SCM section shall further be responsible for safe keeping of all correspondence generated by or received on behalf of the Committee.

5.2.2 The secretary of the Bid Committees shall be responsible for safe keeping of the minutes signed by the relevant Chairperson as accuracy and validity of proceedings.

5.3 Decision making

5.3.1 Normally decisions will be reached by consensus. Should there be sharp differences between members over any specific matter, a decision may be arrived at by voting by a show of hands (chairperson will have a casting vote).

5.3.2 Should the BAC, after the recommendation has been referred back, not obtain a consensus with the BEC on the final award of the bid, the final recommendation must be submitted to the Accounting Officer for a final decision.

5.3.3 Thus, if a quote/bid other than the one recommended by the BEC is approved by the BAC, the Accounting Officer must first be notified.

5.3.4 If the BAC/AO decides to approve a bid other than the one recommended by the BEC, the Auditor-General, Provincial Treasury and National Treasury must be notified in writing within 10 days of the reasons for deviating from such recommendation.

5.3.5 The Accounting Officer may at any stage refer the recommendation made by the BEC or BAC back to that committee for recommendation.

5.4 Confidentiality

5.4.1 All bids and any related correspondence and deliberations thereon must be treated as confidential information. No member of Bid Committees or any other official of municipality may divulge information relating to bids unless he/she is authorised to do so. Any person liable for such conduct may be charged with misconduct.

5.4.2 Matters of a confidential nature in the possession of supply chain or other officials should be kept confidential unless legislation, the

performance of duty or the provision of the law requires otherwise. Such restrictions should also apply after leaving the service of municipality.

- 5.4.3 Any information that is the property of the municipality or its suppliers/service providers should be protected at all times.

5.5 Declaration of interest

5.5.1 Each member of the bid committee or any official involved in the bidding process must declare conflict of interest and sign confidentiality agreement prior to the commencement of the evaluation process. No member or official who has an interest (or whose relative or friend has an interest) in particular offer will be allowed to participate in the evaluation, consideration and adjudication of the relevant bid.

5.5.2 If the SCM practitioner or other role player, or close family member, partner or associate of such practitioner or other role player, has any private or business interest in any contract to be awarded, that practitioner or role player must:

5.5.2.1 *Disclose the interest.*

5.5.2.2 *Withdraw from participating in any manner whatsoever in the process relating to the contract.*

5.5.3 All committee members as well as the secretary should be required to declare their financial interest annually and at each subsequent meeting.

5.5.4 Members must declare all gifts and invitations accepted for social events received from suppliers or potential suppliers, irrespective of the value of such a gift. Such declarations must be captured in the minutes of the meeting and must be reported to the CFO. Any such gifts and/or invitations accepted by the CFO must be reported to the Accounting Officer.

5.6 Attendance

Members and all other attendees shall sign a register at each meeting, serving as attendance register as well as an undertaking to confidentiality and impartiality of that meeting.

6. LOGISTICS MANAGEMENT

6.1 The Accounting Officer must establish and implement an effective system of logistics management, which must include –

- 6.1.1 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;
- 6.1.2 the setting of inventory levels that includes minimum and maximum levels and lead times wherever goods are placed in stock;
- 6.1.3 the placing of manual or electronic orders for all acquisitions other than those from petty cash;
- 6.1.4 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;
- 6.1.5 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;
- 6.1.6 regular checking to ensure that all assets including official vehicles are properly managed, appropriately maintained and only used for official purposes; and
- 6.1.7 monitoring and review of the supply vendor performance to ensure compliance with specifications and contract conditions for particular goods or services.
- 6.1.8 Stocktaking of all assets in stock or on distribution should be conducted at least once a year.
- 6.1.9 The SCM unit shall be responsible and accountable for the establishment, management and operation of store facilities for the Municipality.

6.2 The management of stores shall include amongst others:

- 6.2.1 The day-to-day operation of the Municipality's store;
- 6.2.2 Determining the range and nature of items that will be carried in the store facility;
- 6.2.3 Setting the inventory level;
- 6.2.4 Timely placement of orders when stock levels are low;
- 6.2.5 Receiving and distribution of goods; and
- 6.2.6 Expediting orders.

6.3 Placing of orders

- 6.3.1 Purchase orders will be created with reference to requisitions where the supply source is contract or quotations (where sourcing had to

take place).

- 6.3.2 Requisitions must be completely filled and submitted with three quotations.
- 6.3.3 All purchase orders will be captured on the Phoenix system inclusive of VAT.
- 6.3.4 The assets section (for asset creation) and the insurance section (for claims) will be informed after the purchase order approval.

7. DISPOSAL MANAGEMENT

7.1 The criteria for the disposal or letting of assets, including unserviceable, redundant or obsolete assets, subject to sections 14 and 90 of the MFMA, are as follows –

- 7.1.1 vehicles that have been scrapped;
- 7.1.2 motors, pumps, panels and other electro-mechanical equipment which do not have the capacity to meet the demand and which cannot be used elsewhere in the system;
- 7.1.3 damaged motors, pumps, panels and other electro-mechanical equipment, the repairs to which cost more than 60% of the cost of a new replacement item; and
- 7.1.4 plant, vehicles and equipment that have exceeded their economic life.

7.2 Assets may be disposed of by –

- 7.2.1 Transferring the asset to another organ of state in terms of a provision of the Act enabling the transfer of assets;
- 7.2.2 Transferring the asset to another organ of state at market related value or, when appropriate, free of charge;
- 7.2.3 Selling the asset; or
- 7.2.4 Destroying the asset.

7.3 The accounting officer must ensure that –

- 7.3.1 immovable property is sold only at market related prices except when the public interest or the plight of the poor demands otherwise;
- 7.3.2 movable assets are sold either by way of written price quotations, a competitive bidding process, auction or at market related prices, whichever is the most advantageous;
- 7.3.3 firearms are not sold or donated to any person or institution within or outside the Republic unless approved by the National Conventional Arms Control Committee;
- 7.3.4 immovable property is let at market related rates except when the public interest or the plight of the poor demands otherwise;
- 7.3.5 all fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property are annually reviewed;
- 7.3.6 where assets are traded in for other assets, the highest possible trade-in price is negotiated; and
- 7.3.7 in the case of the free disposal of computer equipment, the councillors are first approached to indicate within 30 days whether any of the local schools, traditional leaders, NGOs are interested in the equipment.

7.3.8 The Municipality's asset management policy will be considered as far as this matter applies.

8. RISK MANAGEMENT

8.1 Risk Management

8.1.1 The supply chain management process must provide for an effective system of risk management for the identification, consideration and avoidance of potential risks in the SCM system, are as follows:

8.1.1.1 *Non-compliance by the supplier to deliver within agreed timeframes;*

8.1.1.2 *Supply of inferior goods or services;*

8.1.1.3 *Inability of the supplier to provide goods or services as ordered;*

8.1.1.4 *Non-adherence to the Municipality's policy with regard to utilisation of preferred suppliers; and*

8.1.1.5 *Procurement of goods or services at prices or of a quality not in the best interest of municipality.*

8.1.2 Risk Management must include-

8.1.2.1 *The identification of risks on a case-by-case basis;*

8.1.2.2 *The allocation of risks to the party best suited to manage such risks;*

8.1.2.3 *Acceptance of the cost of the risk where the cost of transferring is greater than that of retaining it;*

8.1.2.4 *The management of risks in a pro-active manner and the provision of adequate cover for residual risks; and*

8.1.2.5 *The assignment of relative risks to the contracting parties through clear and unambiguous contract documentation.*

8.1.3 In addition to the above, the Risk Management Framework of municipality will apply.

8.2 Bid Security

8.2.1 In all cases where property of the council is placed in the hands of a private organisation, security covering the full value of the property must be obtained.

8.2.2 Where the estimated cost of the project will, in the opinion of the Municipality constitute a higher risk of services not being completed in time by the contractor and therefore security is always required for the completion of construction service. Where security is required, details of the required security are stipulated as a bid condition.

8.2.3 Capricorn District Municipality may waive the requirements for a security in order to facilitate immediate entry of emerging small-scale entrepreneurs in the small works sector of the construction industry. The net effect is that the council will underwrite the risks of such

contracts in order to provide opportunities that will target a specific sector.

8.3 Professional Registration and Indemnity Insurance

- 8.3.1 In order to maintain such a high standard of work and keeping in mind the possible risk Council is exposed to, as well as the relevant legislation regarding the professions, it is of utmost importance that only firms registered with their relevant professional bodies are allowed for appointment by Council.
- 8.3.2 Furthermore, all such firms must have a valid and current Professional Indemnity insurance policy in place. The purpose of such a policy is to provide protection for any loss, damage, death liability or take-over of a third party or a loss sustained by the Council, related to an oversight, omission or negligence pertaining to the non-adherence of professional duties for which the consultant is responsible.

8.4 Deed of Cession

In recognition of the difficulties experienced by Emerging contractors in the procurement of materials due to suppliers classifying them as high risk, Capricorn district Municipality will allow cession arrangement in good faith where Capricorn district Municipality will undertake to pay the supplier directly from the contractor's certificate before paying the contractor.

8.5 Insurance

The contractor must supply proof of insurance in accordance with applicable General Conditions of Contract.

8.6 Sureties

- 8.6.1 The following deviations from the General Conditions of Contracts should be noted and that the projects listed below are afforded according to risk and the following sureties shall be applicable:

| | | |
|---------|---------------------------------|-------------|
| 8.6.1.1 | <i>Micro projects</i> | <i>Nil</i> |
| 8.6.1.2 | <i>Small projects</i> | <i>2.5%</i> |
| 8.6.1.3 | <i>Medium Projects</i> | <i>5%</i> |
| 8.6.1.4 | <i>Large projects A & B</i> | <i>10%</i> |

- 8.6.2 Whereas in the case of micro projects sureties have been waived, for small and medium projects the sureties have been reduced, a cash surety will be deducted in equal percentages of the progress payments during the duration of the contract will be allowed. In the case of large projects not exceeding R2 million a cash deduction

from the first three progress payments covering the full surety percentage will be allowed. In case of large projects over R2 million only bank bonds will be allowed in accordance with the general Conditions of Contract.

8.7 Retention

8.7.1 The following deviations from the General Conditions of Contracts should be noted. Capricorn district Municipality shall retain the following percentages of the project cost from the Contractor during the construction as a guard against defects that might be noticed after practical completion-

- 8.7.1.1 *Micro* 5%
- 8.7.1.2 *Small* 5%
- 8.7.1.3 *Medium* 10%
- 8.7.1.4 *Large* 10%

8.7.2 The retention will be released as follows:

- 8.7.2.1 *Micro: 2.5% released at completion of the Project and the balance after 3 months*
- 8.7.2.2 *Small: 2.5% released at completion of the Project and the balance after 6 months*
- 8.7.2.3 *Medium: 5% released at completion of the Project and the balance after 12 months*
- 8.7.2.4 *Large: 5% released at completion of the Project and the balance after 12 months*

8.7.3 Capricorn District Municipality shall retain 5% on the account of the consultant as retention, which will be released after three (03) months, provided the following conditions have been complied with:

- 8.7.3.1 *Submission of as built drawings;*
- 8.7.3.2 *Submission of completion reports, operating manuals and equipment warranties; and*
- 8.7.3.3 *There are no unresolved management and or community issues outstanding.*

8.8 Penalties

8.8.1 All contracts awarded to contractors will be subject to a penalty clause. The penalty clause is necessary to encourage contractors to complete their assignments within the contract time.

8.8.2 The following penalties should be applicable:

- 8.8.2.1 *Micro projects 0.02 % of contract amount per day*

- 8.8.2.2 *Small projects 0.04 % of contract amount per day*
- 8.8.2.3 *Medium projects 0.06 % of contract amount per day*
- 8.8.2.4 *Large projects 0.1 % of contract amount per day*
- 8.8.2.5 *A penalty clause does not and cannot ensure that a contract will be completed on time and therefore the enforcement of penalties will become a reality. Penalties should at least cover any loss incurred by the Council.*

9. PERFORMANCE MANAGEMENT

9.1 Taking into account

- 9.1.1 The CFO under the delegation of the Accounting Officer must establish and implement an internal monitoring system in order to determine the basis of a retrospective analysis whether the authorized SCM processes were followed and whether the measurable performance objectives linked to and approved with the budget and service delivery and budget implementation plan, were achieved.
- 9.1.2 The relevant Project Manager must ensure that the performance of all contractors is assessed during the period of the contract.
- 9.1.3 At the completion stage of the project/contract, an assessment of the contractor shall be undertaken and this assessment should be available for future reference.
- 9.1.4 Performance management shall accordingly be characterised by a monitoring process and retrospective analysis to determine whether:
Value for money has been attained;
- 9.1.4.1 *Proper processes have been followed;*
- 9.1.4.2 *Desired objectives have been achieved;*
- 9.1.4.3 *There is an opportunity to improve the process;*
- 9.1.4.4 *Suppliers have been assessed and what that assessment is; and*
- 9.1.4.5 *There has been deviation from procedures and, if so, what the reasons for that deviation are.*
- 9.1.5 The performance management system shall accordingly focus on, amongst others:
- 9.1.5.1 *Achievement of goals;*
- 9.1.5.2 *Compliance to norms and standards;*
- 9.1.5.3 *Savings generated;*
- 9.1.5.4 *Cost variances per item;*
- 9.1.5.5 *Non-compliance with contractual conditions and requirements; and*
- 9.1.5.6 *The cost efficiency of the procurement process itself.*
- 9.1.6 The CFO shall report quarterly to the Council on the following aspects:
- 9.1.6.1 *Total procurement spend;*
- 9.1.6.2 *Process disputes if any;*
- 9.1.6.3 *Instances of alleged and proven fraud and corruption if any;*
- 9.1.6.4 *Information regarding deviation process followed. Examples of*

such processes are:

- 9.1.6.4.1 Non-utilization of supplier database;
- 9.1.6.4.2 Subdividing of total requirements; and
- 9.1.6.4.3 Unplanned spending and obtaining less than the required number of quotations.

10. OTHER MATTERS

10.1 Prohibition on awards to persons whose tax matters are not in order

- 10.1.1 No award above R15 000 may be made in terms of this Policy to a person whose tax matters have not been declared by the South African Revenue Service to be in order.
- 10.1.2 Before making an award to a person the accounting officer must first check with SARS whether that person's tax matters are in order.
- 10.1.3 If SARS does not respond within 7 days such person's tax matters may for purposes of subparagraph (a) be presumed to be in order.

10.2 Prohibition on awards to persons in the service of the state

Irrespective of the procurement process followed, no award may be made to a person in terms of this Policy –

- 10.2.1 who is in the service of the state;
- 10.2.2 if that person is not a natural person, of which any director, manager, principal shareholder or stakeholder is a person in the service of the state; or
- 10.2.3 a person who is an advisor or consultant contracted with the Municipality.
- 10.2.4 who is a member of the municipal council

10.3 Awards to close family members of persons in the service of the state

The accounting officer must ensure that the notes to the annual financial statements disclose particulars of any award of more than R2000 to a person who is a spouse, child or parent of a person in the service of the state, or has been in the service of the state in the previous twelve months, including –

- 10.3.1 the name of that person;
- 10.3.2 the capacity in which that person is in the service of the state; and
- 10.3.3 the amount of the award.

10.4 Ethical standards

- 10.4.1 All officials and other role players engaged in the supply chain management system of the Municipality, must comply with the highest ethical standards in order to promote mutual trust and respect, and an environment where business can with integrity and in a fair and reasonable manner;
- 10.4.2 All officials of the Municipality must comply with provisions of the Code of Conduct for officials as contained in Schedule 2 of the Municipal Systems Act, and the National Treasury's Code of

Conduct for Supply Chain Management Practitioners and other role players involved in

- 10.4.3 In the event that an official abuses or do not comply with the provisions of the SCM Policy. Action shall be taken against the official in terms of the Conditions of Service as well as Chapter 15 of the Act.
- 10.4.4 An official or other role player involved in the implementation of this Policy –
- 10.4.4.1 *must treat all providers and potential providers equitably;*
 - 10.4.4.2 *may not use his or her position for private gain or to improperly benefit another person;*
 - 10.4.4.3 *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;*
 - 10.4.4.4 *notwithstanding subparagraph (d)(iii), 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;*
 - 10.4.4.5 *must, for the purpose of subparagraph (ii) above, 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;*
 - 10.4.4.6 *must immediately withdraw from participating in any manner whatsoever in a procurement or disposal process or in the award of a contract in which that person, or any close family member, partner or associate, has any private or business interest;*
 - 10.4.4.7 *must be scrupulous in his or her use of property belonging to Municipality;*
 - 10.4.4.8 *must assist the accounting officer in combating fraud, corruption, favouritism and unfair and irregular practices in the supply chain management system; and*
 - 10.4.4.9 *must report to the accounting officer any alleged irregular conduct in the supply chain management system which that person may become aware of, including –*
 - 10.4.4.9.1 *any alleged fraud, corruption, favouritism or unfair conduct;*
 - 10.4.4.9.2 *any alleged contravention of paragraph 47(1) of this Policy; or*
 - 10.4.4.9.3 *any alleged breach of this code of ethical standards.*
- 10.4.5 Declarations in terms of subparagraphs (4)(d) and (e) -
- 10.4.5.1 *must be recorded in a register which the accounting officer must keep for this purpose;*
 - 10.4.5.2 *by the accounting officer must be made to the Executive Mayor of*

the Municipality who must ensure that such declarations are recorded in the register.

- 10.4.6 The National Treasury's code of conduct must also be taken into account by supply chain management practitioners and other role players involved in supply chain management.

10.5 Inducements, rewards, gifts and favours to Municipal officials and other role players

- 10.5.1 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 –

10.5.1.1 any inducement or reward to the Municipality for or in connection with the award of a contract; or

10.5.1.2 any reward, gift, favour or hospitality to –

10.5.1.2.1 any official; or

10.5.1.2.2 any other role player involved in the implementation of this Policy.

- 10.5.2 The accounting officer must promptly report any alleged contravention of subparagraph (10.5.1) 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.

- 10.5.3 Subparagraph (10.5.1) does not apply to gifts less than R350 in value.

10.6 Sponsorships

- 10.6.1 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 –

10.6.1.1 a provider or prospective provider of goods or services; or

10.6.1.2 a recipient or prospective recipient of goods disposed or to be disposed.

10.7 Objections and complaints

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

10.8 Resolution of disputes, objections, complaints and queries

- 10.8.1 The accounting officer must appoint an independent and impartial person, not directly involved in the supply chain management processes –
- 10.8.1.1 to assist in the resolution of disputes between the Municipality and other persons regarding -*
- 10.8.1.1.1 any decisions or actions taken in the implementation of the supply chain management system; or
- 10.8.1.1.2 any matter arising from a contract awarded in the course of the supply chain management system; or
- 10.8.1.2 to deal with objections, complaints or queries regarding any such decisions or actions or any matters arising from such contract.*
- 10.8.2 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.
- 10.8.3 The person appointed must –
- 10.8.3.1 strive to resolve promptly all disputes, objections, complaints or queries received; and*
- 10.8.3.2 submit monthly reports to the accounting officer on all disputes, objections, complaint or queries received, attended to or resolved.*
- 10.8.4 A dispute, objection, complaint or query may be referred to the relevant provincial treasury if –
- 10.8.4.1 the dispute, objection, complaint or query is not resolved within 60 days; or*
- 10.8.4.2 no response is forthcoming within 60 days.*
- 10.8.5 If the provincial treasury does not or cannot resolve the matter, the dispute, objection, complaint or query may be referred to the National Treasury for resolution.
- 10.8.6 This paragraph must not be read as affecting a person's rights to approach a court at any time.

10.9 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

- 10.9.1 a cap on the compensation payable to the service provider; and
- 10.9.2 that such compensation must be performance based.

10.10 Amendment of the supply chain management policy

- 10.10.1 The accounting officer must –
- 10.10.1.1 *at least annually review the implementation of this Policy; and*
- 10.10.1.2 *when the accounting officer considers it necessary, submit proposals for the amendment of this Policy to Council.*
- 10.10.2 If the accounting officer submits proposed amendments to Council, that differ from the guidelines issued by the National Treasury, the accounting officer must ensure that such proposed amendments comply with the Regulations;
- 10.10.3 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.

10.11 MANAGING THE CONTRACT

- 10.11.1 The Contract Administrator shall adhere to the provisions of this Policy and the Contract Management Policy;
- 10.11.2 The End-End-user department shall be responsible for the day-to-day administration of the contract; and
- 10.11.3 The SCM shall be responsible to ensure that the contract payments are made according to contract conditions.

11. 2022 PREFERENTIAL PROCUREMENT REGULATIONS

SCHEDULE

PREFERENTIAL PROCUREMENT REGULATIONS, 2022

Contents

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Definitions

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—

“**highest acceptable tender**” means a tender that complies with all specifications and conditions of tender and that has the highest price compared to other tenders;

“**lowest acceptable tender**” means a tender that complies with all specifications and conditions of tender and that has lowest price compared to other tenders;

“**price**” means an amount of money tendered for goods or services, and includes all applicable taxes less all unconditional discounts;

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

“**specific goals**” means specific goals as contemplated in section 2(1)(d) of the Act which may include contracting with persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of race, gender and disability including the implementation of programmes of the Reconstruction and Development Programme as published in *Government Gazette* No. 16085 dated 23 November 1994;

“**tender**” means a written offer in the form determined by an organ of state in response to an invitation to provide goods or services through price quotations, competitive tendering process or any other method envisaged in legislation;

“**tender for income-generating contracts**” means a written offer in the form determined by an organ of state in response to an invitation for the origination of income-generating contracts through any method envisaged in legislation that will result in a legal agreement between the organ of state and a third party that produces revenue for the organ of state, and includes, but is not limited to, leasing and disposal of assets and concession contracts, excluding direct sales and disposal of assets through public auctions; and

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

Application

2. These Regulations apply to organs of state as defined in section 1¹ of the Act.

Identification of preference point system

- 3.(1) An organ of state must, in the tender documents, stipulate—
- (a) the applicable preference point system as envisaged in regulations 4, 5, 6 or 7;
 - (b) the specific goal in the invitation to submit the tender for which a point may be awarded, and the number of points that will be awarded to each goal, and proof of the claim for such goal.
- (2) If it is unclear whether the 80/20 or 90/10 preference point system applies, an organ of state must, in the tender documents, stipulate in the case of—
- (a) an invitation for tender for income-generating contracts, that either the 80/20 or 90/10 preference point system will apply and that the highest acceptable tender will be used to determine the applicable preference point system; or
 - (b) any other invitation for tender, 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.

80/20 preference point system for acquisition of goods or services with Rand value equal to or below R50 million

4.(1) The following formula must be used to calculate the points out of 80 for price in respect of an invitation for a tender with a Rand value equal to or below R50 million, inclusive of all applicable taxes:

$$Ps = 80 \left(1 - \frac{Pt - P_{\min}}{P_{\min}} \right)$$

Where-

Ps = Points scored for price of tender under consideration;

Pt = Price of tender under consideration; and

Pmin = Price of lowest acceptable tender.

(2) A maximum of 20 points may be awarded to a tenderer for the specific goal specified for the tender.

(3) The points scored for the specific goal must be added to the points scored for price and the total must be rounded off to the nearest two decimal places.

(4) Subject to section 2(1)(f) of the Act, the contract must be awarded to the tenderer scoring the highest points.

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

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

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

Where-

P_s = Points scored for price of tender under consideration;

P_t = Price of tender under consideration; and

P_{\min} = Price of lowest acceptable tender.

(2) A maximum of 10 points may be awarded to a tenderer for the specific goal specified for the tender.

(3) The points scored for the specific goal must be added to the points scored for price and the total must be rounded off to the nearest two decimal places.

(4) Subject to section 2(1)(f) of the Act, the contract must be awarded to the tenderer scoring the highest points.

80/20 preference points system for tenders for income-generating contracts with Rand value equal to or below R50 million

6.(1) The following formula must be used to calculate the points for price in respect of an invitation for tender for income-generating contracts, with a Rand value equal to or below R50 million, inclusive of all applicable taxes:

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

Where-

P_s = Points scored for price of tender under consideration;

P_t = Price of tender under consideration; and

P_{\max} = Price of highest acceptable tender.

(2) A maximum of 20 points may be awarded to a tenderer for the specific goal specified for the tender.

(3) The points scored for the specific goal must be added to the points scored for price and the total must be rounded off to the nearest two decimal places.

(4) Subject to section 2(1)(f) of the Act, the contract must be awarded to the tenderer scoring the highest points.

90/10 preference point system for tenders for income-generating contracts with Rand value above R50 million

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

$$Ps = 90 \left(1 + \frac{Pt - Pmax}{Pmax} \right)$$

Where-

Ps = Points scored for price of tender under consideration;

Pt = Price of tender under consideration; and

Pmax = Price of highest acceptable tender.

(2) A maximum of 10 points may be awarded to a tenderer for the specific goal specified for the tender.

(3) The points scored for the specific goal must be added to the points scored for price and the total must be rounded off to the nearest two decimal places.

(4) Subject to section 2(1)(f) of the Act, the contract must be awarded to the tenderer scoring the highest points.

Criteria for breaking deadlock in scoring

8.(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 specific goals.

(2) If two or more tenderers score equal total points in all respects, the award must be decided by the drawing of lots.

Remedies

9.(1) If an organ of state is of the view that a tenderer submitted false information regarding a specific goal, it must—

(a) inform the tenderer accordingly; and

(b) give the tenderer an opportunity to make representations within 14 days as to why the tender may 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.

(2) After considering the representations referred to in subregulation (1)(b), the organ of state may, if it concludes that such information is false—

(a) disqualify the tenderer or terminate the contract in whole or in part; and

(b) if applicable, claim damages from the tenderer.

Repeal of regulations

10.(1) Subject to this regulation, the Preferential Procurement Regulations, 2017 published in Government No. 40553 of 20 January 2017, are hereby repealed with effect from the date referred to in regulation 11.

(2) Any tender advertised before the date referred to in regulation 11 must be dealt with in terms of the Preferential Procurement Regulations, 2017.

Short title and commencement

11. These Regulations are called the Preferential Procurement Regulations, 2022 and take effect on 16 January 2023.

12. - SPECIFIC GOALS

“**specific goals**” means specific goals as contemplated in section 2(1)(d) of the Act which may include contracting with persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of race, gender and disability including the implementation of programmes of the Reconstruction and Development Programme as published in Government Gazette No. 16085 dated 23 November 1994;

12.1 - 80/20 preference point system for acquisition/ income-generating contracts of goods or services with Rand value equal to or below R50 million

A maximum of 20 points may be awarded to a tenderer for the specific goal specified for the tender and points will be allocated according to the ownership percentage in the company.

| Specific goal specified for the tender for Preference Point system and Attachments | | |
|---|---------------------------------------|--------------------------|
| Preference Points for Specific Goal: | Means of Verification: | Number of points: |
| Owned by South African black people (Male or Female) | Company certificate Identity Document | 5 |
| Owned by South African people who are women all races | Company Certificate Identity Document | 5 |
| Owned by South African black people who are youth | Company certificate Identity Document | 5 |
| Owned by black people with disabilities | Medical Report Indicating Disability | 5 |

Note: Specific goal specified for the tender for Preference Point system above is determined and allocated for the specific goal specified for the tender for each 20 points and approved by Bid Specification Committee.

12.2 - 90/10 preference point system for acquisition/ income-generating contracts of goods or services with Rand value above R50 million

A maximum of 10 points may be awarded to a tenderer for the specific goal specified for the tender and points will be allocated according to the ownership percentage in the company.

| Specific goal specified for the tender for Preference Point system and Attachments | | |
|---|---------------------------------------|--------------------------|
| Preference Points for Specific Goal: | Means of Verification: | Number of points: |
| Owned by South African black people (Male or Female) | Company certificate Identity Document | 3 |
| Owned by South African people who are women all races | Company certificate Identity Document | 3 |
| Owned by South African black people who are youth | Company certificate Identity Document | 2 |
| Owned by black people with disabilities | Medical Report Indicating Disability | 2 |

Note: Specific goal specified for the tender for Preference Point system above is determined and allocated for the specific goal specified for the tender for each 10 points and approved by Bid Specification Committee.

12. CONTRACT MANAGEMENT

12.1 Management of expansion or variation of orders against the original contract

- 12.1.1 It is recognized that, in exceptional cases, an accounting officer of a municipality or municipal entity may deem it necessary to expand or vary orders against the original contract.
- 12.1.2 The expansion or variation of orders against the original contract has, however, led to wide scale abuse of the current Supply Chain Management system.
- 12.1.3 In order to mitigate such practices, accounting officers of municipalities and municipal entities are advised that contracts may be expanded or varied by not more than 20% for construction related goods, services and/or infrastructure projects and 15% for all other goods and/or services of the original value of the contract. Furthermore, anything beyond the abovementioned thresholds must be reported to council or the board of directors.
- 12.1.4 Any expansion or variation in excess of these thresholds must be dealt with in terms of the provisions of section 116(3) of the MFMA which will be regarded as an amendment to the contract.
- 12.1.5 The contents of the above paragraph are not applicable to transversal term contracts, facilitated by the relevant treasuries on behalf of municipalities and municipal entities and, specific term contracts. The latter refers to orders placed as and when commodities are required and at the time of awarding contracts, the required quantities were unknown.

13. PANEL ROTATION STANDARD OPERATING PROCEDURE

Appointed service providers Panel rotation standard operating procedure/ manual aims to foster a collaborative and mutually beneficial relationship between the municipality and stakeholders, ensuring that the allocation of services aligns with the strategic objectives, priorities, and regulatory requirements of the Municipality.