



DRAFT SUPPLY CHAIN MANAGEMENT POLICY 2020-2021

(Incorporating Preferential Procurement)

Review For Approved by Council: 12 June 2020

PART A

This Policy consists of two parts:

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

and

Part B is the Preferential Procurement Policy, adopted in terms of section 2 of the Preferential Procurement Policy Framework Act, No. 5 of 2000 and the Preferential Procurement Regulations, 2011.

TABLE OF CONTENTS

POLICY STATEMENT AND OBJECTIVES

1. Definitions

CHAPTER 1:

IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY

2. Supply Chain Management Policy
3. Adoption, amendment and implementation of the Supply Chain Management Policy
4. Delegation of Supply Chain Management powers and duties
5. Sub-delegations
6. Oversight role of council
7. Supply Chain Management Unit
8. Training of Supply Chain Management officials

CHAPTER 2:

FRAMEWORK FOR SUPPLY CHAIN MANAGEMENT POLICY

9. Format of Supply Chain Management Policy

Part 1: DEMAND MANAGEMENT

10. System of demand management

Part 2: ACQUISITION MANAGEMENT

11. System of Acquisition Management
12. Range of procurement processes
13. General preconditions for consideration of written quotations or bids
14. Lists of accredited prospective providers
15. Written quotations below R2 000
16. Written quotations above R2 000
17. Formal written price quotations
18. Procedures for procuring goods or services through written quotations and formal written price quotations
19. Competitive bids
20. Process for competitive bidding
21. Bid documentation for competitive bids
22. Public invitation for competitive bids
23. Procedure for handling, opening and recording of bids
24. Negotiations with preferred bidders and communication with prospective providers and bidders
25. Two-stage bidding process
26. Committee system for competitive bids
27. Bid Specification Committees
28. Bid Evaluation Committees
29. Bid Adjudication Committees
30. Procurement of Banking Services
31. Procurement of Information- and Communication Technology (ICT) related goods or services
32. Procurement of goods and services under contracts secured by other organs of state
33. Procurement of goods necessitating special safety arrangements
34. Proudly SA Campaign
35. Appointment of consultants
36. Deviation from, and ratification of minor breaches of procurement processes
37. Unsolicited bids
38. Combating of abuse of supply chain management system

Part 3: LOGISTICS, DISPOSAL, RISK AND PERFORMANCE MANAGEMENT

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

Part 4: OTHER MATTERS

- 43. Prohibition on awards to persons whose tax matters are not in order
- 44. Prohibition on awards to persons in the service of the state
- 45. Awards to close family members of persons in the service of the state
- 46. Ethical standards
- 47. Inducements, rewards, gifts and favors to municipal officials and other role players
- 48. Sponsorships
- 49. Objections and complaints
- 50. Resolution of disputes, objections, complaints and queries
- 51. Contract management
- 52. Public Private Partnerships
- 53. Short title and commencement

POLICY STATEMENT AND OBJECTIVES

1. Section 111 of the Local Government: Municipal Finance Management Act, 56 (MFMA) requires each municipality and municipal entity to adopt and implement a Supply Chain Management Policy, which give effect to the requirements of the Act.
2. In addition, the Preferential Procurement Policy Framework Act requires an Organ of State to determine its Preferential Procurement Policy and to implement it within the framework prescribed.
3. The objectives of this Policy are:
 - 1) to give effects to section 217 of the Constitution of the Republic of South Africa by implementing a system that is fair, equitable, transparent, competitive and cost effective;
 - 2) to comply with applicable provisions of the Municipal Finance Management Act including 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 and regulations pertaining thereto; and
 - 3) to acknowledge the provisions of:
 - a) the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
 - b) The Competitions Act 1998 (Act No. 89 of 1998)
 - c) the Construction Industry Development Board Act, 2000 (Act No.38 of 2000);
 - d) the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);
 - e) the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);
 - f) the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);
 - g) the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000);
 - h) the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000);
 - i) the Prevention and Combating of Corrupt Activities Act, 2000 (Act No. 12 of 2004);
 - j) the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000)

1 Definitions

In this Policy, unless the context otherwise indicates, a word or expression to which a meaning has been assigned in the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) has the same meaning as in the Act, and –

“Municipality” means the Kai !Garib municipality

“Municipal entity” has the meaning assigned to it by Section 1 of the Municipal systems Act, 2000.

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

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

"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 of 1999);
- (e) a member of the accounting authority of any national or provincial public entity; or
- (f) an employee of Parliament or a provincial legislature;

“Sole Provider”-means a provider of specialized or exclusive goods/services who has a sole distribution / patent /manufacturing rights and copy rights.

“senior manager” means an executive director appointed in terms of section 56 of the Municipal Systems Act, 2000 or an acting executive director appointed by the Accounting Officer.

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

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

“THE REGULATIONS” means the Local Government: Municipal Finance Management Act, 2003, Municipal Supply Chain Management Regulations published by Government Notice 10684 of 2017;

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

B-BBEE STATUS LEVEL OF CONTRIBUTOR – means the B-BBEE status of an entity in terms of a code of good practice on black economic empowerment issued in terms of section 9(1) of the Broad Based Black Economic Empowerment Act; **“Black People”**; **has the meaning assigned to it in section 1 of the Broad Based Black**

Economic Empowerment Act;

BLACK DESIGNATED GROUPS – has the meaning assigned to it in the codes of good practice issued in terms of section 9(1) of the Broad Based Black Economic Empowerment Act;

BROAD BASED BLACK ECONOMIC EMPOWERMENT ACT – means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003)

CO-OPERATIVE – means a co-operative registered in terms of section 7 of the Co-operatives ACT, 2005 (Act No. 14 of 2005);

DESIGNATED GROUP means –

- (a) black designated groups;
- (b) black people;
- (c) women;
- (d) people with disabilities, or
- (e) small enterprises, as defined in section 1 of the National Small Enterprise Act, (Act No. 102 of 1996);

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

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

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

MILITARY VETERAN – has the meaning assigned to it in section 1 of the Military Veterans Act, 2011 (Act No. 18 of 2011);

NATIONAL TREASURY has the meaning assigned to it in section 1 of the Public Finance Management Act, 1999 (Act No. 1 of 1999);

PEOPLE WITH DISABILITIES - has the meaning assigned to it in section 1 of the Employment Equity Act, 1998 (Act No. 55 of 1998);

PRICE – includes all applicable taxes less all unconditional discounts,

“PROOF OF B-BBEE STATUS LEVEL OF CONTRIBUTOR” – means –

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

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

RURAL AREA - means

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

STIPULATED MINIMUM THRESHOLD – means the minimum threshold stipulated in terms of regulation 8 (1) (b);

TOWNSHIP – means an urban living area that any time from the late 19th century until 27 April 1994, was

reserved for black people, including areas developed for historically disadvantaged individuals post 27 April 1994;

TREASURY – has the meaning assigned to it in section 1 of the Public Finance Management Act, 1999 (Act No. 1 of 1999); and

YOUTH – has the meaning assigned to it in section 1 of the National Youth Development Agency Act, 2008 (Act No. 54 of 2008)

“accredited” means goods / services that are officially recognized, are generally accepted or having a guaranteed quality.

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

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

“Accounting officer” means the Accounting Officer referred to in section 60 of the Municipal Finance Management Act, No. 56 of 2003, in relation to a municipal entity, means the official referred to in section 93, and includes a person acting as the accounting officer.

“Accredited Agent” means a provider who is authorized to deliver certain goods / services and can be trading in a specific area, however, an accredited agent is not a sole provider.

“emergency procurement” emergency cases are cases where immediate action is necessary in order to avoid dangerous or risky situation (life threatening) or misery such as floods or fires.

“exceptional / urgent cases” exceptional cases are cases where early delivery is of critical importance and the invitation of competitive bids is either impossible or impractical. However, a lack of proper planning should not be constituted as an urgent case subject to the approval of the Accounting Officer. The nature of the urgency and the details of the justifiable procurement must be recorded and the AO to approve.

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

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

“Fruitless and wasteful expenditure”- is defined in section 1 of the MFMA as follows: expenditure made in vain and would have been avoided had reasonable care been exercised;

“Irregular expenditure”- as contemplated in MFMA section 32 and refers to the;

-Municipal Finance Management Act, Act56 of 2003, and its regulations

-Municipal Systems Act, Act 32 of 2000, and its regulations

-Public Office-Bearers Act, Act20 of 1998, and its regulations; and

-The municipality’s supply chain management policy, and any by-laws giving effect to that policy.

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

“list of accredited prospective providers” means the list of accredited prospective providers which the municipality must keep in terms of paragraph 14 of this policy;

“Central Supplier Database (CSD)”- is a single database to serve as the source of all supplier information for all spheres of government. The purpose of centralising government’s supplier database is to reduce

duplication of effort and cost for both supplier and government while enabling electronic procurement processes.

“e-Tender Publication Portal” - facilitates all government institutions to publish their tenders, corrigendum and award notices on a single platform. This portal gives FREE access to public sector tender opportunities in South Africa.

“Transversal contract” means a contract arranged for more than one department/municipality or for more than one level of government eg. National and Provincial Government.

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

“Unauthorized expenditure” - means any expenditure incurred by a municipality otherwise than in accordance with section 15 or 11 [3] and includes-

- [a] overspending of the total amount appropriated in the municipality's approved budget;
- [b] overspending of the total amount appropriated for a vote in the approved budget;
- [c] expenditure from a vote unrelated to the department or functional area covered by the vote;
- [d] expenditure of money appropriated for a specific purpose, otherwise than for that specific purpose;
- [e] spending of an allocation referred to in paragraph [b], [c] or [d] of the definition of “allocation” otherwise than in accordance with any conditions of the allocation; or
- [f] a grant by the municipality otherwise than in accordance with the MFMA.

CHAPTER 1: IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY

2 Supply Chain Management Policy

- 1) All officials and other role players in the Supply Chain Management system of the Municipality must implement this Policy in a way that –
 - a) gives effect to –
 - (i) section 217 of the Constitution; and
 - (ii) Part 1 of Chapter 11 and other applicable provisions of the Act;
 - (iii) Regulations pertaining to Supply Chain Management.
 - b) is fair, equitable, transparent, competitive and cost effective. Complies with –
 - (i) the Regulations; and
 - (ii) any minimum norms and standards that may be prescribed in terms of section 168 of the Act;
 - c) is consistent with other applicable legislation;
 - Broad Based Black Economic Empowerment Act [B-BBEEA];
 - Corruption Act, 1998 – anti-corruption measures and practices;
 - Competition Law and Regulations;
 - Promotion of Administrative Justice Act, 2000;
 - National Archives of South Africa Act, 1996;
 - National Small Business Act;
 - Construction Industry Development Board Act, 2000 [Act no 38 of 2000].
 - Preferential Procurement Policy Framework Act
 - d) does not undermine the objective for uniformity in Supply Chain Management Systems between organs of state in all spheres; and
 - e) is consistent with national economic policy concerning the promotion of investments and doing business with the public sector.
- 2) This Policy applies when the Municipality –
 - a) procures goods or services;
 - b) disposes of goods no longer needed;
 - c) selects contractors to provide assistance in the provision of municipal services including circumstances where Chapter 8 of the Municipal Systems Act applies.
 - d) Selects external mechanisms referred to in section 80(1)(b) of the Municipal Systems Act for the provision of municipal services in circumstances contemplated in section 83 of the Act.
- 3) This Policy, except where provided otherwise, does not apply in respect of:
 - a) the procurement of goods and services contemplated in section 110(2) of the Act, including –
 - (i) water from the Department of Water Affairs or a public entity, another municipality or a municipal entity; and
 - (ii) electricity from Eskom or another public entity, another municipality or a municipal entity.
 - b) the unskilled labour component of the Municipality's Local Labour Promotion Programme (LLPP);
 - c) the acquisition of services of attorneys and advocates subject that the acquisition of such services to be dealt with in terms of Delegations 4.2.81.1 – 4.2.81.4 of the Municipality's Delegation of Powers and Duties, as amended from time to time and any Bargaining Council Agreements on Disciplinary Procedures;
 - d) the payment of accommodation and air travel for official purposes subject that same be dealt with in terms of the Municipality's Travel and Subsistence Policy, as amended from time to time,

as well as Delegations 4.2.81.1 – 4.2.81.4 of the Municipality's Delegation of Powers and Duties, as amended from time to time;

- e) any contract relating to the publication of notices and advertisements by the municipality where applicable legislation dictates.

3 Adoption, Amendment and Implementation of the Supply Chain Management Policy

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

4 Delegation of supply chain management powers and duties

- 1) Council hereby delegates all powers and duties to the Accounting Officer which are necessary to enable the Accounting Officer –
 - a) to discharge the supply chain management responsibilities conferred on Accounting Officers in terms of –
 - (i) Chapter 8 or 10 of the Act; and
 - (ii) this Policy;
 - b) to maximize administrative and operational efficiency in the implementation of this Policy;
 - c) to enforce reasonable cost-effective measures for the prevention of fraud, corruption, favoritism and unfair and irregular practices in the implementation of this Policy; and
 - d) to comply with his or her responsibilities in terms of Section 115 and other applicable provisions of the Act.
- 2) Section 79 and 106 of the Act applies to the sub delegation of powers and duties delegated to the Accounting Officer in terms of sub-clause (1).
- 3) The Accounting Officer may not sub-delegate any supply chain management powers or duties to a person who is not an official of the Municipality or to a committee which is not exclusively composed of officials of the Municipality.
- 4) This clause may not be read as permitting an official to whom the power to make final awards has been delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in clause 26 of this Policy.

5 Sub-delegations

- 1) The Accounting Officer may in terms of section 79 or 106 of the Act sub-delegate any supply chain management powers and duties, including those delegated to the Accounting Officer in terms of this Policy, but any such sub-delegation must be consistent with sub-clause (2) of this clause and clause 4 of this Policy.
- 2) The power to make a final award –
 - a) above R10 million (Incl. VAT), may NOT be sub-delegated by the Accounting Officer;
 - b) above R200 000 (Incl. VAT), but not exceeding R10 million (Incl. VAT), may be sub-delegated but only to a bid adjudication committee of which the Chief Financial Officer is the chairperson or senior managers are members;
 - c) below R200 000 (Incl. VAT) may be sub-delegated as per Council's delegations, referred to system of delegations policy , pertaining to the procurement of goods and services.
- 3) An official or bid adjudication committee to which the power to make final awards has been sub delegated in accordance with sub-clause (2) must within five (5) business days of the end of each month submit to the official referred to in sub-clause (4) a written report containing particulars of each final award made by such official or committee during that month, including–
 - a) contract numbers and description of goods, services or infrastructure projects;
 - b) the name of the person to whom the award was made;
 - c) the B-BBEE level of contribution claimed;
 - d) the amount of the award; and
 - e) the reason why the award was made to that person.
- 4) A written report referred to in sub-clause (3) must be submitted to the Accounting Officer, in the case of an award by a bid adjudication committee of which the Chief Financial Officer or a senior manager is a member.
 - a) The awards scheduled must be published on Council's website in terms of Section 75(g) of the Act).
- 5) Sub-clauses (3) and (4) of this policy do not apply to procurement out of petty cash or written quotations below R2 000 (Incl. VAT).
- 6) This clause 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 clause 26 of this Policy. Also refer to clause 4(4) and 5(2)(a) of this Policy.
- 7) No supply chain management decision-making powers may be delegated to an advisor or consultant.

6 Oversight role of council

- 1) Council must maintain oversight over the implementation of this Policy.
- 2) For the purposes of such oversight the Accounting Officer must –
 - a) within 22 business days of the end of each financial year, submit a report on the implementation of this Policy, to the council of the municipality; and
 - b) Whenever there are serious and material problems in the implementation of this Policy, immediately submit a report to Council.
- 3) The Accounting Officer must, within ten (10) business days of the end of each quarter, submit a report on the implementation of the supply chain management policy to the mayor of the municipality.
- 4) The reports must be made public in accordance with section 21A of the Local Government Municipal Systems Act 32, 2002.

7 Supply Chain Management Unit

- 1) The Kai !Garib Municipality has established a Supply Chain Management Unit to implement this Policy.
- 2) The Chief Financial Officer is administratively in charge of the supply chain management unit which operates under the direct supervision of the Senior Manager: Supply Chain Management, to whom this duty has been sub-delegated in terms of Section 82 of the Act.

8 Training of Supply Chain Management officials

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

CHAPTER 2: SUPPLY CHAIN MANAGEMENT SYSTEM

9 Format of Supply Chain Management system

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

Part 1: DEMAND MANAGEMENT

10 System of Demand Management

- 1) The Accounting Officer must establish and implement an appropriate demand management system in order to ensure that the resources required by the Municipality support its operational commitments and its strategic goals outlined in the Integrated Development Plan, the Budget and the Service Delivery and Budget Implementation Plan.
- 2) The Demand Management Plan must be developed at the beginning of the financial year when the IDP, Service Delivery and Budget Implementation Plan (SDBIP) and annual budget have been approved.
- 3) All user departments are required to submit their procurement plans to the Head Supply Chain Management within 30 days of approval of the annual budget.
- 4) The municipality must compile a Procurement Plan containing all planned procurement for the financial year in respect of the procurement of goods, services and infrastructure projects which exceed R200 000 (all applicable taxes included) per case as described in the Supply Chain Management Guide for Accounting Officers. The procurement plan must be finalized on the 1st of

July every year. The relevant information should preferably be furnished in the format contained in the MFMA Circular 62/

- 5) Demand management must be coordinated by SCM officials of the Municipality in consultation with end-users.
- 6) The outcome of this activity should be a detailed planning document that outlines what goods, works or services should be procured, the manner in which they should be procured as well as the timelines to execute the procurement functions.

Part 2: ACQUISITION MANAGEMENT

11 System of Acquisition Management

- 1) The Accounting Officer must implement the system of acquisition management set out in this Part in order to ensure –
 - a) that goods and services are procured by the Municipality in accordance with authorised processes only;
 - b) that expenditure on goods and services is incurred in terms of an approved budget in terms of section 15 of the Act;
 - c) that the threshold values for the different procurement processes are complied with;
 - d) that bid documentation, evaluation and adjudication criteria, and general conditions of a contract, are in accordance with any applicable legislation;
 - e) that the preference point system used in accordance with the Preferential Procurement Regulations 2017.
 - f) that any Treasury guidelines on acquisition management are properly taken into account.
 - g) Verification of bids in excess of R10 million

Prior to advertisement:

Verification by the CFO

The senior manager responsible for a vote must submit to the CFO:

- proof that budgetary provision exists for the procurement of the goods/services and / or infrastructure projects;
- any ancillary budgetary implications related to the bid;
- any multi -year budgetary implications;

Prior to the award of a bid

Contracts above the value of R 10 million [all applicable taxes included] may only be awarded to the preferred bidder after the CFO has verified in writing that budgetary provision exists for the acquisition of the goods, infrastructure projects and /or services and that it is consistent with the Integrated Development Plan.

- (h) Publication of awards in respect of advertised competitive bids [above the threshold value of R 200 000]

The following information on the successful bids must be placed on the municipal website:

- Contract numbers and description of goods, services or infrastructure projects;
- Names of the successful bidders and the B-BBEE level of contribution claimed;

- Brand names and dates for completion of contracts.

(i) Functionality

Adhere to the revised guidelines when functionality is included as a criterion in the evaluation of bids [National Treasury note issued in September 2010].

(i) Clear indication must be given in bid documents if bids will be evaluated on functionality.

(ii) Evaluation criteria must be objective.

(iii) The weight of each criterion, applicable values and the minimum qualifying score [for each bid on its own merit] must be indicated in the bid documents.

(iv) Bidders failing to achieve the qualifying score for functionality must be disqualified.

(v) Bidders achieving the minimum qualifying score must be evaluated further in terms of points for price and B-BBEE status level contribution

(vi) Must be determined separately for each tender; and

May not be so-

- low that it may jeopardise the quality of the required goods and services; or

- high that it is unreasonably restrictive.

(vii) Points scored for functionality must be rounded off to the nearest two decimal places.

2) When procuring goods or services contemplated in section 110(2) of the Act, the Accounting Officer must, subject to clause 2(3), make public the fact that such goods or services are procured otherwise than through the Municipality's supply chain management system, including -

a) the kind of goods or services; and

b) the name of the supplier.

12 Range of procurement processes

1) Goods and services may only be procured by way of –

a) petty cash purchases in terms of Council's Petty Cash Policy for procurement transactions with a value up to R200 (Incl. VAT);

b) one written quotations for procurement transactions with a value up to R2 000 (Incl. VAT);

c) three written quotations for procurement transactions with a value over R2 000 (Incl. VAT) up to R30 000 (Incl. VAT) ;

d) formal written price quotations for procurement transactions valued over R30 000 (Incl. VAT) up to R200 000 (Incl. VAT) ; and

e) a competitive bidding (tender process) for –

(i) procurement transactions with a value above R200 000 (Incl. VAT); and

(ii) the procurement of long term contracts.

f) Exceptions i.r.o the acquiring of quotations:

(i) accommodation (in terms of the travel- and lodging policy)

(ii) training / capacity building

(iii) sole suppliers

- (iv) strip to repair (rotation procedure is followed in such a case)
 - (v) general reparation services (tyre repairs, service of vehicles, electrical components,
 - (vi) magazine / newsletter (item 12(1)(f)(i) – (vi) is on a rotation basis that is controlled by means of a register (supplier must be registered on the council's database, a proper register must be drafted so as to enable every supplier that is registered on the database of council to be treated advantageously.
 - (vii) Meals during council matters
 - (viii) airports
 - (ix) hiring of vehicles and tools/equipment
 - (x) Courier Services
 - (xi) License fees
 - (xii) Legal fees
 - (xiii) Town planning – approval of plans
- 2) The Accounting Officer may, in writing -
- a) lower, but not increase, the different threshold values specified in sub-clause (1); or
 - b) direct that –
 - (i) written or verbal quotations be obtained for any specific procurement of a transaction value lower than R2 000 (Incl. VAT);
 - (ii) formal written price quotations be obtained for any specific procurement of a transaction value lower than R30 000 (Incl. VAT); or
 - (iii) a competitive bidding process be followed for any specific procurement of a transaction value lower than R200 000 (Incl. VAT).
- 3) Goods or services may not deliberately be split into parts or items of a lesser value merely to avoid complying with the requirements of the policy. When determining transaction values, a requirement for goods or services consisting of different parts or items must as far as possible be treated and dealt with as a single transaction.

13 General preconditions for consideration of written quotations or bids

- 1) A written quotation or bid may not be considered unless the provider who submitted the quotation or bid –
- a) has furnished that provider's –
 - (i) full name;
 - (ii) identification number or company or other registration number; and
 - (iii) tax reference number and VAT registration number, if any;
 - (iv) registered on Central Supplier Database(CSD) with a tax compliant status;
 - (v) check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not in arrears for more than three [3] months; or if the bidder lives in the rural area, he or she should get proof of residence from the chief of the village of the area
 - (vi) requirements for construction and engineering related bids should be awarded according to CIDB regulations;
 - (vii) The CIDB Act requires that all projects need to be registered with the CIDB;
 - (viii) Before an award is done to a contractor, the contractor's CIDB grading must be confirmed with the CIDB website;

(ix) The CIDB grading designation is as follows:

Grading designation	Less than or equal to
1	R 200 000
2	R 650 000
3	R 2 000 000
4	R 4 000 000
5	R 6 500 000
6	R 13 000 000
7	R 40 000 000
8	R 130 000 000
9	No Limit

- b) has authorised the municipality to obtain a tax clearance from the South African Revenue Services that the provider's tax matters are in order; and [the tax compliant status be verified on the Central Supplier Database(CSD)] and has indicated –
- c) has indicated -
- (i) whether he or she is in the service of the state, or has been in the service of the state in the previous twelve months;
 - (ii) if the provider is not a natural person, whether any of its directors, managers, principal shareholder or stakeholders are in the service of the state, or has been in the service of the state in the previous twelve months; or
 - (iii) whether a spouse, child or parent of the provider or of a director, manager, shareholder or stakeholder referred to in sub-clause (ii) is in the service of the state, or has been in the service of the state in the previous twelve months.

14 Lists of accredited prospective providers

- 1) The Accounting Officer must –
- a) utilize the National Central Supplier Database(NCSD) to source accredited service providers of goods and services that must be used for procurements through written, verbal quotations, formal written price quotations and competitive bids; and
 - b) at least once a year through newspapers commonly circulating locally, the website and any other appropriate ways, invite prospective providers of goods or services to register in the Central Supplier Database (CSD); and
 - c) invite prospective service providers of goods and services to apply for evaluation and listing as accredited prospective service providers for subcontracting purposes; and
 - d) disallow the listing of any prospective provider whose name appears on the National Treasury's database as a person prohibited from doing business with the public sector.
 - e) Suppliers may update their CSD status continuously;
 - f) CSD is compiled per commodity and per type of service.

15 Written quotations below R2 000 (Incl. VAT)

- 1) The conditions for the procurement of goods by means of written quotations referred to in clause 12(1)(b) of this Policy for minor items that are purchased for up to R2 000 (Incl. VAT), are as follows: -.

- d) written quotations for transactions must be obtained from at least one prospective supplier or service provider preferably from, but not limited to, suppliers or service providers whose names are listed on the CSD.
- e) Written quotations may be solicited telephonically but must be confirmed in writing (facsimile, computer print, e-mail, hand-written) by the officials in the Purchasing Section as specified and reviewed by the user-departments.

16 Written quotations above R2 000 (Incl. VAT)

- 1) The conditions for the procurement of goods or services through written quotations for amounts above R2 000 (Incl. VAT) up to R30 000 (Incl. VAT) are as follows:
 - a) quotations must be obtained from at least three different providers preferably from, but not limited to, providers whose names are listed on the CSD
 - b) quotations must be approved on a rotation basis.
 - c) To the extent feasible, providers must be requested to submit such quotations in writing
 - d) if it is not possible to obtain at least three quotations, the reasons must be recorded and approved by the Chief Financial Officer or an official designated by the Chief Financial Officer and reported quarterly to the Accounting Officer or another official designated by the Accounting Officer;
 - e) the Accounting Officer must record the names of the potential providers requested to provide such quotations with their quoted prices; and
 - f) if a quotation was submitted verbally, the order may be placed only against written confirmation by the selected provider.
 - g) The municipality will investigate and utilize various other options to advertise bids/quotations viz. community boards, the library, public buildings, police station, etc. This is to ensure that the municipality tried to obtain at least three quotations.
 - h) In cases where there are only a few suppliers for certain goods eg. vehicle repairs, fuel outlets, etc. the municipality will then use these suppliers on a rotation basis. This practice will only be utilized in exceptional cases. As soon as more suppliers become available, such goods / services will be provided via the normal SCM quotations.

17 Formal written price quotations

- 1) The conditions for the procurement of goods or services through formal written price quotations are as follows:
 - a) quotations must be obtained in writing from at least three different providers whose names are listed on the CSD;
 - b) quotations may be obtained from providers who are not listed, provided that such providers meet the listing criteria set out in clause 14(1) (b) and (c) of this Policy;
 - c) if it is not possible to obtain at least three quotations, the reasons must be recorded and approved by the Chief Financial Officer or an official designated by the Chief Financial Officer; and
 - d) the Accounting Officer must record the names of the potential providers and their written quotations.
- 2) A designated official referred to in sub-clause (1) (c) must within three (3) days of the end of each month report to the Chief Financial Officer on any approvals given during that month by that official in terms of that sub-delegation.

18 Procedures for procuring goods or services through written quotations and formal written price quotations

- 1) The procedure for the procurement of goods or services through written quotations or formal written price quotations is as follows:
 - a) when using the list of accredited prospective providers, the Accounting Officer must promote on-going competition amongst providers by inviting providers to submit quotations on a rotation basis;
 - b) all requirements in excess of R30 000 (Incl. VAT) that are to be procured by means of formal written price quotations must, in addition to the requirements of clause 17, be advertised for at least (5) five business days on the website and an official notice board of the Municipality;
 - c) quotes received must be evaluated on a comparative basis taking into account unconditional discounts;
 - d) the Accounting Officer or Chief Financial Officer must on a monthly basis be notified in writing of all written or verbal quotations and formal written price quotations accepted by an official acting in terms of a sub-delegation;
 - e) quotes must be awarded based on compliance to specifications and conditions of contract, ability and capability to deliver the goods and services and lowest price;
 - f) the Chief Financial Officer must set requirements for proper record keeping of all formal written price quotations accepted on behalf of the municipality.
 - g) acceptable offers, which are subject to the preference points system (PPPFA and PPR 2017), must be awarded to the bidder who's offer is according to the specifications, has the ability to delivery and is compliant with all the other requirements and scored the highest points.
 - h) Minimum requirements for proper record keeping must be complied with.

19 Competitive bids

- 1) Goods or services above a transaction value of R200 000 (Incl. VAT) and long-term contracts may ONLY be procured through a competitive bidding process, subject to clauses 11(2) of this Policy.
- 2) No requirement for goods or services above an estimated transaction value of R200 000 (Incl. VAT), may deliberately be split into parts or items of lesser value merely for the sake of procuring the goods or services otherwise than through a competitive bidding process.
- 3) The 80/20 principle is applicable; 80 points for price and 20 points for BBBEE status level verification certificates. The 20 points will be standard as follows;

B-BBEE Status Level of Contributor	Number of points [80 / 20]	Number of points [90/10]
1	20	10
2	18	9
3	14	6
4	12	5
5	8	4
6	6	3
7	4	2
8	2	1
Non compliant Contributor	0	0

The points scored for price must be added to the points scored for B-BBEE status level of contribution to obtain the bidder's total points scored out of 100.

A bid must not be disqualified from the bidding process if the bidder does not submit a certificate substantiating the B-BBEE status level of contribution or is a non-compliant contributor. Such a bidder will score 0 out of a maximum of 10 or 20 points for B-BBEE status.

5. The 80/20 point system is applicable from R30 000 [all taxes included] up to R50 million [all taxes included]

6. The 90/10 point system is applicable to bids invited exceeding R 50 million [all taxes included]

4. The specification committee will make proposals if functionality points need to be used and the evaluation committee will approve a variation in the point system for a specific bid.

5. For construction procurements the CIDB Act and Regulations are to be used for quotations/bids.

20 Process for competitive bidding

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

- a) Compilation of bidding documentation as detailed in clause 21;
- b) Public invitation of bids as detailed in clause 22;
- c) Site meetings or briefing sessions as detailed in clause 22;
- d) Handling of bids submitted in response to public invitation as detailed in clause 23;
- e) Evaluation of bids as detailed in clause 28;
- f) Award of contracts as detailed in clause 29;
- g) Administration of contracts: After approval of a bid, the accounting officer and the bidder must enter into a written agreement.

(h) Sub-contracting

1. (i) A person awarded a contract may only enter into a subcontracting arrangement with the approval of the organ of state.

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

(iii) A person awarded a contract may not submit more than 25% of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level of contributor than the person concerned unless the contract is subcontracted to an EME that has the capability and ability to execute the subcontract.

1. SUBCONTRACTING AS CONDITION OF TENDER

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

(b) If an organ of state applies subcontracting as contemplated in subregulation (1)

the organ of state must advertise the tender with a specific tendering condition that the successful tenderer must subcontract a minimum of 30% of the value of the contract to-

(i) an EME or QSE which is at least 51% Black Owned;

(ii) an EME or QSE which is at least 51% owned black owned by black youth;

- (iii) and EME or QSE which is at least 51% Black Women Owned;
- (iv) an EME or QSE which is at least 51% owned by black people with disabilities;
- (iii) an EME or QSE which is 51% owned by black people living in rural or underdeveloped areas and / or townships;
- (iv) a Cooperative which is at least 51% owned by black people;
- (v) an EME or QSE which is at least 51% owned by black people who are military veterans;
- (vi) The organ of state must make available the list of all suppliers registered on a database approved by national treasury to provide the required goods or services in respect of the applicable designated groups mentioned in sub-regulation (2) from which the tenderer must select a supplier.

(j) LOCAL PRODUCTION AND CONTENT

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

- (a) designate a sector, sub-sector or industry or product in accordance with national development and industrial policies for local production and content, where only locally produced services or goods or locally manufactured goods meet the stipulated minimum threshold for local production and content, taking into account economic and other relevant factors; and
- (b) stipulate a minimum threshold for local production and content.

(2) An organ of state must, in the case of a designated sector, advertise the invitation to tender with a specific condition that only locally produced goods or locally manufactured goods, meeting the stipulated minimum threshold for local production and content, will be considered.

(3) The National Treasury must inform organs of state of any designation made in terms of regulation 8(1) through a circular,

- (4) (a) If there is no designated sector, an organ of state may include, as a specific condition of the tender, that only locally produced services or goods or locally manufactured goods with a stipulated minimum threshold for local production and content, will be considered.
- (b) The threshold referred to in paragraph (a) must be in accordance with the standards determined by the Department of Trade and Industry in consultation with the National Treasury.

(5) A tender that fails to meet the minimum stipulated threshold for local production and content is an unacceptable tender.

(6) Local Content also applicable when requesting quotations.

(k) Evaluation of bids that scored equal points

In the event that two or more bids have scored equal total, the successful bid must be the one that scored the highest points for B-BBEE.

If two or more bids have equal points, including equal preference points for B-BBEE, the successful bid must be the one scoring the highest points for functionality, if functionality is part of the evaluation process.

In the event that two or more bids are equal in all respects, the award must be decided by drawing lots.

(l) Cancellation and re-invitation of bids

(i) Addition of sub-regulation related to cancellation of tender due to material Irregularities.

(ii) Also in addition of a provision that an organ of state may cancel a tender for the second time, only with the approval of the relevant treasury.

(m) Awarding of contracts

A contract must be awarded to the bidder who scored the highest total number of points in terms of the preference point system. In exceptional circumstances a contract may, on reasonable and justifiable grounds be awarded to a bidder that did not score the highest number of points. The reasons for such a decision must be approved and recorded for audit purposes and must be defensible in a court of law.

(n) Sale and letting of assets

The Preferential Procurement Regulations, 2017, are not applicable to the sale and letting of assets.

In instances where assets are sold or leased, by means of a bidding process, the bid must be awarded to the bidder with the highest price

(o) Proper record keeping: Original and legal copies of written agreements should be kept in a secure place for reference purposes.

21 Bid documentation for competitive bids

1) The criteria to which bid documentation for a competitive bidding process must comply, must –

a) take into account –

(i) the general conditions of contract and any special conditions of contract, if specified;

(ii) any Treasury guidelines on bid documentation; and

(iii) the requirements of the Construction Industry Development Board (CIDB), in the case of a bid relating to construction, upgrading, refurbishment of buildings or infrastructure.

b) include the preference points system to be used as contemplated in the Preferential Procurement Regulations, 2011, evaluation and adjudication criteria, including any criteria required by other applicable legislation;

c) compel bidders to declare any conflict of interest they may have in the transaction for which the bid is submitted;

d) if the value of the transaction is expected to exceed R10 million (Incl. VAT) –

(i) if the bidder is required by law to prepare annual financial statements for auditing, its audited annual financial statements –

(a) for the past three years; or

(b) since its establishment if established during the past three years;

(ii) certificate signed by the bidder certifying that the bidder has no undisputed commitments for municipal services towards a Municipality or other service provider in respect of which payment is overdue for more than 30 calendar days;

- (iii) particulars of any contracts awarded to the bidder by the municipality during the past (5) five years, including particulars of any material non-compliance or dispute concerning the execution of such contract;
 - (iv) a statement indicating whether any portion of the goods or services are expected to be sourced from outside the Republic, and, if so, what portion and whether any portion of payment from the municipality or municipal entity is expected to be transferred out of the Republic; and
 - e) 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;
 - f) The Accounting Officer reserves the right to stipulate such a dispute to be settled utilizing a court of law preferably within the municipal boundaries or as close as possible to the municipal boundaries
- 2) A fee shall be raised for bid forms, plans, specifications, samples and any other bid documentation, depending on the nature, magnitude and value of technical information or samples provided by the municipality for tenders in excess of R200 000 (Incl. VAT).

22 Public invitation for competitive bids

- 1) The procedure for the invitation of competitive bids is as follows:
- a) Any invitation to prospective providers to submit bids must be by means of a public advertisement:
 - (i) in newspapers commonly circulating locally,
 - (ii) on the notice boards at selected offices of the Municipality,
 - (iii) on the website of the Municipality,
 - (iv) on National Treasury's E-Tender Website,
 - (v) any other appropriate ways (which may include an advertisement in the Government Tender Bulletin).
 - (vi) Goods and Services: Advertisement of Bids and the publication of notices in respect of Awards, Cancelled Bids, Verification and Extension of existing contracts on the e-Tender Publication Portal and Government Tender Bulletin; and
 - (vii) Works and Infrastructure: Advertisement of Bids and the Publication of notices in respect of Awards and cancellation of bids on the CIDB i-Tender.
 - b) The information contained in a public advertisement, must include –
 - (i) the closure date for the submission of bids, which may not be less than 22 business days in the case of transactions over R10 million (Incl. VAT), or which are of a long-term nature, or 10 business days in any other case, from the date on which the advertisement is placed in a newspaper, subject to sub-clause (2) of this policy;
 - (ii) a statement that bids may only be submitted on the bid documentation provided by the Municipality or the bid document uploaded on the e-tender portal; and
 - (iii) a statement that bids will only be considered if it was deposited into the bid box indicated in the bid invitation; and
 - (iv) date, time and venue of any proposed site meetings or briefing sessions, provided that site meetings / information sessions may not be scheduled within 5 business days of the date on which a bid advertisement is placed; and.
 - (v) the required CIDB contractor category and grading designation for construction procurement.
- 2) The Accounting Officer may determine a closure date for the submission of bids which is less than the required 22 or 10 business days, but only if such shorter period can be justified on the grounds of urgency or emergency or any exceptional case where it is impractical or impossible to follow the official procurement process.

- 3) The notice shall further state that all bids for the contract must be submitted in a sealed envelope on which it is clearly stated that such envelope contains a bid and the contract title and contract or bid reference number for which the bid is being submitted.
- 4) The period for which bids are to remain valid and binding must be indicated in the bid invitation.
- 5) Amendments before the closing date
 - a) The Municipality is entitled to amend any bid condition, validity period, specification or plan, or extend the closing date of such a bid or quotation before the closing date, provided that such amendments or extensions are advertised and/or that all bidders to whom bid documents have been issued, are advised in writing per e-mail or by fax of such amendments or of the extension clearly reflecting the new closing date and time. For this reason, officials and authorised service providers issuing bids shall keep a record of the names, addresses and contact numbers of the persons or enterprises to whom bid documents have been issued.
- 6) If a municipality decides to apply **pre-qualifying criteria** to advance certain designated groups, that organ of state must advertise the tender with a specific tendering condition that only one or more of the following tenderers may respond –
 - (1) a tenderer having a stipulated minimum B-BBEE status level of contributor;
 - (2) an EME or QSE;
 - (3) a tenderer or subcontracting a minimum of 30% to –
 - (i) an EME or QSE which is at least 51% owned by black people,
 - (ii) an EME or QSE which is at least 51% owned black owned by black people who are youth.
 - (iii) and EME or QSE which is at least 51% owned by black people who are women;
 - (iv) an EME or QSE which is at least 51% owned by black people with disabilities;
 - (vii) an EME which is 51% owned by black people living in rural or underdeveloped areas or townships;
 - (viii) a cooperative which is at least 51% owned by black people;
 - (ix) an EME or QSE which is at least owned by black people who are military veterans;
 - (x) and EME or QSE

23 Procedure for handling, opening and recording of bids

- 1) The procedures for the handling, opening and recording of bids, are as follows:
 - a) Bids–
 - (i) must be opened only in public;
 - (ii) must be opened on the same date and as soon as possible after the period for the submission of bids has expired.

- b) Any bidder or member of the public has the right to request that the names of the bidders who submitted bids in time must be read out and, if practical, also each bidder's total bidding price;
- c) No information, except the provisions in sub-clause (b), relating to the bid should be disclosed to bidders or other persons until the successful bidder is notified of the award; and
- d) The Accounting Officer must –
 - (i) record in a register all bids received in time;
 - (ii) make the register available for public inspection; and
 - (iii) publish the entries in the register and the bid results on the website.

2) Stamping of bids and reading out of names

- a) As each bid is opened the name of the bidder and the amount – if practical – shall be read out.
- b) An official shall date-stamp the bid or quotation and all enclosures related to prices, delivery periods and special conditions.
- c) Bids and quotations shall be numbered in the sequence in which they have been opened and the words “and last” shall be endorsed on the last bid or quotation.
- d) In instances where only one bid has been received the words “and only” shall be endorsed on such bid.
- e) Where prices have not been inserted in all relevant spaces on the form and such items have not been deleted by bidders, such spaces shall be stamped “no price” by the employee who opens the bids or quotations.

3) Late Bids

- a) Bids or quotations arriving after the specified closing time shall NOT be considered and where practicable and cost effective shall be returned to the bidder unopened with a letter explaining the circumstances.
- b) Where it is necessary to open a late bid or quotation to obtain the name and address of the sender, each page of the document shall be stamped “late bid” before the bid is returned to the bidder. The envelope must be stamped and initialed in like manner and must be retained for record purposes.

4) No Councilor of any municipality may be present at the opening of bids.

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

- a) Where the closing date of a bid or quotation is extended, bids or quotations already received, will be retained unopened in the bidding box and be duly considered after the expiry of the extended period, unless the bidder cancels it by submitting a later dated bid or quotation before the extended closing date.

24 Negotiations with preferred bidders and communication with prospective providers and bidders

- 1) The Accounting Officer may negotiate the final terms of a contract with bidders identified through a competitive bidding process as preferred bidders, provided that such negotiation –
 - a) does not allow any preferred bidder a second or unfair opportunity;
 - b) is not to the detriment of any other bidder; and
 - c) does not lead to a higher price than the bid as submitted;

- d) does not lead to a lower price in respect of sale of land / goods.
 - e) upon approval to negotiate, the AO/AA must appoint a cross functional negotiation team, with one member appointed to be team leader
 - f) the negotiation team leader must ensure that all members of the negotiating team are clear on the negotiation strategy and desired outcomes.
- 2) Minutes of such negotiations must be kept for record purposes and as far as practical be made part of the final contract.
- 3) No unauthorised communication with bidders and prospective providers:
- a) where bids and quotations have been submitted to the municipality, a bidder may not communicate with any councillor, official, or authorised service provider on any matter regarding his bid, quotation or offer other than a notice of withdrawal.
 - b) No municipal personnel may communicate with a bidder or any other party who has an interest in a bid, during the period between the closing date for the receipt of the bid or quotation (or date of receipt of an offer), and the date of notification of the successful bidder of acceptance of his bid, quotation or offer, except as provided for in clause (c) below. Every such case of unauthorised communication shall forthwith be reported to the Supply Chain Management Unit as well as the chairperson of the Bid Adjudication Committee. A bid or quotation in respect of which unauthorised communication has occurred may be disqualified.
 - c) The chairperson of the Bid Adjudication Committee, as determined in clause 29(2), may authorise an employee or authorised consulting service provider, in writing, to communicate with a bidder during the period mentioned in subsection (b) above for the purpose of:-
 - (i) Obtaining an explanation and verification of declarations made in the bid response;
 - (ii) confirming technical particulars and the compliance thereof with specifications;
 - (iii) clarifying delivery times/quantities;
 - (iv) extending the validity period of a bid;
 - (v) clarifying any other commercial aspect;
 - (vi) for the submission of substantiating documents.
 - d) In all cases where authority has been granted to communicate with bidders in terms of clause (c) above, it should be clearly stated in the submission to the Bid Adjudication Committee the nature of the communication as well as by whom such authority to communicate has been granted.
- 4) A bid will not be invalidated if the amount in words and the amount in figures do not correspond, in which case the amount in words shall be read out at the bid opening and shall be deemed to be the bid amount.

25 Two-stage bidding process

- 1) A two-stage bidding process is allowed for –
- a) large complex projects; or
 - b) projects where it may be undesirable to prepare complete detailed technical specifications; or
 - c) long term projects with a duration period exceeding three years.
- 2) In the first stage technical proposals on conceptual design or performance specifications should be invited, subject to technical as well as commercial clarifications and adjustments.
- 3) In the second stage final technical proposals and priced bids should be invited.

26 Committee system for competitive bids

- 1) A committee system for competitive bids is hereby established, consisting of the following committees for each transaction or cluster of transactions as the Accounting Officer may determine:
 - a) a bid specification committee;
 - a) a bid evaluation committee; and
 - b) a bid adjudication committee;
- 2) The Accounting Officer appoints the members of each committee, taking into account section 117 of the Act, and
- 3) The Accounting Officer may appoint a neutral or independent observer, to attend or oversee a committee when this is appropriate for ensuring fairness and promoting transparency.
- 4) The committee system must be consistent with –
 - c) clause 27, 28 and 29 of this Policy; and
 - d) any other applicable legislation.
- 5) The Accounting Officer may apply the committee system to formal written price quotations.

27 Bid Specification Committees

- 1) The appropriate bid specification committee must compile the specifications for each procurement transaction for goods or services by the Municipality, depending on the department involved.
- 2) Specifications –
 - a) must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services;
 - b) must take account of any accepted standards such as those issued by Standards South Africa, the International Standards Organization, or an authority accredited or recognized by the South African National Accreditation System with which the equipment or material or workmanship should comply;
 - c) must, where possible, be described in terms of performance required and / or in terms of descriptive characteristics for design;
 - d) may not create trade barriers in contract requirements in the forms of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labelling of conformity certification;
 - e) may not make reference to any particular trade mark, name, patent, design, type, specific origin or producer unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the word “equivalent”;
 - f) must indicate each specific goal for which points may be awarded in terms of the points system set out in the Preferential Procurement Regulations, 2011; and
 - g) must be approved by the relevant director prior to publication of the invitation for bids in terms of clause 22 of this Policy.
 - h) **must include a minor asset register for completed capital projects.**
- 3) A bid specification committee must be composed of at least two officials of the Municipality, of which one must be a Supply Chain Official and the other, the Director who is responsible for the function involved or his duly delegated official. The Committee may, when appropriate, include external specialist advisors.
- 4) No person, advisor or corporate entity involved with the bid specification committee, or director of such a corporate entity, may bid for any resulting contracts.

28 Bid Evaluation Committees

- 1) A Bid Evaluation Committee must –
 - a) evaluate all bids for procurement exceeding R30 000 in accordance with –
 - (i) the specifications for a specific procurement; and
 - (ii) the points system set out in terms of the Preferential Procurement Policy;
 - b) evaluate each bidder's ability to execute the contract ;check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not in arrears for more than three months;
 - c) submit to the adjudication committee a report and recommendations regarding the award of the bid or any other related matter; and
 - d) follow a consensus decision-making process whereby all participants contribute to a shared proposal and shape it into a recommendation/decision.
- 2) A Bid Evaluation Committee must as far as possible be composed of-
 - a) a delegated senior supply chain management practitioner appointed by the Director: Finance;
 - b) at least one knowledgeable / professional official from the Directorate for whom the bid is called; and
 - c) others, which may include but are not limited to: technical experts, legal advisors, consultants or advisors. etc.

29 Bid Adjudication Committees

- 1) A bid adjudication committee must –
 - a) consider the report and recommendations of the bid evaluation committee; and
 - b) either –
 - (i) depending on its delegations, make a final award or a recommendation to the Accounting Officer to make the final award; or
 - (ii) take a decision that the tender not be awarded for the reasons presented
- 2) A bid adjudication committee shall be composed of the following: –
 - a) the Chief Financial Officer or, if the Chief Financial Officer is not available, another manager reporting directly to the Chief Financial Officer and designated by the Chief Financial Officer;
 - b) the Senior Manager: Supply Chain Management or delegated senior SCM official; and
 - c) Directors or in their absence, a duly delegated official.
 - d) a technical expert in the relevant field who is an official, and who requests the goods /services must be co-opted any way. Outside technical experts can also be co-opted, they must leave the meeting after advice has been given. Only standing committee members can be involved in final deliberation and recommendations or final approval.
 - e) Where the Bid Adjudication Committee is of the view that the tenderer is charging prices higher than the fair market price, the Bid Adjudication Committee may request for the AO/AA to subject the tender to price negotiations with the tenderers scoring the highest points (from first highest to third highest) before award is made.
- 3) A quorum for the Adjudication Committee shall be (4) four members with voting rights.
 - a) In the event of an equality of votes the chairperson shall have a casting vote over and above a deliberate vote.
 - b) The Director of the department that called for the tender must be present at the meeting where the particular tender is considered.
- 4) The Chairperson of the Bid Evaluation Committee or in his absence an official nominated by the Chief Financial Officer should be present at the Bid Adjudication Committee meetings to introduce

the reports to the Committee and assist in clarifying issues that were dealt with in the Evaluation Committee meetings without voting rights.

- 5) A technical expert in the relevant field, who is an official, if such an expert exists, may attend the meeting as an advisor for clarification purposes. This official will not have voting rights at the Bid Adjudication Committee meeting.
- 6) The Accounting Officer must appoint the CFO or in his absence, the deputy CFO, as chairperson of the committee.
- 7) 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.
- 8) If the bid adjudication committee decides to award a bid other than the one recommended by the bid evaluation committee –
 - a) the bid adjudication committee must prior to awarding the bid –
 - (i) check in respect of the preferred bidder whether that bidder's municipal rates and taxes and municipal service charges are not in arrears for more than three months, and;
 - (ii) notify the Accounting Officer.
 - b) The Accounting Officer may –
 - (i) after due consideration of the reasons for the deviation, ratify or reject the decision of the bid adjudication committee referred to in clause (a); and
 - (ii) if the decision of the bid adjudication committee is rejected, refer the decision of the adjudication committee back to that committee for reconsideration.
- 9) 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.
- 10) The Accounting Officer must comply with Section 114 of the Act within 10 days–
 - a) If a tender other than the one recommended in the normal course of implementing the supply chain management policy is approved, the Accounting Officer must, in writing, notify the Auditor General, the Provincial Treasury and the National Treasury of the reasons for deviating from such recommendation.
 - b) Subsection (1) does not apply if a different tender was approved in order to rectify an irregularity.

30 Procurement of Banking Services

- 1) A contract for banking services –
 - a) must be procured through competitive bids;
 - b) must be consistent with section 7 or 85 of the Act; and
 - c) may not be for a period of more than five years at a time.
- 2) The process for procuring a contract for banking services must commence at least nine months before the end of an existing contract.
- 3) The closure date for the submission of bids may not be less than 46 business days from the date on which the advertisement is placed in a newspaper in terms of clause 22(1).
- 4) Bids must be restricted to banks registered in terms of the Banks Act, 1990 (Act No. 94 of 1990).

31 Procurement of Information- and Communication Technology (ICT) related goods or services

- 1) The Accounting Officer may request the State Information Technology Agency (SITA) to assist with the acquisition of ICT related goods or services through a competitive bidding process.
- 2) Both parties must enter into a written agreement to regulate the services rendered by, and the payments to be made to, SITA.
- 3) The Accounting Officer must notify SITA together with a motivation of the ICT needs if –

- a) the transaction value of ICT related goods or services required in any financial year will exceed R50 million (inclusive of VAT); or
 - b) the transaction value of a contract to be procured whether for one or more years exceeds R50 million (exclusive of VAT).
- 4) If SITA comments on the submission and the Municipality disagree with such comments, the comments and the reasons for rejecting or not following such comments must be submitted to Council, the National Treasury, the Provincial Treasury and the Auditor-General.
- 5) The Municipality is required to follow the following process before inviting proposals for a new financial management system:
- a) National and Provincial Treasury should immediately be informed of any intention to replace the accounting or billing system currently operating at the municipality;
 - b) The submission should include a comprehensive motivation with specific reasons for why it is deemed necessary to replace the existing financial system;
 - c) A copy of the service level agreement with minutes of the meetings between the municipality and the current service provider (financial system vendor) during the previous (12) twelve months must be made available;
 - d) The organisational structure, specifically for the IT department/function, clearly indicating management capacity and responsibility for operating the financial system, must be submitted;
 - e) An assessment should be done to determine which modules of the existing financial system are being utilised by the municipality and reasons must be provided for modules not in operation. In cases where an existing system is not an ERP system the municipality must provide details of any other systems utilised by the municipality;
 - f) The date on which the existing financial system was implemented, the procurement and implementation costs and the current operational costs thereof must be disclosed;
 - g) A technical assessment must be undertaken on the server and network requirements of the new financial system and a copy of such report should be submitted; and
 - h) Copies of all IT strategies, policies and procedural documents including the IT disaster recovery plan must be made available.

32 Procurement of goods and services under contracts secured by other organs of state

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

33 Procurement of goods necessitating special safety arrangements

- 1) The acquisition and storage of goods in bulk (other than water), which necessitate special safety arrangements, including gasses and fuel, should be avoided where ever possible.
- 2) Where the storage of goods in bulk is justified, such justification must be based on sound reasons, including the total cost of ownership, cost advantages and environmental impact and must be approved by the official duly authorised in terms of the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993).

34 Proudly SA Campaign

- 1) The Municipality supports the Proudly SA Campaign to the extent that, as far as possible, preference is given to procuring local goods and services as per Council's Preferential Procurement Policy.
 - Firstly - suppliers and businesses within the municipality or district;

- Secondly - suppliers and businesses within the relevant province;
- Thirdly - suppliers and businesses within the Republic

35 Appointment of consultants

- 1) The Accounting Officer may procure consulting services provided that any National Treasury guidelines and CIDB requirements in respect of consulting services are taken into account when such services are procured.
- 2) Consultancy services must be procured through competitive bids if:
 - a) the value of the contract exceeds R200 000 (Incl. VAT); or
 - b) the duration period of the contract exceeds one year.
- 3) In addition to any requirements prescribed by this policy for competitive bids, bidders must furnish particulars of –
 - a) all consultancy services provided to an organ of state in the last (5) five years; and
 - b) any similar consultancy services provided to an organ of state in the last (5) five years.
- 4) The Accounting Officer must ensure that copyright in any document produced, and the patent rights or ownership in any plant, machinery, thing, system or process designed or devised, by a consultant in the course of the consultancy service is vested in the Municipality.

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

- 1) The Accounting Officer may –
 - a) dispense with the official procurement processes established by this Policy and to procure any required goods or services through any convenient process, which may include direct negotiations, but only –
 - (i) in an emergency;
 - (a) Circumstances that warrant emergency dispensation, includes but are not limited to -
 - (i) the possibility of human injury or death;
 - (ii) the possibility of damage to property;
 - (iii) failure to take necessary action may result in the municipality not being able to render an essential community service;
 - (b) The prevailing situation, or imminent danger, should be of such a scale and nature that it could not readily be alleviated by interim measures, in order to allow time for the formal tender process.
 - (c) Procurement in the case of emergencies must be tacitly approved by the relevant director or his delegate prior to incurring the expenditure and must be reported to the Municipal Manager or delegated official on the ensuing business day.
 - (ii) if such goods or services are produced or available from a single provider only;
 - (iii) for the acquisition of special works of art or historical objects where specifications are difficult to compile;
 - (iv) acquisition of animals for zoos and/or nature and game reserves; or
 - (v) in any other exceptional case where it is impractical or impossible to follow the official procurement processes,
 - b) ratify any minor breaches of the procurement processes by an official or committee acting in terms of delegated powers or duties which are purely of a technical nature; and
 - c) may condone any irregular expenditure incurred in contravention of, or that is not in accordance with a requirement of this Policy, provided that such condonation and the reasons therefore shall be reported to Council at the next ensuing meeting.

- 2) The Accounting Officer must record the reasons for any deviations in terms of sub-clauses (1)(a) and (b) of this policy and report them to the next Council Meeting and include as a note to the annual financial statements.
- 3) Sub-clause (2) does not apply to the procurement of goods and services contemplated in clause 11(2) of this policy.
- 4) **Management of expansion or variation of orders against the original contract**
 - (i) 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 above-mentioned thresholds must be reported to council. 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 of the contract.
 - (ii) The contents of this paragraph are not applicable to transversal contracts, facilitated by the relevant treasuries on behalf of municipalities 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.

37 Unsolicited bids

- 1) In accordance with Section 113 of the Act there is no obligation to consider unsolicited bids received outside a normal bidding process.
- 2) The Accounting Officer may decide in terms of Section 113(2) of the Act to consider an unsolicited bid, only if –
 - a) the product or service offered in terms of the bid is a demonstrably or proven unique innovative concept;
 - b) the product or service will be exceptionally beneficial to, or have exceptional cost advantages;
 - c) the person who made the bid is the sole provider of the product or service; and
 - d) the reasons for not going through the normal bidding processes are found to be sound by the Accounting Officer.
- 3) If the Accounting Officer decides to consider an unsolicited bid that complies with sub-clause (2) of this policy, the decision must be made public in accordance with Section 21A of the Municipal Systems Act, together with –
 - a) reasons as to why the bid should not be open to other competitors;
 - b) an explanation of the potential benefits if the unsolicited bid was to be accepted; and
 - c) an invitation to the public or other potential suppliers to submit their comments within 22 business days of the notice.
- 4) The Accounting Officer must submit all written comments received pursuant to sub-clause (3), including any responses from the unsolicited bidder, to the National Treasury and the Provincial Treasury for comment.
- 5) The bid adjudication committee must consider the unsolicited bid and may award the bid or make a recommendation to the Accounting Officer, depending on its delegations.

- 6) A meeting of the bid adjudication committee to consider an unsolicited bid must be open to the public.
- 7) When considering the matter, the adjudication committee must take into account –
 - a) any comments submitted by the public; and
 - b) any written comments and recommendations of the National Treasury or the Provincial Treasury.
- 8) If any recommendations of the National Treasury or Provincial Treasury are rejected or not followed, the Accounting Officer must submit to the Auditor General, the Provincial Treasury and the National Treasury the reasons for rejecting or not following those recommendations.
- 9) Such submission must be made within five business days after the decision on the award of the unsolicited bid is taken, but no contract committing the Municipality to the bid may be entered into or signed within 22 business days of the submission.

38 Combating of abuse of the supply chain management system

- 1) The Accounting Officer is hereby enabled to –
 - a) take all reasonable steps to prevent abuse of the supply chain management system;
 - b) investigate any allegations against an official or other role player of fraud, corruption, favoritism, unfair or irregular practices or failure to comply with this Policy, and when justified –
 - (i) take appropriate steps against such official or other role player; or
 - (ii) report any alleged criminal conduct to the South African Police Service;
 - c) check the National Treasury's database prior to awarding any contract to ensure that no recommended bidder, or any of its directors, is listed as a person prohibited from doing business with the public sector;
 - d) reject any bid from a bidder –
 - (i) if any municipal rates and taxes or municipal service charges owed by that bidder or any of its directors to the Municipality, or to any other municipality or municipal entity are in arrears for more than three months; or
 - (ii) who during the last five years has failed to perform satisfactorily on a previous contract with the Municipality or any other organ of state after written notice was given to that bidder that performance was unsatisfactory;
 - e) reject a recommendation for the award of a contract if the recommended bidder, or any of its directors, has committed a corrupt or fraudulent act in competing for the particular contract;
 - f) cancel a contract awarded to a person if –
 - (i) the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract; or
 - (ii) an official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of the contract that benefited that person; and
 - g) reject the bid of any bidder if that bidder or any of its directors –
 - (i) has abused the supply chain management system of the Municipality or has committed any improper conduct in relation to such system;
 - (ii) has been convicted for fraud or corruption during the past five (5) years;
 - (iii) has willfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
 - (iv) has been listed in the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004).
- 2) The Accounting Officer must inform the National Treasury and relevant provincial treasury in writing of any actions taken in terms of sub-clauses (1)(b)(ii), (e) or (f) of this policy.

- 3) The accounting officer [who may delegate the task to the CFO] must, as part of complying with section 62[1][d] of the MFMA set up and maintain a register of Unauthorised, Irregular, Fruitless and Wasteful Expenditures. The aim with the register is also to serve as a tool for recording all unauthorised, irregular, fruitless and wasteful expenditures and for tracking progress in dealing with the consequences flowing from such expenditures until all the issues that gave rise to the expenditures are properly resolved in accordance with the legal framework. Please also consult National Treasury MFMA Circular 68 dated 10 May 2013 in this regard

4) **REMEDIES**

The regulation has been enhanced to include sub-regulations related to:

- i) Giving tenderer an opportunity to make a submission;
- ii) Informing the relevant treasury in writing of any actions taken against the tenderer;
- iii) The responsibilities of the treasury after receiving documents from the organ of state concerned.

Part 3: LOGISTICS, DISPOSAL, RISK AND PERFORMANCE MANAGEMENT

39 Logistics management

- 1) The Accounting Officer must establish and implement an effective system of logistics management, which must include -
- a) 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;
 - b) the setting of inventory levels that includes minimum and maximum levels and lead times wherever goods are placed in stock;
 - c) the placing of manual or electronic orders for all acquisitions other than those from petty cash;
 - d) 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;
 - e) 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;
 - f) regular checking to ensure that all assets are properly managed and maintained in terms of Council's Asset Management Policy; and
 - g) monitoring and review of the supply vendor performance to ensure compliance with specifications and contract conditions for particular goods or services.
 - h) the maintenance and administration of term contracts is co-managed with acquisition management for general goods / services

40 Disposal management

Assets must be disposed of in terms of Council's Asset Management Policy as well as the Administration of Immoveable Property Policy.

- (1) The criteria for the disposal or letting of assets, including unserviceable, redundant or obsolete assets, subject to sections 14 and 90 of the Act, are to be determined by council.
- (2) Assets may be disposed of by -
- (a) (i) transferring the asset to another organ of state in terms of a provision of the Act enabling the transfer of assets;
 - (ii) transferring the asset to another organ of state at market related value or, when appropriate, free of charge;
 - (iii) selling the asset; or

- (b) The accounting officer must stipulate that -
 - (i) immovable property is sold only at market related prices except when the public interest or the plight of the poor demands otherwise;
 - (ii) 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;
 - (iii) in the case of free disposal of computer equipment, the provincial department of education must first be approached to indicate within 30 days whether any of the local schools are interested in the equipment; and
 - (iv) in the case of disposal of firearms, the National Conventional Arms Control Committee has approved any sale or donation of firearms to any person or institution within or outside the Republic;
- (c) provide that -
 - (i) immovable property is let at market related rates except when the public interest or the plight of the poor demands otherwise;
 - (ii) all fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property are annually reviewed;
- (d) where assets are traded in for other assets, the highest possible trade-in price is negotiated.

41 Risk management

The Accounting Officer must implement an effective system of risk management for the identification, consideration and avoidance of potential risks in the supply chain management system as per Council's Risk Management Policy.

Risk management must include -

- (a) the identification of risks on a case-by-case basis;
- (b) the allocation of risks to the party best suited to manage such risks;
- (c) acceptance of the cost of the risk where the cost of transferring the risk is greater than that of retaining it;
- (d) the management of risks in a pro-active manner and the provision of adequate cover for residual risks; and
- (e) the assignment of relative risks to the contracting parties through clear and unambiguous contract documentation.

42 Performance management

The Accounting Officer must implement an internal monitoring system in order to determine, on the basis of a retrospective analysis, whether the authorised supply chain management processes were followed and whether the objectives of this Policy were achieved in terms of the Performance Management System- Implementation Policy.

Part 4: OTHER MATTERS

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

- 1) Irrespective of the procurement process followed, the municipality may not make any award above R15 000 to a person whose tax matters have not been declared by the South African Revenue Service to be in order.
- 2) Before making an award to a person, the Municipality must first check with SARS whether that person's tax matters are in order.
- 3) If SARS does not respond within seven (7) days, such person's tax matters may for purposes of subparagraph (1) be presumed to be in order.

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

- 1) Irrespective of the procurement process followed, no award may be made to a person in terms of this Policy –
 - a) who is in the service of the state;

- b) that person is not a natural person, of which any director, manager, principal shareholder or stakeholder is a person in the service of the state; or
- c) a person who is an advisor or consultant contracted with the Municipality in respect of a contract that would cause a conflict of interest.

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

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

46 Ethical standards

- 1) A code of ethical standards for supply chain management practitioners and other role players involved in supply chain management is hereby established in accordance with sub-clause (2) in order to promote –
 - a) mutual trust and respect; and
 - b) an environment where business can be conducted with integrity and in a fair and reasonable manner.
- 2) An official or other role player involved in the implementation of the supply chain management policy –
 - a) must treat all providers and potential providers equitably;
 - b) may not use his or her position for private gain or to improperly benefit another person;
 - c) may not accept any reward, gift, favour, hospitality or other benefit directly or indirectly, including to any close family member, partner or associate of that person, of a value more than R350;
 - d) notwithstanding sub-clause (2)(c), must declare to the Accounting Officer details of any reward, gift, favour, hospitality or other benefit promised, offered or granted to that person or to any close family member, partner or associate of that person;
 - e) must declare to the Accounting Officer details of any private or business interest which that person, or any close family member, partner or associate, may have in any proposed procurement or disposal process of, or in any award of a contract by, the Municipality;
 - f) must immediately withdraw from participating in any manner whatsoever in a procurement or disposal process or in the award of a contract in which that person, or any close family member, partner or associate, has any private or business interest;
 - g) must be scrupulous in his or her use of property belonging to the municipality;
 - h) must assist the Accounting Officer in combating fraud, corruption, favoritism and unfair and irregular practices in the supply chain management system; and
 - i) must report to the Accounting Officer any alleged irregular conduct in the supply chain management system which that person may become aware of, including –
 - (i) any alleged fraud, corruption, favoritism or unfair conduct;
 - (ii) any alleged contravention of clause 47(1) of this policy; or
 - (iii) any alleged breach of this code of ethical standards.
- 3) Declarations in terms of sub-clauses (2)(d) and (e) -
 - a) must be recorded in a register which the Accounting Officer must keep for this purpose;
 - (i) by the Accounting Officer must be made to the mayor of the municipality who must ensure that such declarations are recorded in the register.

- 4) A breach of the code of ethics must be dealt with as follows -
 - a) in the case of an employee, in terms of the disciplinary procedures of the Municipality envisaged in section 67(1)(h) of the Municipal Systems Act;
 - b) in the case a councillor, in terms of Schedule 1 of the Systems Act;
 - c) in the case a role player who is not an employee, or a councillor through other appropriate means in recognition of the severity of the breach; and
 - d) in all cases, financial misconduct must be dealt with in terms of Chapter 15 of the Act.

47 Inducements, rewards, gifts and favors to municipal officials and other role players

- 1) No person who is a provider or prospective provider of goods or services, or a recipient or prospective recipient of goods disposed or to be disposed of may either directly or through a representative or intermediary promise, offer or grant –
 - a) any inducement or reward to the Municipality for or in connection with the award of a contract; or
 - b) any reward, gift, favour or hospitality to –
 - (i) any official; or
 - (ii) any other role player involved in the implementation of this Policy.
- 2) The Accounting Officer must promptly report any alleged contravention of sub-clause (1) to the National Treasury for considering whether the offending person, and any representative or intermediary through which such person is alleged to have acted, should be listed in the National Treasury's database of persons prohibited from doing business with the public sector.
- 3) Sub-clause (1) does not apply to gifts less than R350 (Incl. VAT) in value.

48 Sponsorships

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

49 Objections and complaints

Persons aggrieved by decisions or actions taken in the implementation of this supply chain management system, may lodge within 10 business days of the decision or action, a written objection or complaint against the decision or action subject to the payment of applicable appeal deposit as per Council's approved tariffs.

50 Resolution of disputes, objections, complaints and queries

- 1) The Accounting Officer must appoint an independent and impartial person or persons, not directly involved in the supply chain management processes –
 - a) to assist in the resolution of disputes between the Municipality and other persons regarding -
 - (i) any decisions or actions taken in the implementation of the supply chain management system; or
 - (ii) any matter arising from a contract awarded in the course of the supply chain management system;
 - b) to deal with objections, complaints or queries regarding any such decisions or actions or any matters arising from such contract.

- 2) The Accounting Officer, or another official designated by the Accounting Officer, is responsible for assisting the appointed person to perform his or her functions effectively.
- 3) The person appointed must –
 - a) strive to resolve promptly all disputes, objections, complaints or queries received; and
 - b) submit monthly reports to the Accounting Officer on all disputes, objections, complaints or queries received, attended to or resolved.
- 4) A dispute, objection, complaint or query may be referred to the Provincial Treasury if –
 - a) the dispute, objection, complaint or query is not resolved within 46 business days; or
 - b) no response is forthcoming within 46 business days.
- 5) If the Provincial Treasury does not or cannot resolve the matter, the dispute, objection, complaint or query will be referred to the National Treasury for resolution.
- 6) This clause must not be read as affecting a person's rights to approach a court at any time.

51 Contract management and Contracts providing for compensation based on turnover

- 1) Contracts will be implemented in terms of the requirements of Section 116 of the Act and Council's Contract Management Policy.
- 2) If a service provider acts on behalf of the Municipality to provide any service or act as a collector of fees, service charges or taxes and the compensation payable to the service provider is fixed as an agreed percentage of turnover for the service or the amount collected, the contract between the service provider and the Municipality must stipulate:-
 - a) A cap on the compensation payable to the service provider; and
 - b) That such compensation must be performance based.

52 Public-Private Partnerships

Public-Private Partnerships will be procured in terms of Part 2 of Chapter 11 of the Act.

53 Short title and commencement

This part of the policy is called the Kai !Garib Municipality **Supply Chain Management Policy**.

This policy will come into effect on 01 November 2014 and will be reviewed at least annually by way of a Council resolution.

POLICY SECTION:	Senior Manager: Supply Chain Management			Current Update:	2014/10/31	Previous Review:	
Previous Review:		Previous Review:		Previous Review:		Previous Review:	
Previous Review:		Previous Review:		Previous Review:		Approval By Council:	

PART B

PREFERENTIAL PROCUREMENT REGULATIONS, 2017 PERTAINING TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT, ACT NO 5 OF 2000

PREAMBLE

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

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

NOW THEREFORE the Council of the Kai !Garib Municipality resolves in terms of section 2 of the Preferential Procurement Policy Framework Act, No. 5 of 2000 that the principles embodied in the Preferential Procurement Regulations, 2011 are herewith integrated into the Kai !Garib Municipality's Supply Chain Management Policy to form the basis of the evaluation criteria for quotations and competitive tenders.

TABLE OF CONTENTS

PART ONE

DEFINITIONS, APPLICATION, OBJECTIVES AND GENERAL REQUIREMENTS

1. Definitions
2. Application, Objectives & General Requirements

PART TWO

PLANNING AND STIPULATION OF PREFERENCE POINT SYSTEM TO BE UTILIZED, EVALUATION OF TENDERS ON FUNCTIONALITY, PREFERENCE POINT SYSTEM AND BROAD-BASED BLACK ECONOMIC EMPOWERMENT STATUS, AWARD OF CONTRACTS TO TENDERERS NOT SCORING THE HIGHEST NUMBER OF POINTS AND THE CANCELLATION AND RE-INVITATION OF TENDERS

3. Planning and stipulation of preference point system to be utilized
4. Evaluation of tenders based on functionality
5. The 80/20 preference point system for the acquisition of goods, works and / or services up to a Rand value of R1,0 million
6. The 90/10 preference point system for the acquisition of goods, works and / or services with a Rand value above R1,0 million
7. Award of contracts to tenders not scoring the highest number of points
8. Cancellation and re-invitation of tenders

PART THREE

LOCAL PRODUCTION AND CONTENT, B-BBEE STATUS LEVEL CERTIFICATES, CONDITIONS, DECLARATIONS, REMEDIES, TAX CLEARANCE, MECHANISMS TO SUPPORT PREFERENTIAL PROCUREMENT AND SHORT TITLE

9. Local Production and Content
10. Broad-Based Black Economic Empowerment Status Level Certificates
11. Conditions
12. Declarations
13. Remedies
14. Tax Clearance
15. Short title

PART ONE: DEFINITIONS AND APPLICATION

1 Definitions

- 1) In this policy, unless the context indicates otherwise, a word or expression to which a meaning has been assigned in the Act bears the same meaning, and:

<i>"Act"</i>	means the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000);
<i>"all applicable taxes"</i>	includes Value-Added Tax, Pay-as-you-Earn, Income Tax, Unemployment Insurance Fund Contributions and Skills Development Levies;
<i>"B-BBEE"</i>	means Broad-Based Black Economic Empowerment as defined in Section 1 of the Broad-Based Black Economic Empowerment Act;
<i>"B-BBEE status level of contributor"</i>	means the B-BBEE status received by a measured entity based on its overall performance using the relevant scorecard contained in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;
<i>"Broad-Based Black Economic Empowerment Act" (B-BBEEA)</i>	means the Broad-Based Black Economic Empowerment Act, 2003 (Act No.53 of 2003);
<i>"Comparative price"</i>	means the price after the factors of a non-firm price and all unconditional discounts that can be utilised have been taken into consideration;
<i>"Consortium or Joint Venture"</i>	means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract;
<i>"Contract"</i>	means the agreement that results from the acceptance of a tender by the Kai !Garib Municipality;
<i>"designated sector"</i>	means a sector, sub-sector or industry that has been designated by the Department of Trade and Industry in line with national development and industrial policies for local production, where only locally produced services, works or goods or locally manufactured goods meet the stipulated minimum threshold for local production and content;
<i>"Firm price"</i>	is the price that is only subject to adjustments in accordance with the actual increase or decrease resulting from the change, imposition, or abolition of customs or excise duty and any other duty, levy, or tax, which, in terms of a law or regulation, is binding on the contractor and demonstrably has an influence on the price of any supplies, or the rendering costs of any service, for the execution of the contract;
<i>"Functionality"</i>	means the measurement according to predetermined norms, as set out in the tender documents, of a service or commodity that is designed to be practical and useful, working or operating, taking into account, among other factors, the quality, reliability, viability and durability of a service and the technical capacity and ability of a tenderer;
<i>"imported content"</i>	means that portion of the tender price represented by the cost of components, parts or materials which have been or are still to be imported (whether by the supplier or its subcontractors) and which costs are inclusive of the costs abroad, plus freight and direct importation costs, such as landing costs, dock dues, import duty, sales duty or other similar tax or duty at the South African port of entry;
<i>"local content"</i>	means that portion of the tender price which is not included in the imported content, provided that local manufacture does take place;

"Non-firm prices"	means all prices other than "firm" prices;
"Person"	includes reference to a juristic person;
"Rand value"	means the total estimated value of a contract in South African currency, calculated at the time of tender invitations and includes all applicable taxes and excise duties;
"stipulated minimum threshold"	means that portion of local production and content as determined by the Department of Trade and Industry;
"Sub-Contract"	means the primary contractor's assigning or leasing or making out work to, or employing, another person to support such primary contractor in the execution of part of a project in terms of the contract;
"Tender"	means a written offer in a prescribed or stipulated form in response to an invitation by the Kai !Garib Municipality for the provision of services, works or goods, through price quotations, advertised competitive tender processes or proposals;
"Total revenue"	bears the same meaning assigned to this expression as in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act, 2003 and promulgated in the Government Gazette on 9 February 2007;
"Trust"	means the arrangement through which the property of one person is made over or bequeathed to a trustee to administer such property for the benefit of another person; and
"Trustee"	means any person, including the founder of a trust, to whom property is bequeathed in order for such property to be administered for the benefit of another person.

2 Application, Objectives & General Requirements

1) Application

- a) An organ of state contemplated in sub-regulation (1) must, unless the Minister of Finance has directed otherwise, only apply a preferential procurement system which is in accordance with the Act and these Regulations.

PART TWO: PREFERENCE POINT SYSTEM AND BROAD-BASED BLACK ECONOMIC EMPOWERMENT STATUS, EVALUATION OF TENDERS ON FUNCTIONALITY, AWARD OF CONTRACTS TO TENDERERS NOT SCORING THE HIGHEST NUMBER OF POINTS AND THE CANCELLATION AND REINVITATION OF TENDERS

3 Planning and stipulation of preference point system to be utilized

- 1) The Municipality must, prior to making an invitation for tenders -
 - a) properly plan for, and, as far as possible, accurately estimate the costs of the provision of services, works or goods for which an invitation for tenders is to be made;
 - b) determine and stipulate the appropriate preference point system to be utilized in the evaluation and adjudication of the tenders; and
 - c) determine whether the services, works or goods for which an invitation is to be made has been designated for local production and content in terms of paragraph 9.

4 Evaluation of tenders based on functionality

- 1) The Municipality must indicate in the invitation to submit a tender, if that tender will be evaluated on functionality;
- 2) The evaluation criteria for measuring functionality must be objective.
- 3) When evaluating tenders on functionality, the-
 - a) evaluation criteria for measuring functionality,

- b) weight of each criterion,
 - c) applicable values; as well as
 - d) minimum qualifying score for functionality,
- 4) No tender must be regarded as an acceptable tender, if it fails to achieve the minimum qualifying score for functionality as indicated in the tender invitation; and
 - 5) Tenders that have achieved the minimum qualification score for functionality must be evaluated further in terms of the preference point systems prescribed in paragraphs 5 and 6.

5 The 80/20 preference point system for acquisition of services, works or goods up to a Rand value of R1 million

- 1) The following formula must be used to calculate the points for price in respect of tenders (including price quotations) with a Rand value equal to, or above R 30 000 and up to a Rand value of R1 000 000 (all applicable taxes included):

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

Where;

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

Pt = Comparative price of tender / offer under consideration

Pmin = Comparative price of lowest acceptable tender / offer.

- a) The Municipality may apply the formula for price quotations with a value less than R30 000, if and when appropriate.
- 2) Subject to sub-paragraph (3), points must be awarded to a tenderer for attaining the B-BBEE status level of contributor in accordance with the table below:

B-BBEE Status Level of Contributor	Number of Points
1	20
2	18
3	14
4	12
5	8
6	6
7	4
8	2
Non-compliant contributor	0

- 3) A maximum of 20 points may be allocated in accordance with sub-paragraph (2).
- 4) The points scored by a tenderer in respect of B-BBEE contribution contemplated in sub-paragraph (2) must be added to the points scored for price as calculated in accordance with sub-paragraph (1).
- 5) Subject to paragraph 7, the contract must be awarded to the tenderer who scores the highest total number of points.

6 The 90/10 preference point system for acquisition of goods, works and / or services with a Rand value ABOVE R50 million.

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

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

Where

P_s = Points scored for comparative price of tender or offer under Consideration;

P_t = Comparative price of tender or offer under consideration; and

P_{min} = Comparative price of lowest acceptable tender or offer.

- 2) Subject to sub-paragraph (3), points must be awarded to a tenderer for attaining their B-BBEE status level of contributor in accordance with the table below:

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

- 3) A maximum of 10 points be allocated in accordance with sub-paragraph (2).
- 4) The points scored by a tenderer in respect of the level of B-BBEE contribution contemplated in subparagraph (2) must be added to the points scored for price as calculated in accordance with subparagraph (1).
- 5) Subject to paragraph 7, the contract must be awarded to the tenderer who scores the highest total number of points.

7 Award of contracts to tenders not scoring the highest number of points

A contract may be awarded to a tenderer that did not score the highest total number of points, only in accordance with paragraph 2(1)(f) of the Act.

8 Cancellation and re-invitation of tenders

- 1) In the event that, in the application of the 80/20 preference point system as stipulated in the tender documents
- all tenders received exceed the estimated Rand value of R1 000 000, the tender invitation must be cancelled.
 - If one or more of the acceptable tenders received are within the prescribed threshold of R1 000 000, all tenders received must be evaluated on the 80/20 preference point system.
- 2) In the event that, in the application of the 90/10 preference point system as stipulated in the tender documents,
- all tenders received are equal to, or below R50 000 000 the tender must be cancelled.
 - If one or more of the acceptable tenders received are above the prescribed threshold of R50 000 000 all tenders received must be evaluated on the 90/10 preference point system.

- 3) In the event that the Municipality has cancelled a tender invitation as contemplated in sub-paragraph (1)(a) and 2(a), tenders must be re-invited and the tender documents must stipulate the correct preference point system to be applied.
- 4) The Municipality may, prior to the award of a tender, cancel a tender if:
 - a) due to changed circumstances, there is no longer a need for the services, works or goods requested, or
 - b) funds are no longer available to cover the total envisaged expenditure; or
 - c) no acceptable tenders are received.
- 5) The decision to cancel a tender in terms of sub-paragraph (4) must be published in the media in which the original tender invitation was advertised.

PART THREE: LOCAL PRODUCTION AND CONTENT, B-BBEE STATUS LEVEL CERTIFICATES, CONDITIONS, DECLARATIONS, REMEDIES, TAX CLEARANCE, MECHANISMS TO SUPPORT PREFERENTIAL PROCUREMENT, SHORT TITLE AND COMMENCEMENT

9 Local Production and Content

- 1) The Municipality must, in the case of designated sectors, where in the award of tenders local production and content is of critical importance, advertise such tenders with a specific tendering condition that only locally produced goods, services or works or locally manufactured goods, with a stipulated minimum threshold for local production and content will be considered.
- 2) The National Treasury will issue instructions, circulars and guidelines to all organs of state, with specific report mechanisms to ensure compliance with sub-paragraph (1).
- 3) Where there is no designated sector, the Municipality may include, as a specific tendering condition, that only locally produced services, works or goods or locally manufactured goods with a stipulated minimum threshold for local production and content, will be considered, on condition that such prescript and threshold(s) are in accordance with the specific directives issued for this purpose by the National Treasury in consultation with the Department of Trade and Industry.
- 4) Every tender issued in terms of paragraph 9 must be measurable and audited.
- 5) Where necessary, tenders referred to in sub-paragraph (1) and (3), a two-stage tendering process may be followed, where the first stage involves functionality and minimum threshold for local production and content and the second price and B-BBEE with the possibility of price negotiations only with the short listed tenderer/s.

10 Broad –Based Black Economic Empowerment Status Level Certificates

- 1) Tenders with annual total revenue of R10 million or less qualify as Exempted Micro Enterprises (EMEs) in terms of the Broad-Based Black Economic Empowerment Act, and must submit a certificate issued by a registered auditor, Accounting Officer (as contemplated in section 60(4) of the Close Corporation Act, 1984 (Act No. 69 of 1984) or an accredited verification agency.
- 2) Tenders other than exempted Micro-Enterprises (EMEs) must submit their original and valid B-BBEE status level verification certificate or a certified copy thereof, substantiating their B-BBEE rating.
- 3) The submission of such certificates must comply with the requirements of instructions and guidelines issued by the National Treasury and be in accordance with notices published by the Department of Trade and Industry in the Government Gazette.
- 4) B-BBEE status level verification certificates may be issued by SANAS accredited agencies or approved auditors registered with IRBA.
- 5) The B-BBEE status level attained by the tenderer must be used to determine the number of points contemplated in regulations 5(2) and 6(2).

11 Conditions

- 1) Only a tenderer who has completed and signed the declaration part of the tender documentation may be considered.
- 2) The Municipality must, when calculating comparative prices, take into account any discounts which have been offered unconditionally.
- 3) A discount which has been offered conditionally must, despite not being taken into account for evaluation purposes, be implemented when payment is processed.
- 4) Points scored must be rounded off to the nearest 2 decimals places.
- 5) In the event that two or more tenders have scored equal total points, the successful tender must
 - a) be the one scoring the highest number of preference points for B-BBEE.
 - b) However, when functionality is part of the evaluation process and two or more tenders have scored equal points including equal preference points for B-BBEE, the successful tender must be the one scoring the highest score for functionality.
 - c) Should two or more tenders be equal in all respects, the award shall be decided by the drawing of lots.
- 6) A trust, consortium or joint venture will qualify for points for their B-BBEE status level as a legal entity, provided that the entity submits their B-BBEE status level certificate.
- 7) A trust, consortium or joint venture will qualify for points for their B-BBEE status level as an unincorporated entity, provided that the entity submits their consolidated B-BBEE scorecard as if they were a group structure and that such a consolidated B-BBEE scorecard is prepared for every separate tender.
- 8) A person must not be awarded points for B-BBEE status level if it is indicated in the tender documents that such a tenderer intends sub-contracting more than 25% of the value of the contract to any other enterprise that does not qualify for at least the points that such a tenderer qualifies for, unless the intended sub-contractor is an exempted micro enterprise that has the capability and ability to execute the sub-contract.
- 9) A person awarded a contract may not sub-contract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level than the person concerned, unless the contract is sub-contracted to an exempted micro enterprise that has the capability and ability to execute the sub-contract.
- 10) A person awarded a contract in relation to a designated sector, may not sub-contract in such a manner that the local production and content of the overall value of the contract is reduced to below the stipulated minimum threshold.
- 11) When the Municipality is in need of a service provided by only tertiary institutions, such services must be procured through a tendering process from the identified tertiary institutions.
- 12) Tertiary institutions referred to in sub-paragraph (11) will be required to submit their B-BBEE status in terms of the specialized scorecard contained in the B-BBEE Codes of Good practice.
- 13) Should the Municipality require a service that can be provided by one or more tertiary institutions or public entities and enterprises from the private sector, the appointment of a contractor must be
 - a) done by means of a tendering process;
 - b) Public entities will be required to submit their B-BBEE status in terms of the specialised scorecard contained in the B-BBEE Codes of Good Practice.

12 Declarations

- 1) A tender must, in the manner stipulated in the document, declare that-
 - a) the information provided is true and correct;
 - b) the signatory to the tender document is duly authorised; and
 - c) documentary proof regarding any tendering issue will, when required, be submitted to the satisfaction of the Municipality.

13 Remedies

- 1) The Municipality must, upon detecting that-
 - a) The B-BBEE status level of contribution has been claimed or obtained on a fraudulent basis; or
 - b) any of the conditions of the contract have not been fulfilled, act against the tenderer or person awarded the contract.
- 2) The Municipality may, in addition to any other remedy it may have against the person contemplated in sub-paragraph (1) -
 - a) disqualify the person from the tendering process;
 - b) recover all costs, losses or damages it has incurred or suffered as a result of that person's conduct;
 - c) cancel the contract and claim any damages it has suffered as a result of having to make less favourable arrangements due to such cancellation;
 - d) restrict the tenderer or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and
 - e) forward the matter for criminal prosecution.

14 Tax clearance

No tender may be awarded to any person whose tax matters have not been declared by the South African Revenue Services to be in order.

15 Short title

This part of the policy is called the Preferential Procurement Policy of the Kai !Garib Municipality.

DOCUMENT APPROVAL				
Policy Review Date	Council Resolution No	Date	Effective Date	Chairman signature
11 June 2020	REF:XXXXXX	12 June 2020	01 July 2020	XXXXXXXXXXXX

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