

RUSTENBURG

LOCAL MUNICIPALITY



SUPPLY CHAIN MANAGEMENT

POLICY

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The Municipal Manager of the Rustenburg Local Municipality (hereinafter referred to as "the Municipality"), being responsible for managing the financial administration of the Municipality hereby, in terms of the provisions of section 62(1)(f)(iv), read with section 111 of the Local Government: Municipal Finance Management Act, Act 56 of 2003 (hereinafter referred to as the "MFMA"), and in order to give effect to section 217(1) of the Constitution of the Republic of South Africa, 1996 (hereinafter referred to as "the Constitution"), establishes the Supply Chain Management Policy of the Municipality (also hereinafter referred to as "the SCM Policy), as approved by its Council and which came into operation on and is to be implemented as such from the date of acceptance by the Council.

The SCM Policy of the Municipality will be one of the Municipality's budget related policies, as referred to in the provisions of regulation 7 of the Municipal Budget & Reporting Regulations, 2008 and section 17(3)(e), section 21(1)(b)(ii)(bb), section 22(a)(i) and section 24(2)(c)(v) of the MFMA, and accordingly the Municipality will annually revise this policy and this policy, or any amendments thereto will be approved by the Council of the Municipality during the process in terms of which the Municipality adopts its budget, as described in section 24 of the MFMA.

THE RUSTENBURG LOCAL MUNICIPALITY: SUPPLY CHAIN MANAGEMENT POLICY

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CHAPTER 1

**ESTABLISHMENT AND IMPLEMENTATION OF
THE SUPPLY CHAIN MANAGEMENT POLICY**

1. DEFINITIONS

In this policy, except where the context otherwise indicates, or it is expressly stipulated otherwise, the following words, expressions and/or abbreviations shall have the respective meanings assigned to them hereunder and words or expressions to which a meaning has been assigned in terms of the provisions of section 1 of the MFMA will have the corresponding meaning assigned thereto in terms of such section. Some of these words, expressions and/or abbreviations may not occur in the Policy but are included for the sake of completeness. All headings are included for convenience only and shall not be used in the interpretation of any of the provisions of this policy.

NO	WORD/EXPRESSION	DEFINITION
"A"		
1.1	"Accounting Officer"	The Municipal Manager of the Municipality as referred to the definition of "Accounting Officer" as defined in terms of the provisions of section 1 of the MFMA and referred to in section 60 of the MFMA and includes a person acting as an Accounting Officer, or the person to whom the Accounting Officer has delegated his/her authority to act. Also refer to the definition of Municipal Manager below.
1.2	"adjudication points"	The points referred to in the Preferential Procurement Policy Framework Act, Act 5 of 2000. Preferential Procurement Regulations, 2017, and

		the preferential procurement section of this policy, also referred to as "evaluation points" or "preference points".
1.3	"all applicable taxes"	Includes value added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies.
1.4	"Auditor-General"	The person appointed as Auditor-General in terms of section 193 of the Constitution, and includes a person acting as Auditor-General, acting in terms of a delegation by the Auditor-General or designated by the Auditor-General to exercise a power or perform a duty of the Auditor-General.
1.5	"authority"	A right or power attached to a rank or position permitting the holder thereof to make decisions, to execute such decisions or to have such decisions executed, take command or to demand action by others
"B"		
1.6	"B-BBEE"	The Broad Based Black Economic Empowerment as defined in terms of the provisions of section 1 of the Broad-Based Black Economic Empowerment Act, Act 53 of 2003.
1.7	"B-BBEE status level of contributor"	The B-BBEE status awarded to 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 the provisions of section 9(1) of the Broad-Based Black Economic Empowerment Act, Act 53 of 2003.
1.8	"bid"	Includes a responsive tender, quotation, expression of interest, proposal, or any other proposition for

		doing business with the Municipality, whether solicited or not, or a written offer in a prescribed or stipulated form in response to an invitation by the Municipality for the provisions of goods and services.
1.9	"bidder"	Any person or entity submitting a bid.
"C"		
1.10	"capital asset"	Any immovable asset such as land, property or buildings or any movable asset that can be used continuously or repeatedly for more than one year in the production or supply of goods or services, for rental to others or for administrative purposes, and from which future economic or social benefit can be derived, such as plant, machinery and equipment
1.11	"Chief Financial Officer"	A person appointed by the Council and designated by the Municipal Manager to manage the financial administration of the Municipality and who remains directly accountable to the Municipal Manager as contemplated in terms of the provisions of section 80(2)(a) read with section 1 and section 81 of the MFMA
1.12	"close family member"	A spouse, child or parent of a person.
1.13	"closing time"	The time and date specified in bid documentation as the closing time for submission of bids after which no more bids may be submitted to or be accepted by the Municipality
1.14	"community-based vendor"	A supplier of goods and/or services who resides in a target area or community, who/which meets the criteria for community-based vendors as

		determined by the Municipality from time to time, and who/which is registered on the list of the Municipality as an accredited prospective provider of goods and/or services.
1.15	"comparative price"	The price after the factors of a non-firm price and all unconditional discounts that can be utilised have been taken into consideration. A "non-firm price" means all prices other than a "firm price".
1.16	"competitive bid"	A responsive bid in terms of a competitive bidding process
1.17	"competitive bidding process"	A competitive bidding process referred to in regulation 12(1)(d) of the SCMR and this policy.
1.18	"consortium or joint venture"	An association of persons or entities formed for the purpose of combining the expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract or contracts. The joint venture or consortium must be formalised by agreement between the parties thereto.
1.19	"Construction Industry Development Board" or "CIDB"	The Construction Industry Development Board established by section 2 of the Construction Industry Development Board Act
1.20	"Construction Industry Development Board Act"	The Construction Industry Development Board Act, Act 38 of 2000.
1.21	"construction works"	The provision of a combination of goods and services arranged for the development, extension, installation, repair, maintenance, renewal, removal, renovation, alteration, dismantling or demolition of a

		fixed asset including building and engineering infrastructure.
1.22	"consultant"	A person or entity providing labour and knowledge-based expertise which is applied with reasonable skill, care and diligence.
1 23	"contract"	A written agreement resulting from the acceptance of a bid or quotation from a bidder by the Municipality and as contemplated in the provisions of section 116 of the MFMA.
1.24	"contractor"	A person or entity whose/which bid, or quotation has been accepted by the Municipality and "service provider" has a corresponding meaning.
1 25	"Council"	The Municipal Council of the Municipality, its legal successors in title and its delegates
"D"		
1.26	"days"	Calendar days, unless the context indicates otherwise.
1 27	"demand management"	A system which insures that the resources required to support the strategic and operational commitments of the Municipality are delivered at the correct time, at the right price, and at the right location, and that the quantity and quality satisfy the needs of the Municipality.
1.28	"designated sector"	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 goods and/or services or locally manufactured goods meet the stipulated minimum threshold for local production and content.

1.29	"disability"	In respect of a person means a permanent impairment of a physical, intellectual or sensory function, which results in restricted, or lack of, ability to perform an activity in the manner or in the range considered normal for a human being.
1.30	"Disciplinary Regulations"	Local Government Disciplinary Regulations for Senior Managers, published under GN 344 in GG 34213 of 21 April 2011
1.31	"disposal"	A process of preparing, negotiating and concluding a written contract which involves the alienation of a capital asset of the Municipality, including a capital asset no longer needed by the Municipality or rights in respect thereof, by means of a sale or a donation, and "dispose" has a similar meaning.
1.32	"disposal management"	The system of the Municipality for the disposal or letting of assets, including unserviceable, redundant or obsolete assets in a cost-effective, but transparent and responsible manner, and entails the maintenance of records and documents
"E"		
1.33	"engineering and construction works"	The provision of a combination of goods and services, arranged for the development and provision of an asset including construction works and engineering infrastructure, or for the refurbishment of an existing asset.
1.34	"evaluation points"	Refer to "adjudication points" and/or "preference points".
1.35	"exempted capital asset"	A municipal capital asset which is exempted by section 14(6) of the MFMA from the other provisions of that section, read with regulation 1 of the MATR.

"F"		
1.36	"final award"	The final decision on which bid or quote to accept.
1.37	"firm price"	The price that is only subject to adjustments in accordance with the actual increase or decrease resulting from the change in position, 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 a contract
1.38	"formal written price quotation"	Quotations referred to in this policy and in regulation 12(1)(c) of SCMR and includes an electronic offer to the Municipality in response to an invitation to submit such a quotation.
1.39	"functionality"	The measurement according to predetermined norms and/or criteria, as set out in the bid documents, of a service or commodity that is designed to be practical and useful, working or operating, considering, among other factors, the quality, reliability, viability and durability of a service and the technical capacity and ability of a bidder.
"G"		
1.40	"general conditions of contract"	The general conditions of contract as set out in the bid documentation applicable to the said bid and not limited to the General Conditions of Contract for Construction Contracts, 2010 of the South African Institute of Civil Engineers

1.41	"goods and/or services"	Apart from the normal grammatical meaning, also includes engineering and construction works and consultant works
1.42	"green procurement"	Considering environmental criteria for goods and services to be purchased to ensure that the related environmental impact is minimised.
"H"		
1.43	"historically disadvantaged individual" or "HDI"	A South African citizen who, due to the apartheid policy that had been in place, had no franchise in national elections prior to the introduction of the Constitution or the Constitution of the Republic of South Africa, Act 200 1993 ("the Interim Constitution"); and/or who is a female, and/or who has a disability, provided that a person who obtained South African citizenship on or after the coming to effect of the Interim Constitution, is deemed not to be an HDI.
"P"		
1.44	"improper conduct"	Conduct which is tantamount to fraud, corruption, favouritism, unfair, irregular and unlawful practices, misrepresentation of information submitted in bid documents for the purposes of procuring a contract with the Municipality, misrepresentation regarding the contractor's expertise and capacity to perform in terms of a contract procured via the Supply Chain Management System, breach of a contract procured via the Supply Chain Management System and failure to comply with the Supply Chain Management System.

1.45	"in the service of the state"	<p>Means to be:</p> <p>(a) a member of:</p> <p>(i) any municipal council;</p> <p>(ii) any provincial legislature; or</p> <p>(iii) the National Assembly or the National Council of provinces;</p> <p>(b) a member of the board of directors of any municipal entity;</p> <p>(c) an official of any municipality or municipal entity;</p> <p>(d) an employee of any national or provincial department, national or provincial public entity or constitutional institution with the meaning of the Public Finance Management Act, Act 1 of 1999,</p> <p>(e) a member of the accounting authority of any national or provincial public entity; or</p> <p>(f) an employee of Parliament or a provincial legislature</p>
1 46	"information technology" or "IT"	The acquisition, processing, storage and dissemination of vocal, pictorial, textual and numerical information by a microelectronics-based combination of computing and telecommunications
1 47	"Integrated Development Plan" or "IDP"	The plan envisaged in terms of the provisions of section 25 of the MSA.

"L"		
1.48	"list of accredited prospective providers"	The list of accredited prospective providers that a Municipality must keep in terms of regulation 14 of the SCMR
1.49	"local business"	Service providers with active offices within the municipal area of the Municipality, which shall be interpreted based on whether the offices are utilised for the goods and/or services to be procured, and whether most staff are local.
1.50	"Local Government: Municipal Finance Management Act" or "MFMA"	The Local Government: Municipal Finance Management Act, Act 56 of 2003.
1.51	"Local Government: Municipal Systems Act" or "MSA"	The Local Government: Municipal Systems Act, Act 32 of 2000.
1.52	"Structures Act" or "MSTA"	The Local Government: Municipal Structures Act, Act 117 of 1998
1.53	"long term contract"	A contract with a duration period exceeding 1 (one) year.
"M"		
1.54	"Municipal Asset Transfer Regulations" or "MATR"	The Asset Transfer Regulations, 2008, published under GN R878 in GG 31346 of 22 August 2008 (with effect from 1 September 2008) and promulgated in terms of the provisions of section 168 of the MFMA
1.55	"Municipal Budget & Reporting Regulations, 2008"	The Municipal Budget & Reporting Regulations, 2008, published under GN R393 in GG 32141 of 17 April 2009 (with effect from 1 July 2009) and

		promulgated in terms of the provisions of section 168 of the MFMA
1.56	"municipal entity"	<p>Means</p> <p>(a) a private company referred to in section 86B(1)(a) of the MSA;</p> <p>(b) a service utility, or</p> <p>(c) a multi-jurisdictional service utility,</p> <p>as contemplated in terms of the provisions of the MSA.</p>
1 57	"Municipality"	<p>Means the RUSTENBURG LOCAL MUNICIPALITY (also referred to as "RLM") a local government and legal entity with full legal capacity as contemplated in section 2 of the Systems Act read with the provisions of Chapter 7 of the Constitution and sections 12 and 14 of the Structures Act, with its main place of business and the offices of the Municipal Manager, as envisaged in terms of the provisions of section 115(3) of the Systems Act, at Missionary Mpheni House, CNR NELSON MANDELA & BEYERS NAUDE STREET, RUSTENBURG, NORTH WEST PROVINCE, and may, depending on the context, include</p> <p>(a) its successor in title; or</p> <p>(b) a functionary, employee or official exercising a delegated power or carrying out an instruction, in the event of any power being delegated as contemplated in terms of the provisions of section 59 of the Systems Act, or exercising any lawful act in the furtherance of the Municipality's duties, functions and powers; or</p>

		(c) an authorised service provider fulfilling a responsibility assigned to it by the Municipality through a service delivery agreement
1 58	"Municipal Manager"	The person appointed in terms of the provisions of section 54A of the MSA, and Accounting Officer of the Municipality.
1.59	"Municipal Public-Private Partnership Regulations"	The Municipal Public-Private Partnership Regulations, published under GN R309 in GG 27431 of 1 April 2005 (with effect from 1 April 2005) and promulgated in terms of the provisions of section 168 of the MFMA
1 60	"Municipality's Register of Tender and Contract Defaulters"	The list compiled by the Municipality for purposes of the combating of abuse of the Supply Chain Management System in terms of which the persons reflected on the list are prohibited from being awarded any contract by the Municipality for the specified period reflected on the list.
"N"		
1.61	"non-exempted capital asset"	A municipal capital asset which is not exempted in terms of the provisions of section 14(6) of the MFMA from the other provisions of that section.
"O"		
1.62	"obsolete"	As asset of the Municipality which is no longer in use or out of date, or which has become obsolete by reason of it being replaced with something new.
1.63	"official"	In relation to the Municipality or municipal entity, means. (a) an employee of a Municipality or municipal entity,

		<p>(b) a person seconded to a Municipality or municipal entity to work as a member of the staff of the Municipality or municipal entity, or</p> <p>(c) a person contracted by a Municipality or municipal entity to work as a member of the staff of the Municipality or municipal entity otherwise than as an employee.</p>
1 64	"organ of state"	<p>Means:</p> <p>(a) any department of state or administration in the national, provincial or local sphere of government; or</p> <p>(b) any other functionary or institution:</p> <p>(i) exercising a power or performing a function in terms of the Constitution or a provincial constitution, or</p> <p>(ii) exercising a public power or performing a public function in terms of any legislation but does not include a court or a judicial officer.</p>
1 65	"other applicable legislation"	<p>Any other legislation applicable to the supply chain management of the Municipality, including but not limited to the Preferential Procurement Policy Framework Act, the Broad-Based Black Economic Empowerment Act, the Construction Industry Development Board Act and the Consumer Protection Measures Act, Act 68 of 2008.</p>
"P"		

1.66	"planned project work"	As opposed to term bids for the supply of goods and/or services that is of an ad-hoc or repetitive nature for a predetermined period.
1.67	"this policy"	This Supply Chain Management Policy of the Municipality.
1.68	"preference points"	Refer to "adjudication points" and/or "evaluation points".
1.69	"Preferential Procurement Policy Framework Act" or "PPPFA"	The Preferential Procurement Policy Framework Act, Act 5 of 2000.
1.70	"Preferential Procurement Regulations" or "PPR"	The regulations published in terms of the provisions of section 5 of the PPPFA, specifically the Preferential Procurement Regulations, 2011 published under Government Gazette No. 34350 of 8 June 2011
1.71	"Prevention and Combating of Corrupt Activities Act" or "PCCAA"	The Prevention and Combating of Corrupt Activities Act, Act 12 of 2004
1.72	"prime contractor"	The person or entity with whom the Municipality contracts, as opposed to sub-contractors, suppliers, manufacturers or service providers who contract with the prime contractor.
1.73	"prime cost item(s)"	An item in a bid, the price of which cannot be fixed at the time of bidding, and which may only relate to the supply of materials and not to the carrying out of works.
1.74	"provisional sum(s)"	An amount allocated for specialised work, to be executed by a specialised service provider and for

		which the details are not available at the time of bidding
1.75	"Promotion of Access to Information Act" or "PAIA"	The Promotion of Access to Information Act, Act 2 of 2000.
1.76	"Public-Private Partnership" or "PPP"	Refers to the definition of "public-private partnership" as defined in terms of the provisions of Regulation 1 of the Municipal Public-Private Partnership Regulations, published under GN R309 in GG 27431 of 1 April 2005 and promulgated in terms of the provisions of section 168 of the MFMA.
"Q"		
1.77	"quality"	The measure according to predetermined criteria, of the suitability of a proposal, design or product for the use for which it is intended and may also include the measure of the competency of a supplier
"R"		
1 78	"rand value"	The total estimated value of a contract in South African Rands, calculated at the time of quotation and bid invitations and includes all applicable taxes and excise duties.
1.79	"Republic"	The Republic of South Africa
1 80	"responsible agent"	Internal project managers being officials of the Municipality, or external consultants appointed by the Municipality to oversee the implementation of a project or contract
1.81	"risk management"	The identification, measurement and economic control of risks that threaten the assets and

		income/earnings of person or entity or business or other enterprise.
"S"		
1.82	"sole-source selection"	The procuring of services or goods from one sole source because of the specialised or unique characteristics of the goods or services procured.
1.83	"SITA"	State Information Technology Agency.
1.84	"small, medium and micro enterprises" or "SMME"	Refers to "small enterprise" as defined in terms of the provisions of section 1 of the National Small Enterprise Act, Act 102 of 1996.
1.85	"sub-contract"	The agreement in terms of which or the act of a primary contractor appointing a sub-contractor
1.86	"sub-contractor"	Any person or entity that is employed, assigned, or contracted by the prime contractor to carry out work in support of the prime contractor in the execution of a contract.
1.87	"Supply Chain Management Policy"	This Supply Chain Management Policy of the Municipality
1.88	"Supply Chain Management Regulations" or "SCMR"	The Municipal Supply Chain Management Regulations, published under GN 868 in GG 27636 of 30 May 2005 and promulgated in terms of the provisions of section 168 of the MFMA.
1.89	"Supply Chain Management Unit" or "SCMU"	The Supply Chain Management Unit which functions under the management and control of the Municipal Manager of the Municipality, which unit is responsible for the implementation and management of this policy, as well as all other issues related to supply chain management which may be assigned to them by the Municipality.

"T"		
1.90	"tender"	Means bid in the context of procurement.
1.91	"term bid"	A rates-based bid for the ad hoc or repetitive supply of goods, services or construction works, where the individual rates are approved for use over a specified period.
1.92	"total cost of ownership" or "TCO"	The sum of direct spend, related spend, process spend, and opportunity cost associated within a specific commodity and service to the owner.
1.93	"treasury guidelines"	Any guidelines on supply chain management issued by the Minister in terms of the provisions of section 168 of the MFMA.
1.94	"trust"	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.
"U"		
1.95	"unserviceable"	The condition of an asset which is no longer suitable for use and cannot be economically repaired.
1.96	"unsolicited bid"	An offer submitted by any person or entity at its own initiative, without having been invited by the Municipality to do so as envisaged by section 113 of the MFMA read together with Regulation 37 of the SCMR.

2. INTRODUCTION

- (1) Section 111 of the MFMA requires each Municipality to adopt and implement a Supply Chain Management Policy which gives effect to the requirements of the MFMA, and section 217(1) of the Constitution. In addition, the PPPFA requires the Municipality to determine its preferential procurement policy and to implement it within the framework prescribed. These requirements are given effect to herein.
- (2) The Supply Chain Management System of the Municipality, contained in this policy, provides a mechanism to ensure fair, equitable, transparent, competitive and cost-effective procurement and, sustainable and accountable supply chain management within the Municipality whilst promoting black economic empowerment, which includes general principles for achieving the following socio-economic objectives.
- (a) to stimulate and promote local economic development in a targeted and focused manner,
 - (b) to promote resource efficiency and "green procurement";
 - (c) to facilitate creation of employment and business opportunities for the people of the Municipality with reference to HDI's,
 - (d) to promote the competitiveness of local businesses;
 - (e) to increase the small business sector access, in general, to procurement business opportunities created by Council;
 - (f) to increase participation by small, medium and micro enterprises, and
 - (g) to promote joint venture or consortium partnerships.

3. TITLE AND APPLICATION OF THE POLICY

- (1) This policy shall be known as the Municipality's Supply Chain Management Policy and shall be applicable to the municipal area of the Municipality as determined by the Municipal Demarcation Board and promulgated in terms of the provisions of section 12(1) and section 12(3)(c) of the Structures Act.
- (2) This policy applies to.
 - (a) the procuring of goods and/or services;
 - (b) the disposal by Council of goods no longer needed;
 - (c) the selection of contractors to help in the provision of municipal services otherwise than in circumstances where Chapter 8 of the MSA applies; and
 - (d) the selection of external mechanisms referred to in section 80(1)(b) of the MSA for the provisions of municipal services in circumstances contemplated in section 83 of that Act.
- (3) Unless specifically stated otherwise herein or in the SCMR, this policy does not apply where the Municipality contracts with another organ of state for.
 - (a) the provision of goods and/or services to the Municipality; or
 - (b) the provision of a municipal service or assistance in the provision of a municipal service; or
 - (c) the procurement of goods and services under a contract secured by that organ of state, provided that the relevant supplier has agreed to such procurement and the process is compliant to the provisions of this policy; or

- (4) Where the Municipality wishes to contract with another organ of state as envisaged in sub-paragraph (3), a report must nevertheless be submitted to the *bid adjudication committee* seeking authority to contract with another organ of state, including, water from the Department of Water Affairs or a public entity, another municipality or municipal entity and *electricity* from Eskom or another public entity, another municipality or municipal entity and approval must be given by the Municipal Manager in writing
- (5) The Municipality and all private person/s and/or entities must adhere to the principles, provisions, rules and requirements contained in this policy when dealing with any matter connected with and/or contained herein

4. AIM AND PURPOSE OF THE SUPPLY CHAIN MANAGEMENT SYSTEM

- (1) The aim and the purpose of the Supply Chain Management System is to have and maintain an efficient, fair, equitable, transparent, competitive and cost-effective *supply chain* system when sourcing and procuring goods and/or services, selling or letting of assets, which conforms to constitutional and legislative principles and maximises the benefits from the Municipality's consolidated buying power in the market place
- (2) The Municipality must manage its financial and administrative resources in such a manner as to meet and sustain statutory or social obligations

5. OBJECTIVES OF THIS POLICY

- (1) The objectives of this policy are to implement the legislative provisions relating to the supply chain management of the Municipality, that:
 - (a) gives effect to
 - (i) section 217 of the Constitution, and

- (ii) Part 1 of Chapter 11 and other applicable provisions of the MFMA;
 - (b) is fair, equitable, transparent, competitive and cost effective,
 - (c) complies with
 - (i) the regulatory framework prescribed in Chapter 2 of the SCMR; and
 - (ii) any minimum norms and standards that may be prescribed by means of regulations or guidelines as envisaged by the provisions of section 168 of the MFMA;
 - (d) is consistent with other applicable legislation;
 - (e) does not undermine the objective for uniformity in Supply Chain Management Systems between organs of state in all spheres, and
 - (f) is consistent with national economic policy concerning the promotion of investments and doing business with the public sector.
- (2) The Municipality may not act otherwise than in accordance with this Supply Chain Management Policy when
- (a) procuring goods and/or services,
 - (b) disposing of goods no longer needed;
 - (c) selecting contractors to help in the provision of municipal services otherwise than in circumstances where Chapter 8 of the MSA applies, or
 - (d) in the case of the Municipality selecting external mechanisms referred to in section 80(1)(b) of the MSA for the provision of municipal services in circumstances contemplated in section 83 of that Act.
- (3) To assure the creation of an environment where business can be conducted with integrity and in a fair, reasonable and accountable manner, this policy will

ensure that the Municipal Manager and all officials of the Municipality involved in supply chain management activities must act with integrity, accountability, transparency and with the highest of ethical standards and free of favouritism, nepotism and corruption of any kind. The officials of the Municipality involved in supply chain management activities must adhere to the code of ethical standards contained in this policy, together with the Code of Conduct for Municipal Staff Members as contained in Schedule 2 of the MSA.

6. DELEGATED AUTHORITY OF SUPPLY CHAIN MANAGEMENT POWERS AND DUTIES

- (1) The Council has, in terms of its delegation of powers and functions in terms of the provisions of section 59 of the MSA, delegated such additional powers and duties to the Municipal Manager to enable the Municipal Manager.
- (a) to discharge the supply chain management responsibilities conferred to the Municipal Manager in terms of.
 - (i) Chapter 8 and Chapter 10 of the MFMA; and
 - (ii) this policy,
 - (b) to maximise administrative and operational efficiency in the implementation of the Supply Chain Management System;
 - (c) to enforce reasonable cost-effective measures for the prevention of fraud, corruption, favouritism and unfair and irregular practices in the implementation of the Supply Chain Management System, and
 - (d) to comply with his/her responsibilities in terms of section 115 and other applicable provisions of the MFMA.
- (2) Section 79 and 106 of the MFMA applies to the sub-delegation of powers and duties delegated to the Municipal Manager in terms of sub-paragraph (1) above.

- (3) Neither the Council, nor the Municipal Manager may delegate or sub-delegate any supply chain management powers or duties.
 - (a) to a person who is not an official of the Municipality, or
 - (b) to a committee which is not exclusively composed of officials of the Municipality, or
 - (c) other than as provided for in the Municipality's system of delegations
- (4) This paragraph may not be read as permitting an official to whom the power to make final awards has been delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in this policy.
- (5) No decision-making in terms of any supply chain management powers and duties may be delegated or sub-delegated to an external advisor or consultant. Consultants may however be engaged to advise or assist the officials and any committee of the Municipality with any functions or advice.
- (6) Delegations and/or sub-delegations of authority.
 - (a) must be in accordance with pre-established levels of authority to ensure control and division of responsibility;
 - (b) must be in terms of the Municipality's system of delegations;
 - (c) must be in writing,
 - (d) must be made to a specific position and not to a named individual;
 - (e) may be confirmed, varied or revoked by the person who made such delegation or sub-delegation, but no such variation or revocation may detract from any right which may have accrued because of the delegation or sub-delegation; and

(f) does not divest the Municipal Manager of the responsibility and/or accountability concerning the exercise of the delegated power or the performance of the delegated duty.

(7) The Municipal Manager may confirm, vary or revoke any decision taken in terms of a delegation or sub-delegation, provided that no such variation or revocation may detract from any right which may have accrued because of such decision

(8) The Municipal Manager of the Municipality must develop and review, annually, a practical and efficient system of delegation and sub-delegation that will both maximise administrative and operational efficiency and provide adequate checks and balances in the financial administration of the Municipality

6.1 Sub-delegations

(1) The Municipal Manager may, in terms of the provisions of section 79 or 106 of the MFMA sub-delegate any supply chain management powers and duties, including those delegated to the Municipal Manager in terms of sub-paragraph 6(1) above, but any such sub-delegation must be consistent with the provisions of the MSA, the MFMA, the system of delegations adopted by the Municipality and this policy.

(2) The power to make a final award:

(a) above R10 million (including VAT) may not be sub-delegated by the Municipal Manager, to comply with this requirement, the Municipal Manager may either chair the bid adjudication committee or consider recommendation of the bid adjudication committee and make a final award for bids above R million (including VAT);

(b) above R2 million (including VAT), but not exceeding R10 million (including VAT), may be sub-delegated but only to:

- (i) the Chief Financial Officer;
- (ii) a director/senior manager, appointed in terms of the provisions of section 56 of the MSA; or
- (iii) the bid adjudication committee of which the Chief Financial Officer or a director/senior manager is a member; or

(c) not exceeding R2 million (including VAT) may be sub-delegated but only to:

- (i) the Chief Financial Officer,
- (ii) a director/senior manager, appointed in terms of the provisions of section 56 of the MSA;
- (iii) a manager directly accountable to the Chief Financial Officer or a director/senior manager, or
- (iv) the bid adjudication committee

(3) An official or bid adjudication committee to which the power to make final awards has been sub-delegated in accordance with sub-paragraph (2) above, must within 5(five) days of the end of each month submit to the official referred to in sub-paragraph (4) below, a written report containing particulars of each final award made by such official or committee during that month, including:

- (a) the amount of the award;
- (b) the name of the person to whom the award was made, and
- (c) the reason why the award was made to that person.
- d) the BBBEE status of that supplier

(4) All contract awards with a value exceeding R100 000 (VAT INCLUDED) must be captured and reported on a quarterly basis to Council

- (5) A written report referred to in sub-paragraph (3) above must be submitted:
- (a) to the Municipal Manager, in the case of an award by.
 - (i) the Chief Financial Officer,
 - (ii) a director/senior manager, appointed in terms of the provisions of section 56 of the MSA; or
 - (iii) the bid adjudication committee of which the Chief Financial Officer or a director/senior manager is a member, or
 - (b) to the Chief Financial Officer or the director/senior manager responsible for the relevant bid, in the case of an award by
 - (i) a director/manager referred to in sub-paragraph (2)(c)(iii) above, or
 - (ii) the bid adjudication committee of which the Chief Financial Officer or a director/senior manager is not a member.
- (6) Sub-paragraphs (3) and (4) above do not apply to procurements out of petty cash.
- (7) This paragraph may not be interpreted as permitting an official to whom the power to make final awards has been sub-delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in this policy
- (8) No decision – making in terms of any supply chain management powers and duties may be delegated to an advisor or consultant.

6.2 Oversight role of the Municipality

- (1) The Council must maintain oversight over the implementation of this policy by the Municipal Manager.

- (2) For the purposes of such oversight the Municipal Manager must.
 - (i) within 30 days of the end of each financial year, submit a report on the implementation of the supply chain management policy of the municipality and of any municipal entity under its sole or shared control, to the council of the municipality,
 - (ii) whenever there are serious and material non-compliance, problems or deviations in the implementation of this policy, immediately submit a report on such matters to the Council.
- (3) The Municipal Manager must, within 10 (ten) days of the end of each quarter, submit a report on the implementation of this policy to the Executive Mayor of the Municipality.
- (4) The Executive Mayor must provide general political guidance over the fiscal and financial affairs of the Municipality and may monitor and oversee the exercise of responsibilities assigned to the Municipal Manager and Chief Financial Officer in terms of the MFMA. This role of the Executive Mayor is an oversight role only, and specifically excludes any interference or influence in or over a decision to award procurement contracts.
- (5) The reports of the municipality must be made public in accordance with Section 21A of the Municipal Systems Act. The reports of a municipal entity must be made public in a similar way.

6.3 Supply Chain Management Units

- (1) The Municipal Manager must establish a Supply Chain Management Unit to implement this policy.

- (2) The Supply Chain Management Unit must, where possible, operate under the direct supervision of the Chief Financial Officer, or an official to whom this duty has been delegated in terms of this paragraph.

7. COMPETENCY AND TRAINING OF SUPPLY CHAIN MANAGEMENT OFFICIALS

- (1) The Municipal Manager must ensure that all officials involved in the implementation of this policy meet the prescribed competency levels, and where necessary, shall provide or procure relevant training.
- (2) The training of officials involved in implementing this policy must be in accordance with any treasury guidelines on supply chain management training.

8. DUTIES AND RESPONSIBILITIES

8.1 General responsibilities of the officials of the Municipality

- (1) each official must carry out their activities within his/her area of responsibility.
- (2) each official must take appropriate steps to prevent any unauthorised, irregular, fruitless and wasteful expenditure in his/her area of responsibility.
- (3) each official responsible for a task must carry it out in accordance with the various supply chain requirements contained in this policy

- (4) Any matter not specifically delegated or sub-delegated to an official, must be referred to the Municipal Manager for proper allocation thereof.
- (5) each official is responsible for all assets of the Municipality within his/her area of responsibility.

8.2 Responsibilities of the Municipal Manager

- (1) The Municipal Manager must.
 - (a) ensure strict adherence and compliance with the provisions of this policy and all relevant legislation;
 - (b) implement and comply with the provisions of this policy,
 - (c) appoint the members of the Bid committees after personally ensuring the competency and suitability of such members for the position,
 - (d) ensure that the most favourable service providers are appointed in accordance with this policy and that any deviations from a proposal by the bid adjudication committee are, reported to the Council at the next available Council meeting;
 - (e) establish a Supply Chain Management Unit within the financial directorate to assist the Municipal Manager to implement this policy,
 - (f) review this policy at least annually or when the Municipal Manager considers it necessary and submits proposals or amendments to this policy to the Council

8.3 Responsibilities of the Directors/Manager appointed in terms of the provisions of section 56 of the MSA

- (1) Each director/manager of the Municipality, appointed in terms of the provisions of section 56 of the MSA, is responsible and accountable for.
- (a) exercising the powers, performing the functions and discharging the duties conferred or assigned to him in terms of this policy or any delegation from the Municipal Manager,
 - (b) implementing this policy and any procedural and/or other prescripts issued in terms of this policy and within his/her area of responsibility;
 - (c) ensure compliance with this policy and any procedural and/or other prescripts issued in terms of this policy and within his/her area of responsibility;
 - (d) developing draft specifications, or causing draft specifications to be developed, for the procurement by his/her directorate of goods or services;
 - (e) the management of asset utilisation in his/her area of responsibility,
 - (f) planning for and, in as far as is possible, accurately estimating the costs for the provision of services, works or goods for which offers are to be solicited;
 - (g) selecting the appropriate preference point system to be utilised in the solicitation and evaluation of bids in accordance with the PPPFA and its regulations (PPPR 2017),
 - (h) assuring that objectives and targets are achieved about procurements and/or disposals by the Municipality; and
 - (i) proper contract and project management of every contract and/or project undertaken by his/her directorate.

8.4 Responsibilities of the Chief Financial Officer

The Chief Financial Officer is the custodian of this policy and is responsible for:

- (1) reporting to the Municipal Manager on the progress regarding the implementation of this policy;
- (2) recommending improvements on the practical implementation of this policy and possible amendments,
- (3) the conducting of procurement audits of the entire Supply Chain Management System to identify successes and/or failures and/or unauthorised, irregular, fruitless and wasteful expenditure and to report on any findings which are not in accordance with the provisions of this policy to the Municipal Manager,
- (4) management of the quotation and competitive bidding process from the solicitation thereof to processing invoice payment;
- (5) promoting a corporate approach by encouraging standardisation of items purchased within the Municipality to realise and achieve economies of scale,
- (6) providing supplier interface on supplier performance issues;
- (7) ensuring that all procurement and/or disposals are provided in accordance with all relevant legislation,
- (8) managing procurement and/or disposals to ensure that the Supply Chain Management System and this policy are complied with;
- (9) ensuring that the procurement and/or disposal process followed by the Municipality adheres to the preference targets without compromising price, quality, service and developmental objectives,
- (10) ensuring that the officials of the Municipality who are involved in the supply chain management process receive the necessary training and are properly qualified to support the implementation of this policy,
- (11) specifying the amount to be paid by prospective service providers as a non-refundable deposit for enquiry documents issued by the Municipality;

- (12) the verification of applications from prospective service providers for possible inclusion in the Register;
- (13) submitting regular reports to the Municipal Manager and the relevant committee structure of the Municipality regarding progress and any matters of importance relating to this policy, and
- (14) authorising and designating officials to distribute bid documentation, and when required notices regarding supply chain management matters

8.5 Responsibilities of the Supply Chain Management Unit

- (1) The SCMU shall be subject to the management and control of, and accountable to the Chief Financial Officer
- (2) The SCMU must consist of at least the following sections or designate persons responsible for:
 - (a) demand management;
 - (b) procurement/acquisition management,
 - (c) logistics;
 - (d) performance and contract management,
 - (e) disposal and asset management, and
 - (f) risk management.
- (3) The manager of the SCMU will be responsible and accountable for the day-to-day management of the SCMU.
- (4) The personnel of the SCMU are appointed by the Municipal Manager in consultation with the Chief Financial Officer.

- (5) The SCMU must issue, receive and finalise the appropriate documents for the procurement of goods and/or services by means of verbal, written or formal price quotations of a transaction value of over R2 000.00 (including VAT), up to R200 000.00 (including VAT), as well as all documents for procurement by means of a competitive bidding process of a transaction value of over R200 000.00 (including VAT).
- (6) All documents for the disposal of movable and/or immovable capital assets must be issued, received and dealt with by the SCMU.

9. COMMUNICATIONS

All correspondence regarding this policy must be addressed to the manager of the SCMU and copied to the Municipal Manager.

CHAPTER 2

FRAMEWORK OF THE SCM POLICY

10. ESTABLISHMENT AND IMPLEMENTATION OF THE SUPPLY CHAIN MANAGEMENT SYSTEM

The Supply Chain Management System of the Municipality is an integrated system for the acquiring of goods, works and services on a fair, equitable, competitive and cost-effective basis and consists of the following systems.

- (1) Demand management,
- (2) Acquisition management;
- (3) Logistics management,
- (4) Disposal management;
- (5) Risk management system, and
- (6) Performance management.

11. DEMAND MANAGEMENT SYSTEM

- (1) The Municipal Manager must establish, through operational procedures, an effective system of demand management in order to ensure that the resources required to support the strategic and operational commitments outlined in the Integrated Development Plan of the Municipality are delivered at the correct time, at the right price, at the right location, and that the quantity and quality satisfies the needs of the Municipality.
- (2) The Municipality's Integrated Development Plan (IDP) is a comprehensive strategy document setting out how the Municipality intends to address its development challenges in a financial year. The IDP determines how the

resources of the Municipality will be allocated and is the planning device on which the budget is based.

- (3) The demand management system must:-
- (a) Include timely development of procurement plans and management processes to ensure that all goods and services required by the municipality are quantified, budgeted for, effectively delivered at the right locations, at the critical delivery dates, are of appropriate quality and quantity at a fair cost,
 - (b) Take into account any benefits of economies of scale that may be derived in the case of acquisitions of repetitive nature,
 - (c) Include development of a system which results on continuing improvement in affordability and value for money, based on total costs of ownership and quality of procurement as competition amongst suppliers is enhanced;
 - (d) Provide for the compilation of the required specifications to ensure that its needs are met and,
 - (e) Provide for an appropriate industry analysis and research to ensure that innovations and technical benefits are maximised
- (4) In order to achieve effective demand management, the manager of the SCMU must continuously ensure
- (a) that efficient and effective provisioning and procurement systems and practices are implemented to enable the Municipality to deliver the required quantity and quality of services to the communities,
 - (b) the establishment of uniformity in policies, procedures, documents and contract options and the implementation of sound systems of control and accountability;
 - (c) the development of a world-class professional Supply Chain Management System which results in continuing improvement in affordability and value for money, based on total cost of ownership and quality of procurement as competition amongst suppliers is enhanced; and

- (d) In dealing with suppliers and potential suppliers that the Municipality responds promptly, courteously and efficiently to enquiries, suggestions and complaints
- (5) each director/manager, appointed in terms of the provisions of section 56 of the MSA, must during the preparation of his/her directorate's estimates for the budget year
 - (a) determine which functions must be performed,
 - (b) determine the products and services it must provide in the performance of those functions;
 - (c) conduct a condition assessment of the assets managed by his/her directorate;
 - (d) based on the analysis in terms of the above, make *recommendations* and determine the financial needs during the budget year for.
 - (i) maintaining existing assets at an acceptable level calculated to ensure the continued productivity of the asset in question and minor repairs,
 - (ii) repairing existing assets,
 - (iii) refurbishing or renovating existing assets,
 - (iv) extensive repairing of existing assets,
 - (v) replacing existing assets, and
 - (vi) acquiring new assets
- (6) The SCMU must, after consultation with each director/manager, compile a schedule of goods and services to be procured for capital projects in respect of each financial year, which schedule must be attached to the Municipality's budget implementation plan.

(7) During the consultations between the SCMU and the directors/managers, all reasonable steps must be taken to determine:

- (a) the desired date and time at which a specific contract must be awarded,
- (b) the desired date and time when specific goods must be delivered, services rendered, or work executed including key milestones and deliverables so that performance can be monitored and evaluated,
- (c) the place where any goods to be supplied shall be delivered,
- (d) the quantity of any goods to be supplied; and
- (e) any other relevant matter.

(8) Procurement Plans-

9.1 Circular No. 62 from the MFMA, No. 56 as issued by National Treasury.

(a) **Implementation of demand management and procurement plans.** The Municipal Manager of the municipality may, upon request, make available to the relevant Treasury a procurement plan containing all planned procurement for the financial year, in respect of the procurement of goods, services and infrastructure projects which exceeds R200 000 including vat. These procurement plans must be approved by the Municipal Manager or his/her delegate

(b) **Heads of departments and all user departments** of the municipality must submit the procurement plans to the Municipal Manager of the municipality, the procurement plans must then be submitted to the head of supply chain management in the municipality or in the municipal entity to improve planning and management of resources, with the format contained in the procurement plans

(c) Submission of Procurement Plans

Key priority	Deadline	Responsible
Forward Procurement Plans to SCM	April to May each financial year	Directorates
Forward Specifications to SCM	June to August each financial year	Directorates

12. ACQUISITION MANAGEMENT

- (1) The acquisition management system provides the general conditions and procedures which are applicable, as amended from time to time, to all procurement, contracts and orders of the Municipality

- (2) The acquisition management system of the Municipality must ensure that.
 - (a) goods and/or services, including construction works and consultant services are procured by the Municipality in accordance with authorised processes incorporated herein;
 - (b) expenditure on goods and/or services, including construction works and consultant services is incurred and managed in terms of an approved budget;
 - (c) the threshold values for the different procurement procedures are complied with,
 - (d) bid documentation, evaluation and adjudication criteria, and general conditions of a contract, are in accordance with the requirements of relevant legislation including the PPPFA and any conditions of the CIDB (in as far as applicable); and
 - (e) that any procurement guidelines issued by National Treasury or the Provincial Treasury are properly considered, this includes the

Provincial Government and National Government programmes on National Key Priorities to address socio-economic development.

3. This policy except where provided otherwise in the policy, does not apply in respect of the procurement of goods and services contemplated in Section 11(2) of the MFMA, including –
 - (a) Water from the Department of Water Affairs or public entity;
 - (b) Another municipality or a municipal entity; and
 - (c) Electricity from Eskom or another public entity, another municipality or a municipal entity.
- (4) The Municipality must make public the details of the nature of goods and/or services together with the name/s of the provider/s where the Municipality procures such goods and/or services from another organ of state or a public entity.
- (5) The Municipality must make public the fact that it procures goods and/or services otherwise than through its Supply Chain Management System, including:
 - (a) the kind/type of goods and/or services; and
 - (b) the name of the supplier.
- (6) Where appropriate the Municipal Manager may appoint a neutral and/or independent observer to ensure fairness and transparency in the application of the acquisition management system, or to assist and advise the SCMU in the execution of their functions and duties.
- (7) The Municipality may not enter into any contract which will impose financial obligations beyond the 3(three) years covered in the annual budget for that

financial year unless the requirements of section 33(1) of the MFMA have been fully complied with or proper provision has been made in such contract to so comply

- (8) The following applies where the Municipality procures public-private partnership agreements.
- (a) Part 2 of Chapter 11 of the MFMA; and
 - (b) section 33 of the same act where such agreement will have multi-year budgetary implications for the Municipality within the meaning of that section,
 - (c) the provisions of the Municipal Public-Private Partnership Regulations as published in terms of S 168 of the MFMA.
- (9) In respect of any contract relating to the publication of official and/or legal notices and/or advertisements through the legislated medium of publication on behalf of the Municipality, a *competitive bidding process* need not be followed
- (10) The manager of the SCMU may request quotations directly from community-based vendors *in a specific area or from a specific community* for the procurement of goods and services for transaction amounts of a value less than R30 000.00 (including VAT).
- (11) This policy, save where the SCMR provides otherwise, does not apply in respect of the procurement of,
- (a) goods or services to the Municipality in terms of a contract with another organ of state;
 - (b) the provision of a municipal service in terms of a contract with another organ of state,

- (c) goods and services under a contract secured by another organ of state provided that the supplier and that other organ of state has agreed and conserved in writing to such procurement and:
 - (i) the contract has been secured by that other organ of state by means of a competitive bidding process applicable to that organ of state;
 - (ii) the Municipality on [reasonable enquiry] has no reason to believe that such contract was not validly procured,
 - (iii) there are demonstrable discounts or benefits for the Municipality to procure under such contract.

12.1 Range of procurement processes

- (1) The procurement of goods and services including construction works and consultant services must be done through the range of procurement processes set out in this paragraph, which are:
 - (a) petty cash purchases up to, and including a transaction value of R2 000.00 (including VAT);
 - (b) minimum of three (3) written quotations for procurement of a transaction value exceeding R2 000.00, up to and including a transaction value of R30 000.00 (including VAT),
 - (c) formal written price quotations acquired through a seven- day quotation for procurements of a transaction value exceeding R30 000 00, up to and including a transaction value of R200 000 00 (including VAT); and
 - (d) a competitive bidding process for:
 - (i) procurements above a transaction value of R200 000 up to R50 000 000 (VAT included) using the 80/20 preferential point scoring system,

Commented [LJ1]: Please check with creditors if their policy corresponds

(ii) procurements above a transaction value of R 50 000 000 (VAT included) using the 90/10 preferential point scoring system; and

(iii) the procurement of long term contracts

(2) The Municipal Manager of the Municipality may

(a) lower, but not increase, the different threshold values specified in this acquisition management system, or

(b) direct that:

(i) written or verbal quotations be obtained for any specific procurement of a transaction value lower than R2 000.00;

(ii) formal written price quotations be obtained for any specific procurement of a transaction value lower than R10 000.00; or

(iii) a competitive bidding process be followed for any specific procurement of a transaction value lower than R200 000.00.

(3) Goods and/or services may not be deliberately divided into parts or items of a lesser value merely to avoid complying with the requirements of this policy and when transaction values are determined for procurements consisting of various parts or items it must, in as far as possible, be treated, dealt with and be calculated as a single transaction

12.2 General preconditions for the consideration of written quotations or bids

(1) The Municipality may not consider a formal written price quotation obtained through seven (7) day quotation or competitive bidding unless the provider who submitted the quotation or bid:

(a) has furnished the Municipality with that provider's.

- (i) full name;
 - (ii) proof of registration with Company Intellectual Property Commission (CIPC) in the case of private company, public company or co-operatives, and Non- Government Organisation (NGO), with company registration number, certified ID copy with ID number in case of a sole proprietor or any other registration number and
 - (iii) tax reference number and CSD registration number,
 - (iv) VAT registration number, if any; and
 - (v) a certificate of attendance at a compulsory site inspection or appear in the site inspection attendance register, where applicable
- (b) has submitted an original and valid tax clearance certificate or PIN obtainable and CSD number from the South African Revenue Services (SARS) certifying that the provider's tax matters are in order;
- (c) the municipality must verify and attach proof of verification with all relevant documentation to prove that the verification was conducted. The designated official(s) should verify the bidder's tax compliance status prior to the finalisation of the award of the bid or price quotation obtained through seven (7) day quotation process. Where the recommended bidder is not tax compliant, the bidder should be notified of their non-compliant status and the bidder must be requested to submit to the municipality or municipal entity, within 7 working days, written proof from SARS of their tax compliance status or proof from SARS that they have made an arrangement to meet their outstanding tax obligations. The proof of tax compliance status submitted by the bidder to the municipality or municipal entity must be verified via the CSD or e-Filing.

Commented [LJ2]: Circular 90 of 2018

The accounting officer should reject a bid submitted by the bidder if such a bidder fails to provide proof of tax compliance status within the time frame stated above.

It is not the responsibility of the municipality to obtain a copy of the service provider's tax clearance certificate and or a PIN form the South African Revenue Services (SARS); and

- (d) has indicated:
 - (i) whether he/she or it is in the service of the state, or has been in the service of the state in the previous 12 (twelve) months;
 - (ii) if the provider is not a natural person, whether any of its directors, managers, principal shareholders or stakeholder is in the service of the state, or has been in the service of the state in the previous 12 (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-paragraph (ii) above, is in the service of the state, or has been in the service of the state in the previous 12 (twelve) months.
- (e) statement(s) proving that water, electricity, rates and business levy accounts of the owners or directors of the company, including the business are up to date or formal payment arrangement has been made;
- (f) in a case of a company operating from the household under Tribal Authority, proof of address from the Chief or an affidavit from the South African Police Service (SAPS) must be provided with the quotation or bid;
- (g) in case where a company leases the operating space the valid proof of lease signed by both the lessee and the lessor must be furnished with the quotation or bid; and
- (h) Proof of registration on the Central Database and the registration number by the National Treasury.
- (i) Declaration for procurement above R10 million (all applicable taxes included)
- (j) Preference claim points or BBBEE

- (k) Declaration of local production where applicable
- (l) Declarations of bidders past supply chain management practices
- (m) Certificate of independent bid determination
- (n) Declaration of municipal fees

- (2) Chapter 3 of this policy applies *mutatis mutandis* to this paragraph

12.3 Lists of accredited prospective providers

- (1) The Municipal Manager must:

- (a) keep a list of accredited prospective providers of goods and services that must be used for the procurement requirements of the Municipality through written or verbal quotations and formal written price quotations; The Municipality will have to advertise on the website, all the prospective bidders will have to register into the central supplier database to be able to do business with the Municipality
- (b) at least once a year through the newspapers commonly circulating locally, the website of the Municipality and any other appropriate ways, invite prospective providers of goods and/or services to apply for evaluation and listing as accredited prospective providers,
- (c) specify the listing criteria for accredited prospective providers
- (d) adhere to the specified listing criteria for accredited prospective providers; and
- (e) 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.

- (2) Prospective providers will be allowed to submit applications for listing once a year as prescribed in 14(1)(b). This does not preclude any potential service provider from quoting or bidding. Should service provider be successful they would be required to meet all the requirements of the listing criteria of this

policy before awarding is done in order for their quotations/bids to be responsive.

- (3) The list must be updated at least quarterly to include any additional prospective providers and any new commodities or types of services.
- (4) Prospective providers will be allowed to submit applications and amendments for listing at any time.
- (5) The list must be compiled per commodity and per type of service.
- (6) The listing criteria for accredited prospective providers which must be provided are among others are as follows as per the Municipal requirements
 - (a) name of supplier/service provider,
 - (b) physical address,
 - (c) postal address,
 - (d) contact person;
 - (e) contact person in sales department, if any,
 - (f) relevant telephone numbers;
 - (g) relevant fax numbers;
 - (h) relevant cellular phone numbers;
 - (i) relevant e-mail addresses;
 - (j) VAT registration number, if applicable,
 - (k) bank details;
 - (l) type of industry and specific goods or services offered,
 - (m) valid certification for specialised services;
 - (n) valid tax clearance certificate;

- (o) CIDB registration if applicable; and
- (p) valid certification of HDI status.

- (6) For quotations up to and including R200 000 00 (including VAT), bidders are required to be registered on the Municipality's list of accredited prospective providers on or before the closing date for their quotations to be responsive
- (7) All parties to a consortium or joint venture must comply with the requirements of sub-paragraphs (6) and (7) above

12.4 Petty cash purchases

- (1) Petty cash purchases may be made where goods and/or services which does not exceed a transaction value of R2 000.00 (including VAT) are required.
- (2) The Municipal Manager may delegate the petty cash procurement responsibilities to a manager reporting to the Municipal Manager on the terms and conditions set for delegations in this policy. The Manager may not in turn delegate the responsibility for petty cash purchases to any other official
- (3) each director/manager appointed in terms of the provisions of section 56 of the MSA must compile and submit a monthly reconciliation report to the Chief Financial Officer, which report must include the total amount of petty cash purchases for that months accompanied by the receipts and appropriate documents for each purchase.
- (4) Dividing any purchases into lesser transaction values to circumvent the written price quotation and/or formal written price quotation processes is prohibited

- (5) The total number of petty cash purchases per directorate is limited to 10 (ten) per month

12.5 Written or verbal quotations

- (1) When the Municipality intends to procure by way of written or verbal quotations, goods and/or services which has a transaction value of over R2 000.00 (including VAT) up to and including R30 000.00 (including VAT), written price quotations must be obtained from at least 3 (three) different providers preferably from, but not limited to, providers whose names appear on the list of accredited prospective providers of the Municipality, provided that if quotations are obtained from providers who are not so listed, such providers must meet the listing criteria in terms of the provisions of paragraph 12.3 above.
- (2) The Municipality must attempt to promote ongoing competition amongst providers of goods and/or services by inviting such providers to submit written or verbal quotations on a rotational basis
- (3) ~~To the extent feasible, providers must be requested to submit such quotations in writing~~
- (4) If it is not possible to obtain at least 3 (three) written quotations, the reasons must be recorded and approved by the manager of the SCMU who must, within 3 (three) days before the end of each month, report to the Chief Financial Officer on any such approvals given in this regard.
- (5) The Municipal Manager must record the names of the potential providers requested to provide quotations, together with their quoted prices.

Commented [LJ3]: IT HAS TO BE IN WRITING

- (6) If a quotation was submitted verbally, the order may be placed only against written confirmation by the selected provider.
- (7) Dividing required purchases into lesser transaction values to circumvent the written price quotation process is not permissible.
- (8) The Municipal Manager must take all reasonable steps to ensure that the procurement of goods and services through written or verbal quotations is not abused and that full and complete records of all such procurements are kept including the date of the procurement, the goods or services procured, the selected provider, the details and prices of the other providers and any other relevant information
- (9) The Municipal Manager and the Chief Financial Officer must, monthly, be notified in writing of all written or verbal price quotations accepted by an official acting in terms of a sub-delegation.
- (10) Notwithstanding the provisions of this paragraph, if formal written price quotations have been invited on the official website of the Municipality, or in writing to more than 3 potential suppliers, no additional quotes need be obtained where the number of responses thereto are less than 3 (three).
- (11) The Municipal Manager must take all reasonable steps to ensure that the procurement of goods and services through formal written price quotations are not abused
- (12) The Municipal Manager and the Chief Financial Officer must, monthly, be notified in writing of all quotations accepted by an official acting in terms of a sub-delegation.

12.6 Formal written price quotations

- (1) Requests to submit formal written price quotations which are likely to be more than R30 000.00 (including VAT) but not exceed R200 000.00 (including VAT), must be advertised for at least 7 (seven) days on the official website of the Municipality as well as the official notice board of the Municipality.
- (2) Quotation documents must be available for download from the Municipality website
- (3) The submissions must be submitted at the tender box of the Municipality no later than the stipulated date and time contained in the advert.
- (4) The submissions must be recorded to indicate the name, BBBEE level and where possible the bidding price of the potential suppliers.
- (5) The 80/20 preference point system for acquisition of goods and services shall be used to evaluate submissions of formal written quotation received through the seven - day quotation process.
- (6) The formal written quotation must be awarded to the highest scoring bidder in terms of the PPPFA and its regulations.
- (7) No formal quotation shall be awarded to any bidder owing rates and taxes more than 90 days.
- (8) The power of final award may be sub-delegated to the Head, Supply Chain Management Unit.
- (9) The sub-delegated authority must at the end of each month submit a report to the Chief Financial Officer regarding awards made through the seven-day formal written quotation process, which report must include the full name of

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the supplier, total amount of the award, BBBEE level and whether the supplier is within the jurisdiction of the Rustenburg Local Municipality

- (10) No requirement for goods or services above an estimated transaction value of R30 000 (VAT included), may deliberately be split into parts or items of lesser value merely for the sake of procuring the goods or services otherwise than through seven (7) day quotation.

12.7 Competitive bids and process for competitive bids

- (1) Competitive bids must be called for any procurement of goods and/or services above a transaction value of R200 000 00 (including VAT), and/or for any long-term contracts.
 - (a) the 80/20 preference point system for acquisition of services, works or goods up to a rand value of R50 million must be used to calculate the points for price in respect of tenders with a rand value equal to or above R200 000 up to a rand value of R50 000 000 (all inclusive)
- (2) No requirement for goods or services above an estimated transaction value of R200 000 (VAT included), may deliberately be split into parts or items of lesser value merely for the sake of procuring the goods or services otherwise than through a competitive bidding process.

Evaluation of tenders on functionality – If tenders will be evaluated on functionality it must be clearly specified in the tender invitation. The evaluation criteria must be objective, and the following must be clearly specified:

- (a) the evaluation criteria for measuring functionality;
 - (b) weight of each criterion;
 - (c) applicable values, and
 - (d) minimum qualifying score for functionality
- (3) All bid documents must indicate.
 - (i) the price validity of the bid in terms of days,

- (ii) the general conditions of contract,
 - (iii) any Treasury guidelines on bid documentation, and
 - (iv) the requirements of the Construction Industry Development Board, in the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure;
 - (v) include evaluation and adjudication criteria, including any criteria required by other applicable legislation,
 - (vi) compel bidders to declare any conflict of interest they may have in the transaction for which the bid is submitted,
- (4) If the value of the transaction is expected to exceed R10 million (VAT included), require bidders to declare
- if the bidder is required by law to prepare annual financial statements for auditing, their audited annual financial statements -
 - (aa) for the past three years, or
 - (bb) since their establishment if established during the past three years,
 - a certificate signed by the bidder certifying that the bidder has no undisputed commitments for municipal services towards a municipality or other service provider in respect of which payment is overdue for than 30 days,
 - circulars of any contracts awarded to the bidder by any organ of state during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract,
 - 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,

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13 PUBLIC INVITATION FOR COMPETITIVE BIDS

- (1) Invitations for competitive bidding must be done through the E-tender website, website of the Municipality and the notice board. The information a public advertisement must contain, which must include
 - (i) The closure date for the submission of bids, which may not be less than 30 days in the case of transactions over R10 million (VAT included), or which are of a long-term nature, or 14 days in any other case and 21 days for construction projects from the date on which the advertisement is placed and;
 - (ii) bids may only be submitted on the bid documentation provided by the municipality
- (2) the accounting officer can determine a closure date for the submission of bids which is less than the 30 or 14 - days requirement, but only if such shorter period can be justified on the grounds of urgency or emergency or

any exceptional case where it is impractical or impossible to follow the official procurement process.

- (3) Bids submitted to the municipality must be sealed.

12.8 Cancellation and re-invitation of tenders

- (a) in the event that the application of the 80/20 preference point systems, all tenders received exceed the rand value of R 50 000 000, the tender invitation must be cancelled.
- (b) If one or more of the acceptable tenders received are within the prescribed threshold of R 50 000 000, all tenders received must be evaluated on the 80/20 preference point system.
- (c) 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.
- (d) If one or more of the acceptable tenders received are above the prescribed threshold of R 50 000 000, all tenders received must be evaluated on the 90/10 preference point system.
- (e) An organ of state which has cancelled a tender invitation as contemplated in sub-regulations (1)(a) and (2)(a) must re-invite tenders and must, in the tender documents, stipulate the correct preference point system to be applied.
- (f) An organ of state may, prior to the award of a tender, cancel a tender if-
- due to changed circumstances, there is no longer a need for the services, works or goods requested, or
 - funds are no longer available to cover the total envisaged expenditure; or
 - no acceptable tenders are received.
 - The decision to cancel a tender in terms of sub-regulation (4) must be published in the Government Tender Bulletin or the media in which the original tender invitation was advertised.

No requirement for goods and/or services above an estimated transaction value of R200000.00 (VAT included), may be deliberately divided into parts or items of lesser

value merely for the sake of circumventing the competitive bidding process and/or procuring such goods and/or services otherwise than through a competitive bidding process.

- (4) Goods and/or services to be procured which consist of various parts or items must, in as far as possible, be treated, dealt with and be calculated as a single Procedures for competitive bidding

The accounting officer must establish procedures for a competitive bidding process for each of the following stages.

- (a) the compilation of bidding documentation,
- (b) the public invitation of bids,
- (c) site meetings or briefing sessions, if applicable,
- (d) the handling of bids submitted in response to public invitation;
- (e) the evaluation of bids;
- (f) the award of contracts,
- (g) the administration of contracts; and
- (h) proper record keeping.

transaction

12.7.1 Bid documentation for competitive bids

- (1) In addition to the contents of paragraph 12.2 of this policy, the compilation of bid documentation by the Municipality must:
- (a) consider and contain, where applicable
 - (i) the General Conditions of Contract of National Treasury (July 2010, or as amended from time to time),
 - (ii) any treasury guidelines on bid documentation,
 - (iii) the requirements of the CIDB, including the general conditions of contract, in the case of a bid relating to construction works, upgrading or refurbishment of buildings or infrastructure,
 - (iv) supply chain management guidelines of National Treasury or the Provincial Treasury in respect of goods and/or services,
 - (v) the General Conditions & Procedures of the State Tender Board;
 - (vi) the general conditions of contract, in as far as applicable, and in as far as the contents of the above referred to documents are in accordance and amplification of this policy, but in the event of any conflict between the contents of these documents and this policy, the provisions of this policy will prevail.
 - (b) include evaluation and adjudication criteria, including any criteria required by other applicable legislation, and in instances where functionality forms part of such criteria ensure that the bid documentation complies with the conditions set pertaining to functionality as set out in the PPR and National Treasury's SCM Circular 53;
 - (c) compel bidders to declare any conflict of interest they may have in the transaction for which the bid is submitted;

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- (d) if the value of the transaction is expected to exceed R10 million (including VAT), require bidders to furnish.
 - (i) their audited annual financial statements, if the bidder is required by law to prepare annual financial statements for auditing:
 - (aa) for the past 3(three) years, or
 - (bb) since their establishment, if the bidder was established during the past 3 (three) years,
 - (ii) a certificate signed by the bidder certifying that the bidder has no undisputed commitments for municipal services towards a Municipality or other service provider in respect of which payment is overdue for more than 30 (thirty) 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; and
 - (iv) a statement indicating whether any portion of the goods and/or services are expected to be sourced from outside the Republic, and, if so, what portion and whether any portion of payment from the Municipality is expected to be transferred out of the Republic,
- (e) stipulate that disputes, objections, complaints and queries must be dealt with as prescribed in terms of this policy and the SCMR;
- (f) a clear indication of the terms and conditions of contract, specifications, criteria for evaluation and adjudication procedures to be followed where applicable, and include where, in exceptional circumstances, site inspections are compulsory,
- (g) an appropriate contract and/or delivery period specification for all contracts,

(h) the requirements of the preferential procurement paragraph of this policy (Chapter 5) and be clearly set out in the bid documentation

(2) Bid documentation and evaluation criteria may not be aimed at hampering competition, but rather to ensure fair, equitable, transparent, competitive and cost-effective bidding, as well as the protection or advancement of persons, or categories of persons, as embodied in the preferential procurement paragraph of this policy

(3) Bid documentation must compel a bidder to furnish the following.

- (a) full name/s,
- (b) identification number, company or other registration number,
- (c) tax reference number;
- (d) VAT registration number, if any;
- (e) an original tax clearance certificate from SARS stating that the bidder's tax matters are in order and CSD reference numbers,
- (f) proof that the bidder's account and that of any member or director of the bidder for municipal rates and taxes and municipal service charges are not in arrears, or where the bidder does not have such an account, the person(s) managing or in control of the bidder, and
- (g) disclosure as to whether.
 - (i) the bidder is listed on any government database of persons prohibited from doing business with the public sector, or
 - (ii) has failed to perform satisfactorily on a previous contract with the Municipality or any other municipality or any other organ of state after written notice was given to that bidder that performance was unsatisfactory,
 - (iii) the bidder or any of its members or directors has committed a corrupt or fraudulent act in competing for the contract;

- (iv) the bidder or any of its members or directors:
 - (aa) has abused the Supply Chain Management System of the Municipality or has committed any improper conduct in relation to such system,
 - (bb) has been convicted of fraud or corruption during the past five years,
 - (cc) has wilfully neglected, reneged on or failed to comply with any government, municipal or other public-sector contract during the past 5 years, or
 - (dd) has been listed in the Register for Tender Defaulters in terms of S29 of the Prevention and Combating of Corrupt Activities Act, Act 12 of 2004.

- (4) A provision for the termination/cancellation of the contract in the case of no or under-performance must be included in the bid documentation.
- (5) Unless otherwise indicated in the bid documents, the Municipality will not be liable for any expenses incurred in the preparation and/or submission of a bid.
- (6) Bid documentation must state that the Municipality is not be obliged to accept the lowest bid, any alternative bid or any bid.
- (7) Bid documentation must compel bidders to declare any conflict/s of interest they may have in the transaction for which the bid is submitted.
- (8) The bid documentation must require bidders to disclose:
 - (a) whether he or she is in the service of the state, or has been in the service of the state within the previous 12 (twelve) months;

- (b) if the bidder is not a natural person, whether any of its directors, managers, principal shareholders or stakeholder is in the service of the state, or has been in the service of the state in the previous 12 (twelve) months; or
 - (c) whether a spouse, child or parent of the bidder or of a director, manager, shareholder or stakeholder referred to in sub-paragraph (8)(b) above, is or has been in the service of the state within the previous 12 (twelve) months.
- (9) Bid documentation for consultant services must require bidders to furnish to the Municipality of all consultancy services, and any similar services (to the services being bid for) provided to the Municipality in the last 5 (five) years.
- (10) Bid documentation for consultant services must ensure that copyright in any document produced, and the patent rights or ownership in any plant, machinery, item, system or process designed or devised by a consultant in terms of an appointment by the Municipality, shall vest in the Municipality
- (11) Bid documentation may state that alternative bids can be submitted provided that a bid free of qualifications and strictly in accordance with the bid documents is also submitted.
- (12) Where provided for in the bid documentation, an alternative bid must be submitted on a separate complete set of bid documents and must clearly be marked "Alternative Bid", to distinguish it from the unqualified bid.
- (13) Bid documentation must state that the Municipality will not be bound to consider alternative bids
- (14) Bid documentation must provide the validity period of the bid. The validity of the bid can only be extended once and must be extended before they expire as stated on the bid document.

- (15) Unless the Municipal Manager directs otherwise, bids are invited within the Republic only.
- (16) The laws of the Republic will apply and govern contracts of the Municipality arising from the acceptance of bids.
- (17) Bid documentation must also state that:
 - (a) the Municipality may award the bid to the bidder who has not scored the highest points if objective criteria, in addition to the criteria set out in section 2(1)(d) and section 2(1)(f) of the PPPFA, justify the award of the bid to another bidder; and
 - (b) where a bid appears to be unrealistic and the Municipal Manager has satisfied himself or herself on enquiry with the bidder that the bid cannot be completed on the terms or for the price so bid, that such bid may be excluded

12.7.2 Public invitation for competitive bids

- (1) The accounting officer must determine the procedure for the invitation of competitive bids, which must stipulate that:
 - (a) Any invitation to prospective providers to submit bids must be by means of a public advertisement in newspapers commonly circulating locally, the website of the municipality or municipal entity or any other appropriate ways (which may include an advertisement in the Government Tender Bulletin), and
- (2) The notice of invitation must contain the following advertisement information.

- (a) the closure date and time for the submission of bids, which may not be less than 30 (thirty) days in the case of transactions over R10 million (including VAT), or which are of a long-term nature, 21 days for construction and 14 (fourteen) days in any other case, from the date on which the advertisement is placed in a newspaper, subject to sub-paragraph (3) below,
- (b) a statement that bids may only be submitted on the bid documentation provided by the Municipality;
- (c) the title of the proposed contract and the bid or contract reference number;
- (d) such particulars of the proposed contract as the Municipality deems fit;
- (e) the date, time and location of any site inspection, if applicable;
- (f) the place where the bid documentation is available for collection and the times between which bid documentation may be collected,
- (g) the place where bids must be submitted,
- (h) the required CIDB contractor grading for construction works, if applicable; and
- (i) the validity period of the bid.
- (k) the evaluation criteria to used

- (3) The Municipal Manager may determine a closure date for the submission of bids which is less than the 30 (thirty), 21 days for construction or 14 (fourteen) days requirement provided in sub-paragraph (2) above, but only if such shorter period can be justified on the grounds of an emergency, urgency or any exceptional case where it is impractical or impossible to follow the official procurement process.

- (4) The bid notice may require payment of a non-refundable tender fee by bidders wanting to collect bid documents, which tender fee will be determined by the Chief Financial Officer in terms of paragraph 8.4 above
- (5) Bid documentation will be available for collection until the closing date and time of bids.
- (6) Bids submitted to the Municipality must be sealed.
- (7) Where bids are requested in electronic format, such bids must be supplemented by sealed hard copies.

12.7.3 Issuing of bid documents

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- (1) Bid documents and any subsequent notices may only be issued by officials authorised and designated by the Chief Financial Officer
- (2) Details of all prospective bidders who have been issued with bid documents must be recorded by the issuing office but shall remain **confidential** for the duration of the bid period
- (3) Details of prospective bidders must, wherever possible, include the full name of the person drawing documents, a contact person, a contact telephone and fax number and a postal and email address.

12.7.4 Site inspections

- (1) In general, and where applicable, site inspections will not be compulsory unless otherwise stated in the bid documents.

- (2) If site inspections are compulsory and to be held, this fact, as well as full details of the site inspection must be included in the bid notice
- (3) Where site inspections are made compulsory, the date for the site inspection must be at least 14 (fourteen) days after the bid has been advertised, and a certificate of attendance signed by the responsible agent must be submitted with the bid.
- (4) If at a site meeting, any additional information is provided, or clarification of vague points is given, such additional information or clarification must be conveyed to all bidders in accordance with sub-paragraph 12.7.12 below of this policy

12.7.5. Pre-qualification criteria for preferential procurement

If the Municipality decides to apply pre-qualifying criteria to advance certain designated groups, it must advertise the tender with a specific tendering condition that only one or more of the following tenderers may respond-

- (a) a tenderer having a stipulated minimum B-BBEE status level of contributor; (b) an EME or QSE;
- (c) a tenderer subcontracting a minimum of 30% to-
 - (i) an EME or QSE which is at least 51% owned by black people;
 - (ii) an EME or QSE which is at least 51% owned by black people who are youth, (iii) an EME or QSE which is at least 51% owned by black people who are women,
 - (iv) an EME or QSE which is at least 51% owned by black people with disabilities;
 - (v) an EME or QSE which is 51% owned by black people living in rural or underdeveloped areas or townships;

- (vi) a cooperative which is at least 51% owned by black people;
 - (vii) an EME or QSE which is at least 51% owned by black people who are military veterans;
 - (viii) an EME or QSE.
- (2) A tender that fails to meet any pre-qualifying criteria stipulated in the tender documents is an unacceptable tender.

12.7.6. Two-stage (prequalification) bidding process

- (1) This process may be applied to bids for.
- (a) large complex projects of a specialist or long-term nature; or
 - (b) where there are legislative, speciality design, technological and/or safety reasons to restrict bidding to firms who have proven their capability and qualification to meet the specific requirements of the bid,
 - (c) projects where it may be undesirable to prepare complete detailed technical specifications; or
 - (d) long term projects with a duration exceeding 3 (three) years
- (2) In the first stage of a bid (prequalification) bidding process, bidders are, invited to firstly prequalify in terms of predetermined criteria, without being required to submit detailed technical proposals and/or a financial offer. In the first stage bidders may be invited to submit technical proposals on conceptual design or performance specifications or other matters.
- (3) In the second stage, all bidders that qualify in terms of the predetermined criteria will be shortlisted and invited to submit final technical proposals and priced bids.

- (4) The notice inviting bidders to pre-qualify must comply with the provisions for the public invitation of competitive bids as
- (5) Once bidders have pre-qualified for a project, they must be given no less than 7 (seven) days to submit a final technical proposal and/or a financial offer.

12.7.7 PREPARATION OF THE TERMS OF REFERENCE (TOR'S)

Rustenburg Local Municipality should prepare the TOR. The scope of the services described should be compatible with the available budget. The TOR should define clearly the task directive (methodology), objectives, goals and scope of the assignment and provide background information, including a list of existing relevant studies and basic data, to facilitate the consultants' preparation of their bids.

- (1) Time frames linked to various tasks should be specified, as well as the frequency of monitoring actions. The respective responsibilities of Rustenburg Local Municipality and the consultant should be clearly defined.
- (2) The evaluation criteria, their respective weights, the minimum qualifying score for functionality and the values that will be applied for evaluation should be clearly indicated. The evaluation criteria should include at least the following:
 - (a) Consultant's experience relevant to assignment
 - (b) The quality of the methodology.
 - (c) The qualifications of key personnel; and
 - (d) The transfer of knowledge (where applicable)
- (3) In more complicated projects, provision may also be made for pre-bid briefing sessions or presentations by bidders as part of the evaluation process.

- (4) A clear indication should be given of which preference point system in terms of the PPPFA and its associated Regulations will be applicable as well as the goals to be achieved and the points allocated for these goals
- (5) Detailed information on the evaluation process should be provided by firstly indicating the ratio of percentage between functionality and price. The percentage for price should be determined taking into account the complexity of the assignment and the relative importance of functionality. The percentage for price should normally be determined and approved by the Accounting Officer or the delegate prior to finalising the TOR.
- (6) If transfer of knowledge or training is an objective, it should be specifically outlined along with details of number of staff to be trained, etc , to enable consultants to estimate the required resources. The TOR should list the services and surveys necessary to carry out the assignment and the expected outputs (for example reports, data, maps, surveys, etc), where applicable
- (7) Evaluation criteria could be divided into sub-criteria
- (8) Preparation of a well-thought-through cost estimate is essential if realistic budgetary resources are to be earmarked. The cost estimate should be based on the Accounting Officer or delegate assessment of the resources needed to carry out the assignment such as staff time, logistical support and physical inputs (i.e. vehicles, laboratory equipment, etc). The cost of staff time should be estimated on a realistic basis for foreign and local personnel.
- (9) The TOR should specify the validity period (normally 60 – 90 days).
- (10) The TOR should form part of the standard bid documentation. At this stage the evaluation panel, consisting of at least three members who are demographically representative in terms of race, gender and expertise, should also be selected and finalised

12.7.8 DRAFTING OF THE TERMS OF REFERENCE

- (1) A consultant shall execute his/her tasks according to the TOR
- (2) The TOR shall clearly define the task directive (methodology), objectives, goals and scope of the assignment and provide background information to facilitate the consultants' preparation of their bids. It shall include at least the following:
 - (a) timeframes linked to various tasks.
 - (b) nature and frequency of monitoring actions
 - (c) respective responsibilities of Rustenburg Local Municipality and consultant.
 - (d) evaluation criteria, their respective weights, minimum qualifying score for functionality, among others
 - (i) consultant's experience.
 - (ii) quality of the methodology.
 - (iii) qualification of key personnel.
 - (iv) transfer of knowledge (where applicable).
 - (v) pre-bid briefing sessions or presentations by bidders, if necessary
 - (vi) the relevant PPPFA preference point system to be used.
 - (vii) PPPFA goals to be attained through the contract as well as points allocated for these goals.
 - (viii) the ratio between price and functionality.
 - (ix) consultants may be requested to submit their prices and proposals in two separate envelopes (two-envelope system).

12.7.9 Validity periods

- (1) The period for which bids are to remain valid and binding must be indicated in the bid documents. If no bidder has been appointed during the validity period, or the extended validity period as referred to below, the bid will lapse.
- (2) The validity period is calculated from the bid closure date and bids shall remain in force and binding until the end of the final day of that period.
- (3) This period of validity may be extended by the chairperson of the bid evaluation committee, provided that:
 - (a) the original validity period of the bid has not already expired,
 - (b) all the bidders who have submitted bids have been requested to consent to the extension of the validity period and to confirm that their prices and terms will remain as initially stated until expiry of the extended validity period,
 - (c) all the bidders who have submitted bids have agreed in writing to the extension of the validity period of the bid and to their price and terms remaining valid for the extended period, and
 - (d) the validity period of a bid may only be extended once.
- (4) If bidders are requested to extend the validity period of their bids as referred to in sub-paragraph (3) because of an objection or complaint being lodged:
 - (a) it must be made clear to bidders that this is the reason for the request for the extension of the validity period; and
 - (b) the responsible official must ensure that all bidders are requested to extend the validity period and terms of their bids where necessary to ensure that the bids remain valid throughout the objection or complaint period or until the objection or complaint is finalised.

12.7.10 Contract price adjustment

- (1) For all contract periods equal to or exceeding 1 (one) year, an appropriate contract price adjustment formula must be specified in the bid documents.
- (2) In general, if contract periods do not exceed 1 (one) year, the bid shall be a fixed price bid and not subject to contract price adjustment
- (3) If, however, because of any extension of time granted or extension of the bid validity period, the duration of a fixed price contract exceeds 1 (one) year, the contract will automatically be subject to contract price adjustment for that period by which the extended contract period exceeds such 1 (one) year

12.7.11 Provisional sums and prime cost items

- (1) If monetary allowances more than R200 000 00 for provisional sums or prime cost items have been included in the bid documents, and where the work or items to which the sums relate are to be executed/supplied by subcontractors/suppliers, then a competitive bidding process shall be followed in respect of these sums/items.
- (2) When monetary allowances of less than R200 000.00for provisional sums or prime cost items have been included in the bid documents, and where the work or items to which the sums relate are to be executed/supplied by sub-contractors/suppliers, the contractor must be required to obtain a minimum of 3 (three) written quotations for approval by the responsible agent.

12.7.12 Samples

- (1) Where samples are called for in the bid documents, samples marked with the bid and item number as well as the bidder's name and address must be delivered separate from the bid to the addressee mentioned in the bid documents
- (2) Bids may not be included in parcels containing samples.
- (3) If samples are not submitted as required in the bid documents or within any further time stipulated by the chairperson of the bid evaluation committee in writing, then the bid concerned may be declared non-responsive
- (4) Samples must be supplied by a bidder at his/her own expense and risk
- (5) The Municipality will not be obliged to pay for such samples or compensate for the loss thereof, unless otherwise specified in the bid documents, and reserves the right not to return such samples and to dispose of them at its own discretion.
- (6) If a bid is accepted for the supply of goods according to a sample submitted by the bidder, that sample will become the contract sample.
- (7) All goods/materials supplied shall comply in all respects to that contract sample

12.7.13 Closing of Bids

- (1) Bids shall close on the date and at the time stipulated in the bid notice inviting the bids
- (2) Save in instances as contemplated in paragraph 12.7.2(3) above, the bid closing date may not be less than the periods as prescribed in terms of paragraph 12.7.2(2)(a) above.
- (3) For banking services, the bid closing date must be at least 60 (sixty) days after publication of the notice.
- (4) No Clause
- (5) The bid closing date may be extended prior to the original bid closing date by the manager of the SCMU, if circumstances justify such an extension, provided that the closing date may not be extended unless a notice is published in the press where the bid was originally advertised, which notice must also be posted on the official notice boards designated by the Municipal Manager.
- (6) The Municipal Manager may determine a closing date for the submission of bids which is less than any of the periods specified in this paragraph, but only if such shorter period can be justified on the grounds of an emergency, urgency or any exceptional case where it is impractical or impossible to follow the official procurement process

12.7.14 Communication with bidders before bid closing

- (1) The manager of the SCMU may, if necessary, communicate with prospective bidders and/or bidders prior to bids closing.
- (2) Such communication shall be in the form of a notice issued to all prospective bidders and/or bidders who have already submitted bids or indicated the intention to do so by the manager of the SCMU by either e-mail, facsimile, or registered post, as may be appropriate
- (3) A copy of the notice together with a transmission verification report/proof of posting shall be kept for record purposes
- (4) Notices should be issued at least one week prior to the bid closing date, where possible.
- (5) Notwithstanding a request for acknowledgement of receipt of any notice issued, the prospective bidders and/or bidders who have already submitted bids or indicated the intention to do so will be deemed to have received such notice if the procedures in sub-paragraphs (2), (3) and (4) above, have been complied with

12.7.15 Submission of bids

- (1) Bids must be submitted before the closing date and time, at the address and in accordance with the directives in the bid documents.
- (2) each bid must be in legible writing using non-erasable black ink and must be submitted on the official form of bid/offer issued with the bid documents.

- (3) The bid must be submitted in a separate sealed envelope with the name and address of the bidder, the bid number and title, the bid box number (where applicable), and the closing date indicated on the envelope.
- (4) The envelope may not contain documents relating to any bid other than that shown on the envelope
- (5) Only sealed bids will be accepted.
- (6) The onus shall be on the bidder to place the sealed envelope in the official, marked and locked bid box provided for this purpose, at the designated venue, not later than the closing date and time specified in the bid notice.
- (7) Postal bids will not be accepted for consideration
- (8) No bids forwarded by telegram, facsimile or similar apparatus may be considered.
- (9) Photostat copies of bids or facsimiles which are submitted in the prescribed manner will, however, be considered, provided the original forms of bid/offer can be shown to have been posted or couriered prior to the close of bids
- (10) Electronic bids will not be accepted
- (11) The bidder shall choose a *domicilium citandi et executandi* within the Republic and unless notice of the change thereof has duly been given in writing, it shall be the address stated in the bid.

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

12.7.16 Late bids

- (1) A bid is late if it is not placed in the relevant bid box by the closing time for such bid.
- (2) A late bid will not be admitted for consideration and where feasible, but without any obligation to do so whatsoever, will be returned unopened to the bidder with the reason for the return thereof endorsed on the envelope.

12.7.17 Opening of bids

- (1) At the specified closing time on the closing date, the applicable bid box must be closed in public.
- (2) The bid box must be opened in public as soon as practical after the closing time
- (3) Immediately after the opening of the bid box, all bids must be opened in public and at the same time checked for physical and outward compliance as to whether the bid was contained in a sealed envelope.
- (4) The official opening the bids must in all cases read out the name of the bidder and, where practical, the amount of the bid

- (5) As soon as a bid or technical proposal has been opened the Municipal Manager must ensure that:
- (a) all bids received in time must be recorded in the bid opening record,
 - (b) the bid/proposal must be stamped with the official stamps, and endorsed with the opening official's signature;
 - (c) the name of the bidder, and where possible, the bid sum must be recorded in the bid opening record kept for that purpose;
 - (d) the responsible official who opened the bid shall forthwith place his/her signature on the bid opening record,
 - (e) the bid opening record must be made public for inspection, and
 - (f) the entries in the bid opening record must be published on the website of the Municipality.
- (6) There shall be no obligation on the Municipality to re-direct bids found to have been inadvertently placed in the incorrect bid box. Bids shall not be re-directed unless the applicable bids either closed on the same day at the same time or are still open. The Municipality disclaims any responsibility for seeing that the bids are in fact lodged in the correct bid box.
- (7) A record of all bids placed in an incorrect box must be kept and such record must contain details of the official who discovered the bid in the incorrect bid box.
- (8) Bids received in sealed envelopes in the bid box without a bid number or title on the envelope will be opened at the bid opening and the bid number and title ascertained where possible. In this regard.
- (a) a bid which was in the correct bid box will be read out;
 - (b) a bid which is found to be in the incorrect bid box, may be redirected provided that the applicable bids either closed on the same day at the same time, or are still open; and

- (c) where the bid closes at a later date, the bid will be placed in a sealed envelope with the bid number and title endorsed on the outside, prior to being lodged in the applicable box
 - (d) where the bid number or title cannot be ascertained from an examination of the bid documents, the bid may be declared invalid
- (9) The Municipality however *disclaims* any responsibility for seeing that the bid is *in fact* lodged in the correct box.

12.7.18 Invalid bids

- (1) Bids will be invalid and be endorsed and recorded as such in the bid opening record by the responsible official appointed by the manager of the SCMU to open the bid, in the following instances:
- (a) where the bid is not sealed,
 - (b) where the bid, including the bid price/tendered amount, where applicable is not submitted on the official form of bid/offer;
 - (c) where the bid is not completed in non-erasable ink,
 - (d) where the form of bid/offer has not been signed,
 - (e) where the form of bid/offer is signed, but the name of the bidder is not stated, or is indecipherable;
 - (f) where the bid envelope does not contain the title of the bid and bid number, and these cannot be ascertained from an examination of the bid documents.
- (2) When bids are declared invalid at the bid opening, the bid sum of such bids may not be read out, however, the name of the bidder and the reason for the bid having been declared invalid must be announced and recorded in the bid opening record.

12.7.19 Bid sum

- (1) A bid will not necessarily be invalidated if the amount in words and the amount in figures do not correspond, in which case the amount in words must be read out at the bid opening and this will be the price upon which the bid is evaluated
- (2) All rates, apart from rates set out in rate only bids, and proprietary information are confidential and may not be disclosed.

12.8. Committee system for competitive bids

- (1) The committee system of the Municipality for competitive bids provides for.
 - (a) a bid specification committee;
 - (b) a bid evaluation committee; and
 - (c) a bid adjudication committee
- (2) The Municipal Manager of the Municipality.
 - (a) must appoint the members of each committee and, in doing so, must consider section 117 of the MFMA;
 - (b) may, when appropriate, appoint a neutral or independent observer to ensure fairness and transparency in the application of this acquisition management system; and
 - (c) may apply the committee system to formal written price quotations.

12.9 Bid specifications

- (1) The bid specification committee must compile the specifications for each procurement of goods and/or services by Municipality.

(2) The specifications.

- (a) must be drafted in an unbiased manner to allow all potential suppliers to offer their goods and/or services,
- (b) must take account of any accepted standards such as those issued by Standards South Africa, the International Standards Organisation, South African Bureau of Standards or an authority accredited or recognised by the South African National Accreditation System with which the equipment or material or workmanship should comply,
- (c) where possible, be described in terms of performance required rather than 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 refer to any trade mark, name, patent, design, type, specific origin or producer unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the words "equivalent",
- (f) must indicate each specific goal for which points may be awarded;
- (g) must reserve the Municipality's right to reject any bid which is unrealistic or which if accepted may expose the Municipality to unacceptable risk provided that the Municipality has first, after consultation with the bidder, satisfied itself that the bid is indeed unrealistic and would expose the Municipality to unacceptable risk if accepted;
- (h) must wherever professional services or construction or specialist services are procured, provide for a suitable mechanism to verify the expertise and ability of the bidder to undertake to execute the bid at an appropriate standard. This may include providing for pre-

qualification criteria, previous track record or any other appropriate method; and

- (i) must be approved by the Municipal Manager prior to publication of the invitation for bids;
- (j) may stipulate that goods or services equating up to 25% of the value of the bid price/tendered amount must be subcontracted to a local business, or to a local business which is listed on the Municipality's list of approved local SMME businesses

- (3) Where specifications are based on standard documents available to bidders, a reference to those documents is sufficient and if the bid specifications also contain extracts from such standard documents, then unless the specifications expressly provide otherwise, the entire document referred to shall be incompetent and the reference to extracts therefrom in the specifications shall not exclude those terms not expressly quoted

12.10 Bid specification committee

- (1) All bid specifications and bid documentation must be compiled by the bid specification committee of the Municipality. An ad hoc bid specification committee may be constituted for a project or procurement activity.
- (2) The bid specification committee shall be comprised of at least 3 (three) officials of the Municipality, an appointed chairperson, a responsible official and at least 1 (one) supply chain management practitioner of the Municipality.
- (3) Where appropriate a representative of internal audit department/division and/or legal services department/division and/or an external specialist advisor may form part of this committee provided that no person, advisor or competent

entity involved with the bid specification committee, or director of such corporate entity, may bid for any resulting contracts.

- (4) Green procurement must be incorporated as far as reasonable possible, for all specifications of goods and/or services
- (5) In the development of bid specifications, innovative mechanisms should be explored to render the service or product more resource and energy efficient
- (6) The Municipal Manager, or his delegated authority, must adhere to the provisions of section 117 of the MFMA when appointing the members of the bid specification committees
- (7) Bid specification committee meetings must be conducted in accordance with the applicable Rules of Order/Standing Rules regulating the conduct of meetings of the Municipality and must be fully recorded.

12.11 Bid evaluation

- (1) The Municipality shall not be obliged to accept any bid
- (2) The Municipality shall have the right to accept the whole or part of a bid or any item or part of an item of a bid or to accept more than one bid for goods and services
- (3) The bid evaluation committee must
 - (a) evaluate bids in accordance with
 - (i) the specifications which were set for the bid, and

- (ii) the points system as prescribed by the PPPFA, and if functionality forms a part of the evaluation criteria of the bid, then compliance with the applicable provisions of the PPR and National Treasury's Circular 53 pertaining to functionality must be ensured,
- (b) evaluate each bidder's ability to execute the contract;
- (c) check for responsiveness and compliance with the prescribed formalities and requirements as set out in the bid documentation i.e. whether municipal rates and taxes and municipal service charges are not in arrears and tax matters in order; and
- (d) submit to the adjudication committee a report and recommendations regarding the award of the bid or any other related matter.

12.12 Bid evaluation committee

- (1) The bid evaluation committee must as far as possible be composed of:
 - (a) officials from departments requiring the goods and/or services; and
 - (b) at least one supply chain management practitioner of the Municipality.
- (2) The responsible agent, if applicable, must carry out a preliminary evaluation of all valid bids received and submit a draft bid evaluation report to the bid evaluation committee for consideration. The bid evaluation committee may engage independent external experts to provide reports or guidance to assist the bid evaluation committee in their evaluations provided that only the bid evaluation committee may exercise discretion and make any decisions and provided further that no such external person, advisor or entity involved with the bid evaluation committee, or director or member of such corporate entity, may bid for any resulting contracts.

- (3) Any evaluation of a bid must consider the bids received and note for inclusion in the evaluation report all details of a bidder.
- (a) whose bid was endorsed as being invalid by the responsible official at the bid opening;
 - (b) whose bid does not comply with the provisions of the Prevention and Combating of Corrupt Activities Act,
 - (c) whose bid does not comply with the general conditions applicable to bids and quotations of this policy,
 - (d) whose bid is not in compliance with the specifications for the bid or does not meet the pre-qualification criteria or who is otherwise excluded by the bid specifications or conditions;
 - (e) whose bid does meet the minimum points for functionality, if applicable,
 - (f) whose bid is not in compliance with the terms and conditions of the bid documentation,
 - (g) whose bid does not comply with any minimum points and goals stipulated in terms of the preferential procurement paragraph of this policy and the PPPFA,
 - (h) who is not registered and listed on the list of accredited providers of the Municipality,
 - (i) who, in the case of construction works acquisitions, does not comply with the requirements of the CIDBA regarding registration of contractors,
 - (j) who has failed to submit an original and valid tax clearance certificate from SARS, certifying that the taxes of the bidder are in order or that suitable arrangements have been made with SARS.
- (4) Bids shall be evaluated according to the following, as applicable.
- (a) functionality,

- (b) bid price and specific goals as per the applicable provisions of the PPPFA (corrected, if applicable and brought to a comparative level where necessary);
 - (c) the unit rates and prices;
 - (d) the bidder's ability to execute the contract;
 - (e) any qualifications to the bid,
 - (f) the bid ranking obtained in respect of preferential procurement as required by this policy;
 - (g) the financial standing of the bidder, including its ability to furnish the required institutional guarantee, where applicable, and
 - (h) any other criteria specified in the bid documents
- (5) No bidder may be recommended for an award unless the bidder has demonstrated that it has the resources and skills required to fulfil its obligations in terms of the bid document and at the bid price.
- (6) Additional information or clarification of bids may be called for if required but only in writing and as stipulated in terms of this policy.
- (7) Alternative bids may be considered, provided that a bid free of qualifications and strictly in accordance with the bid documents is also submitted and the alternate is clearly marked as such.
- (8) Where a bidder requests in writing, after the closing of bids, that his/her bid be withdrawn, then such a request may be considered and reported in the bid evaluation report for decision by the bid adjudication committee
- (9) The bidder obtaining the highest number of points must be recommended for acceptance unless there are objective criteria in addition to the criteria mentioned in section 2(1)(d) and section 2(1)(e) of the PPPFA justifying the award of the bid to another bidder.

- (10) Where, after bids have been brought to a comparative level, 2 (two) or more score equal total adjudication points, the recommended bidder shall be the one scoring the highest preference points.
- (11) Where 2 (two) or more bids are equal in all respects, the bid evaluation committee will draw lots to decide on the recommendation for award, or may, in the case of goods and services, recommend splitting the award proportionately, where applicable.
- (12) All disclosures of a conflict of interest must be considered by the bid evaluation committee and shall be reported to the bid adjudication committee.
- (13) The bid evaluation committee must, having considered the responsible agent's draft report (if any), submit a report, including recommendations regarding the award of the bid or any other related matter, to the bid adjudication committee for award.
- (14) A bid evaluation committee can either be constituted on an ad hoc basis for each project or procurement activity or be appointed by the Municipal Manager for a financial year, to evaluate bids received
- (15) The bid evaluation committee shall be comprised of at least 3 (three) officials of the Municipality, an appointed chairperson, who may be the same person as the chairperson of the bid specification committee, a responsible official and at least one supply chain management practitioner of the Municipality.
- (16) Where appropriate, a representative of internal audit department/division and/or legal services department/division may form part of this committee, which may also include other internal specialists/experts as necessary.

- (17) External specialists/experts may advise the bid evaluation committee, as required
- (18) The Municipal Manager, or his delegated authority, must, considering section 117 of the MFMA, appoint the members of the bid evaluation committees
- (19) Bid evaluation committee meetings must be conducted in accordance with the applicable Rules of Order/Standing Orders regulating the conduct of meetings of the Municipality

12.13 Bid adjudication

- (1) The 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 make a recommendation to the Municipal Manager regarding the making of a final award, or
 - (ii) make another recommendation to the Municipal Manager on how to proceed with the relevant procurement
- (2) Where it holds the delegated power to do so in terms of the Municipality's system of delegations, the bid adjudication committee may make an award to a preferred bidder, subject to the Municipal Manager negotiating with the preferred bidder, provided that such negotiation is in accordance with the conditions set out in sub-paragraph (3) below, which apply *mutatis mutandis*

- (3) The Municipal Manager may negotiate the final terms of a contract with bidders identified through a competitive bidding process as preferred bidder, 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;
 - (c) does not lead to a higher price than the bid as submitted; and
 - (d) minutes of such negotiations must be kept for record purposes; and overall
 - (e) does not materially affect the bid in a manner which compromises the *integrity of the bidding process*.
- (4) If a bid other than the one recommended in the normal course of implementing this policy is approved, then the Municipal Manager must, within 10 (ten) working days and in writing, notify the Auditor-General, the Provincial Treasury and the National Treasury of the reasons for deviating from such recommendation.
- (5) The Municipal Manager may, at any stage of a bidding process, refer any recommendation made by the bid evaluation committee or bid adjudication committee back to that committee for reconsideration of the recommendation.
- (6) A person aggrieved by a decision or action taken in the execution of this policy may lodge within 14 (fourteen) days of such a decision or action a written objection or complaint to the Municipality against the decision or action as set out in paragraph 20 3below of this policy.
- (7) Bid documents must state that any objection or complaint in terms of this policy must be submitted in writing to the Municipal Manager at the address stated, and must contain the following.
- (a) reasons and/or grounds for the objection or complaint,

- (b) the way in which the objector or complainant's rights have been affected; and
- (c) the remedy sought by the objector or complainant

- (8) No bid may be formally accepted until either the expiry of the 14 (fourteen) day objection or complaint period, confirmation in writing before the expiry of the 14 (fourteen) day objection or complaint period that none of the affected parties intend to object or complain or confirmation of the satisfactory resolution of any objection or complaint.
- (9) If the bid adjudication committee or the Municipal Manager has resolved that a bid be accepted, the successful bidder must be notified in writing of this decision
- (10) The successful bidder must, in addition, be advised of the 14 (fourteen) day objection or complaint period and be notified that no rights accrue to him/her until the bid is formally accepted in writing
- (11) Every notification of decision must be faxed or sent via electronic mail to the address chosen by the bidder, with a copy of proof of transmission kept for record purposes, or shall be delivered by hand, in which case acknowledgement of receipt must be signed and dated on a copy of such notification which must be kept for record purposes
- (12) Where it becomes necessary to cancel or re-advertise formal bids, a report to this effect must be submitted to the bid adjudication committee for decision.
- (13) Where bids have been cancelled, all bidders must be notified of such cancellation in writing.

- (14) It is not necessary to notify original bidders when new bids are invited and advertised.
- (15) No bid may be re-advertised before the expiry of the validity period of the original bid or any extended validity period.
- (16) Notwithstanding sub-paragraph (14) above and where no valid bids are received, or all bidders have indicated in writing that they have no objection to the re-advertisement of the bid, then the bid may forthwith be re-advertised.
- (17) In the case of bids for construction works, and where the bid adjudication committee resolved that there were no responsive bids received, then the bid may forthwith be re-advertised.
- (18) Bids which were recommended for re-advertisement by the Bid Adjudication Committee must be advertised for at least fourteen days.

12.14 Bid adjudication committee

- (1) The bid adjudication committee must consist of at least 4 (four) senior managers of the Municipality which must include.
 - (a) the Chief Financial Officer or, if the Chief Financial Officer is not available, another manager in the budget and treasury office reporting directly to the Chief Financial Officer and designated by the Chief Financial Officer;
 - (b) at least one senior supply chain management practitioner who is an official of the Municipality, and

(c) a technical expert in the relevant field who is an official of the Municipality, if the Municipality has such an expert.

(2) The Municipal Manager must appoint the chairperson of the committee. When the chairperson is absent from a meeting, the members of the committee who are present must elect one of them to preside at the meeting

(3) Neither a member of a bid evaluation committee, nor an advisor or person assisting the evaluation committee, may be a member of a bid adjudication committee.

(4) Where the bid adjudication committee decides to award a bid other than the one recommended by the bid evaluation committee, the bid adjudication committee must prior to awarding the bid:

(a) ensure that the preferred bid is in all respects responsive and compliant and verify that the preferred bidder's municipal rates and taxes and municipal service charges are not in arrears,

(b) notify the Municipal Manager, who may.

(i) after due consideration of the reasons for the deviation, ratify or reject the decision of the bid adjudication committee; 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.

(5) The Municipal Manager 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

- (6) The Municipal Manager must comply with the procedure set out in section 114 of the MFMA within 10 (ten) working days if a bid other than the one recommended in the normal course of implementing this policy is approved

12.15 Term bids

- (1) Term bids are for the supply of goods and/or services that are of an *ad-hoc* or repetitive nature for a predetermined period and where awarded will entitle, but not oblige, the Municipality to purchase the specified goods or services at the bid price from the successful bidder for the duration of the term.
- (2) The Municipality may invite term bids.
- (3) The general acquisition procedure for term bids must comply with procedures contained in the acquisition management system for competitive bids.
- (4) Where applicable, bid documentation must state that the acceptance of term bids based on a schedule of rates will not necessarily guarantee the bidder any business with the Municipality.
- (5) The practice of using term bids to circumvent the bid process in respect of what should be planned project work is not permissible
- (6) Unless expressly stated in the bid documents, the award of the term bid shall not confer any exclusivity on the successful bidder nor prevent the Municipality from providing the same or similar services elsewhere.
- (7) Material for repairs and maintenance can be purchased on a term bid where circumstances warrant it.

- (8) Additional items included in a term bid by any bidder, which are clearly not an alternative to any of the items specified in the bid documents, will not be considered.
- (9) The process for considering term bids must be in terms of the evaluation and adjudication procedures for conventional competitive bids.
- (10) Subsequent to an award where different selections of items are required in terms of the same term bid, and where it is not possible or practical to separate orders for different items from different suppliers, service providers or contractors, then and in that instance, a selection process must be carried out in respect of each application by the responsible agent. Individual orders must be placed based on the highest total evaluation points received, pre application.
- (11) Where the selected supplier, contractor or service provider, in terms of the selection process specified in the term bid documentation, is unable to provide the required goods, services or construction works at the required time and confirms as such in writing, the bidder with the next highest valuation points (re-calculating the bid scores excluding the successful bidder) must be selected.

12.16 Procurement of banking services

- (1) A contract for the provision of banking services to the Municipality
 - (a) must be procured through competitive bids;
 - (b) must be consistent with section 7 of the MFMA and regulation 30 of the SCMR; and

(c) may not be for a period of more than 5 (five) years at a time.

- (2) The process for procuring a contract for banking services must commence at least 9(nine) months before the end of an existing contract
- (3) The closure date for the submission of bids may not be less than 60 (sixty) days from the date on which the advertisement is advertised.
- (4) Bids must be restricted to banks registered as such in terms of the Banks Act, Act 94 of 1990.

12.17 Procurement of IT related goods and/or services

- (1) The Municipal Manager may request the SITA to assist the Municipality with the acquisition of IT related goods and/or services through a competitive bidding process.
- (2) The parties must enter into a written agreement to regulate the services rendered by, and the payments to be made to SITA.
- (3) The Municipal Manager must notify SITA together with a motivation of the IT needs of the Municipality where.
 - (a) the transaction value of IT related goods and/or services required by the Municipality in any financial year will exceed R50 million (including VAT); or
 - (b) the transaction value of a contract to be procured by the Municipality whether for one or more years exceeds R50 million (including VAT).

- (4) If SITA comments on the submission and the Municipality disagrees with such comments, the comments and the reasons for rejecting or not following such comments of SITA must be submitted to the Council, the Provincial and National Treasury and the Auditor General prior to awarding the bid.

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

- (1) The Municipal Manager may procure goods and/or services for the Municipality 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) the Municipality has no reason to believe that such contract was not validly procured;
 - (c) there are demonstrable discounts or benefits for the Municipality to do so; and
 - (d) that other organ of state and the relevant provider have consented to such procurement in writing.

12.19 Procurement of goods necessitating special safety arrangements

- (1) Goods, other than water, which necessitate special safety arrangements, may not be acquired or stored in bulk and more than immediate requirement, including gasses and fuel, unless sound justification therefore exists.
- (2) Where the storage of goods in bulk is justified, such justification must be based on sound reasons, including the total cost of ownership and cost advantages for the Municipality and the Municipal Manager may then authorise the same, in writing

12.20 Proudly SA campaign

The accounting officer must determine internal operating procedures supporting the Proudly SA Campaign to the extent that, all things being equal, preference is given to procuring local goods and services from:

- Firstly –suppliers and businesses within the municipality or district,
- Secondly – suppliers and businesses within the relevant province,
- Thirdly – suppliers and businesses within the Republic of South Africa

12.21 Appointment of consultants

- (1) The Municipal Manager may procure consulting services provided that National Treasury, Provincial Treasury and CIDB guidelines in respect of consulting services are considered when such procurements are made.
- (2) A contract for the provision of consultancy services to the Municipality must be procured through competitive bids where:
 - (a) the value of the contract exceeds R200 000.00 (including VAT); or
 - (b) the duration period of the contract exceeds 1 (one) year.
- (3) In addition to the requirements prescribed for competitive bids in this policy, bidders must furnish the Municipality with particulars of:
 - (a) all consultancy services provided to the Municipality in the last 5 (five) years, and
 - (b) any similar consultancy services provided to the Municipality in the last 5 (five) years.

- (4) Dividing the transaction values of required consultant appointments into lesser transaction values to circumvent the competitive bidding process is not permitted.
- (5) Where the estimated value of consultant fees is less than or equal to R200 000.00 (including VAT) and the duration of the appointment is less than 1 (one) year, the selection of a consultant to provide the required service must follow a written price quotation or a formal written price quotation procedure as provided for in this policy.
- (6) Responsible agents must endeavour to ensure that there is rotation in respect of inviting suitably qualified consultants to submit quotes.
- (7) A price/preference points system, contained in the preferential procurement paragraph of this policy, must be applied to such quotations.
- (8) Where it is in the interests of the Municipality to follow an advertised process, a formal competitive bidding process in accordance with the requirements of this policy may be followed irrespective of the estimated value of the consultant fees.
- (9) The Municipality 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 during the consultancy service is vested in the Municipality.
- (10) The Municipality may only consider single-source selection where it is in line with the exceptional cases provided in treasury guidelines the justification for

single-source selection is examined in the context of the overall interests of the Municipality and the project.

- (11) Single-source selection may be appropriate only if it presents a clear advantage over a competitive process:
 - (a) for services that represent a natural continuation of previous work carried out by the consultant, and continuity of downstream work is considered essential;
 - (b) where rapid selection is essential;
 - (c) for very small appointments,
 - (d) when only one consultant is qualified or has experience of exceptional worth for the project.
- (12) Single source selection may also be justified in instances where the type of consultant services required are of a *sui generis* nature and based on a specific type of relationship of expertise, privilege, confidentiality, the utmost good faith and trust.
- (13) The reasons for single-source selection must be fully motivated in a report and approved by the bid adjudication committee prior to conclusion of a contract, provided that if the award is for an amount of R200 000 00 (including VAT) or less, such award must be approved by the manager of the SCMU.
- (14) Single source shall be regarded as a deviation in terms of paragraph 12.22 below and must comply therewith.

12.21.1 Appointment of consultants

The municipality may only contract in consultants after a gap analysis has been confirmed that the municipality does not have the requisite skills or resources in its full time employ to perform the assignment in question. Based on a business case, the

appointment of consultants may only be approved by the accounting officer. All request to deviate from the instruction note maybe directed to: The Director-General at National treasury.

- the consultants may only be remunerated at the rates.

- (a) Determined in the "Guideline for fees", issued by the South African Institute of Chartered Accountants (SAICA),
- (b) Set out in the "Guide on Hourly Fee Rates for Consultants", by the Department of Public Service and Administration (DPSA), OR
- (c) Prescribed by the body regulating the profession of the consultant.
- (d) A database of consultants shall be in place and be co-ordinated by the Supply Chain Management and Local Economic Development.
- (e) An appointed consultant shall be subjected to the 25% sub-contracting of emerging smaller consultant companies from Rustenburg Municipality's database of emerging smaller consultants, within one to three years of existence.
- (f) The joint venture relationship in the consultants' environment is explained in the following diagram (SMME development):
 - (i) in respect of professional consultant support, the following areas must be covered in support of emerging BBBEE consulting companies.

Professional area	Subcontracting Amount	%	Joint Venture Amount	%
Architect	R1M to R10M	Maximum of 25%	R10M and above	Between 30% and 40% JV
Structural Engineering	R1M to 10M	Maximum of 25%	R10M and above	Between 30% and 40% JV
Electrical Engineering	R1M to R10M	Maximum of 25%	R10M and above	Between 30% and 40% JV
Mechanical Engineering	R1M to R10M	Maximum of 25%	R10M and above	Between 30% and 40% JV

SI	R1M to R10M	Maximum of 25%	R10M and above	Between 30% and 40% JV
Civil Engineering	R1M to R10M	Maximum of 25%	R10M and above	Between 30% and 40% JV
Project Management	R1M to R10M	Maximum of 25%	R10M and above	Between 30% and 40% JV
Quantity Surveying	R1M to R10M	Maximum of 25%	R10M and above	Between 30% and 40% JV

12.21.2 PRIMARY REASONS FOR THE APPOINTMENT OF CONSULTANTS

(1) Consultants are engaged principally for the following reasons.

- (a) to provide specialised services for limited periods without any obligation of permanent employment
- (b) to benefit from superior knowledge, transfer of skills and upgrading of a knowledge base while executing an assignment.
- (c) to provide independent advice on the most suitable approaches, methodologies and solutions of projects.

12.21.3 MINIMUM REQUIREMENTS WHEN APPOINTING CONSULTANTS

(1) When appointing consultants, it is necessary to strive to satisfy the following minimum requirements:

- (a) meeting the highest standards of quality and efficiency
- (b) obtaining advice that is unbiased, that is, being delivered by a consultant acting independently from any affiliation, economic or otherwise, which may cause conflicts between the consultant's interests and those of government.

- (2) Ensuring the advice proposed, or assignment executed, meets the ethical principles of the consultancy professions.

12.21.4 Measures to address over reliance on consultants are as follows:

- a) Assessment of whether expertise required does not reside where in the Municipality
- b) Assess the cost effectiveness of make or buy decision to determine whether the objectives of the institution are better achieved through consultants or permanent work
- c) Monitor and continually evaluate extend and use of consultant and ensure skills transfer where feasible.

12.21.5 APPLICABILITY OF PROCEDURES

- (1) The procedures outlined herein apply to all contracts for consulting services.
In procuring consulting services, the Accounting Officer or the delegate should satisfy himself/herself that
 - (a) the procedures to be used will result in the selection of consultants who have the necessary professional qualifications
- (2) The selected consultant will carry out the assignment in accordance with the agreed schedule.
- (3) The scope of the services is consistent with the needs of the project

12.22 DEVIATION FORM, AND RATIFICATION OF MINOR BREACHES OF PROCUREMENT PROCESS

- (1) The Municipal Manager may:
- (a) dispense with the official procurement processes established by this policy and to procure any required goods and/or services through any convenient process, which may include direct negotiations, but only:
 - (i) in an emergency;
 - (ii) if such goods and/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) for the acquisition of animals for zoos and nature reserve;
 - (v) for the acquisition of special works of art or historical objects where specifications are difficult to compile, and
 - (vi) 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
- (2) The Municipal Manager must record the reasons for any deviations in terms of sub-paragraph (1)(a) and(1)(b) above and report them to the next meeting of the Council and must be included as a note to the annual financial statements. This sub-paragraph does not apply to the procurement of goods and services contemplated in paragraph 3(3) of this policy

- (3) The conditions relating to the procurement of contracts relating to an emergency, as referred to in sub-paragraph (1)(a)(i) above should include the existence of one or more of the following.
- (a) the possibility of human injury or death,
 - (b) the prevalence of human suffering or deprivation of rights,
 - (c) the possibility of damage to property, or suffering and death of livestock and animals;
 - (d) the interruption of essential services, including transportation and communication facilities or support services critical to the effective functioning of the Municipality as a whole;
 - (e) the possibility of severe damage occurring to the natural environment,
 - (f) the possibility that failure to take necessary action may result in the Municipality not being able to render an essential community service, and
 - (g) the possibility that the security of the state could be compromised.
- (4) The prevailing situation, or imminent danger, should be of such a scale and nature that it could not readily be alleviated by interim measures, to allow time for the formal procurement process.
- (5) Where interim measures to alleviate the immediate situation are appropriate, these should be considered to give time to procure a permanent solution.
- (6) Emergency dispensation will not be granted in respect of circumstances other than those contemplated in sub-paragraph (3) above.
- (7) Where possible, in an emergency, 3 (three) quotes in accordance with general acquisition management principles should be obtained and a report submitted to the Municipal Manager for approval. Where, however, time is of the

essence, the emergency must be immediately addressed, and the process formalised in a report to the Municipal Manager as soon as possible thereafter.

- (8) The Municipal Manager may, upon recommendation of the bid adjudication committee, and only if worthy cause exists condone any expenditure incurred in contravention of, or that is not in accordance with, a requirement of this policy, provided that.
- (a) this power may not be sub-delegated by the Municipal Manager;
 - (b) such condonation will not preclude the taking of disciplinary steps against the responsible official, and
 - (c) the Municipal Manager record the reasons for the condonation in writing and report them to the next meeting of the Council and must be included as a note to the annual financial statements.
- (9) In the event where the Municipal Manager refuses to condone any expenditure referred to in sub-paragraph (7) above, such expenditure will be deemed to be irregular expenditure as defined in terms of the provisions of section 1 of the MFMA and must be treated as such by the Municipal Manager according to the relevant provisions provided therefore in the MFMA.

12.23 Unsolicited bids

- (1) The Municipality is not obliged to consider any unsolicited bids received outside a normal bidding process
- (2) The Municipality may only consider an unsolicited bid 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 for the Municipality;
 - (c) the person or entity 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 Municipal Manager.
- (3) Where the Municipal Manager decides to consider an unsolicited bid that complies with sub-paragraph (2) above, the Municipality must make its decision public in accordance with section 21A of the MSA, together with.
- (a) its reasons as to why the bid should not be open to other competitors,
 - (b) an explanation of the potential benefits for the Municipality were it to accept the unsolicited bid; and
 - (c) an invitation to the public or other potential suppliers to submit their written comments within 30 (thirty) days of the notice.
- (4) Once the Municipality has received written comments pursuant to sub-paragraph (3) above, it must submit such comments, including any responses from the unsolicited bidder, to the National Treasury and the relevant Provincial Treasury for comment
- (5) The Municipality's adjudication committee must consider the unsolicited bid and may award the bid or make a recommendation to the Municipal Manager, depending on its delegations
- (6) A meeting of the adjudication committee to consider an unsolicited bid must be open to the public
- (7) When considering the matter, the adjudication committee must consider

- (a) any comments submitted by the public; and
 - (b) any written comments and recommendations of the National Treasury or the relevant Provincial Treasury
- (8) Where any recommendations of the National Treasury or Provincial Treasury are rejected or not followed, the Municipal Manager must submit to the Auditor General, the relevant Provincial Treasury and the National Treasury the reasons for rejecting or not following those recommendations.
- (9) Such submission must be made within 7 (seven) days after the decision on the award of the unsolicited bid is taken, but no contract committing the Municipality to the bid may be entered or signed within 30 (thirty) days of the submission

13 LOGISTICS MANAGEMENT

Logistics management provides an effective logistic management system for the setting of inventory levels, placing of orders, receiving and distribution of goods, stores and warehouse management, expediting orders, transport management, vendor performance, maintenance and contract administration, as set out below:

13.1 Setting of inventory levels

- (1) Levels must be determined
- (2) Stock items must be systematically replenished using the re-order point planning strategy in conjunction with minimum and maximum levels.
- (3) Open reservations must be considered during the replenishment run.

13.2 Placing of orders

- (1) Purchase orders must be created with reference to requisitions where the supply source is by means of a contract or verbal, written or formal quotations
- (2) All purchase orders which are for imported goods and which are subject to rate and exchange adjustments must specify that the vendor must take out a forward exchange contract to fix the Rand based price in the purchase order
- (3) A proper record of all purchase orders must be kept by the manager of the SCMU and a copy thereof must be submitted to the Chief Financial Officer monthly.
- (4) Standing orders will be utilised in cases where a longer-term arrangement, such as after hour services and copier contracts, are required.
- (5) Purchase order approvals must be system based and will involve the procurement department only.
- (6) The assets (for asset creation) and the insurance section (for claims) must be informed after approval of any purchase orders.

13.3 Receiving and distribution of goods

- (1) Goods will be received on the Municipality's inventory system with specific reference to purchase orders

- (2) No over-receipt of stock may be allowed. The purchase order must be kept open for under-receipts for the outstanding delivery quantity.
- (3) Goods must be issued from stock with reference to reservations
- (4) Goods may be issued for consumption against internal orders, cost centres, projects and assets under construction.

13.4 Stores and warehouse management

- (1) The stores and warehousing function must be decentralised in different areas and will operate under the jurisdiction of the SCMU.
- (2) The SCMU must ensure proper financial and budgetary control, uphold the principle of effective administration, proper stock holding and control, product standardisation, quality of products and a high standard of service levels.

13.5 Expediting orders

- (1) The purchasing expeditor is required to monitor and expedite outstanding purchase orders
- (2) Reminder letters must be faxed automatically to vendors based on the reminder levels prior to the delivery due date which is set in the purchase order.

13.6 Transport management

The Municipality's fleet management system/policy must be adhered to always.

13.7 Vendor performance

- (1) The Municipality must have a system which is able to evaluate a vendor 'performance regarding certain pre-determined criteria.
- (2) The information will be available for contract negotiations and regular feedback to the vendors

13.8 Contract management

- (1) The Municipal Manager must take all reasonable steps to ensure that contracts procured through this policy are properly implemented and enforced. To this end the Municipal Manager shall devise a system to ensure that he is given, monthly, all relevant details regarding the performance of each contract and details of defaults
- (2) The performance of contractor under the contract procured through this policy must be monitored monthly.
- (3) All contracts must be administered by a designated official(s), having the necessary competencies to ensure effective management of the contract. The responsibility of managing a contract falls on the specific directorate to which such a contract relates together with and in co-operation with the SCMU.

- (4) The Municipal Manager must regularly report to the Council on the management of contracts and the performance of contractors.

13.9 Maintenance and contract administration

- (1) Contracts relating to the procurement of goods and/or services will be captured on the Municipality's contract administration system in the form of a price schedule.
- (2) Value (where the maximum value of the contract is restricted) and volume (where the maximum units procured are restricted) based contracts must be utilised in as far as possible
- (3) The use of fixed price and fixed term contracts must be promoted, and expenditure will be driven towards such contracts as opposed to once-off purchases
- (4) Consolidated procurement volumes must be utilised to drive down negotiated contract prices
- (5) Contract price adjustments may only be processed in accordance with contract terms and conditions and must accord with the provisions of this policy

13.10 Contract administration

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

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

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

13.11 Levels of contract administration

- (1) There are three levels of contract administration, being.
 - (a) the first operational level for standard contracts for goods and services Day to day contract administration should become no more than the execution of performance monitoring, record keeping and price adjustment authorisation functions;

- (b) the second or intermediate level is for more complex contracts for services. This type of contract requires a more active role for the contract manager in developing the relationship between the Municipality and the contractor and includes the functions set out as part of the first operational level;
- (c) the third level is for strategic contracts involving complex partnerships and outsourcing arrangements. These contracts require more active management of the business relationships between the supplier and the users, for example to manage outputs and not the process and include the functions set out in the first operational level and the second level, as referred to above.

13.12 Appointing a contract manager

- (1) A contract manager must be appointed by the Municipal Manager together with the director in charge of the project prior to the execution of the contract
- (2) Where it is practical to do so, the contract manager must be involved at the earliest stage of the acquisition, which is the time of writing the specifications for the contract
- (3) Contract administration arrangements must be identified and planned to include, delegations, reporting requirements and relationships and specific task responsibilities
- (4) Departments are responsible for ensuring that contract managers:
 - (a) prepare the contract administration plan;
 - (b) monitor the performance of the contract;
 - (c) are appointed with appropriate responsibility and accountability,

- (d) are adequately trained so that they can perform and exercise the responsibility; and
- (e) act with due care and diligence and observe all accounting and legal requirements

13.13 Duties and powers of a contract manager

- (1) The contract manager's duties and powers are governed by the conditions of contract and the applicable legal principles and statutes.
- (2) The contract manager must monitor the performance of the contract monthly and must report to the Municipal Manager on the performance of the contractor and the progress of the contract monthly.
- (3) The contract manager is also required to form opinions and make decisions, and in doing so is expected to be even-handed, prudent and to protect the interests of the Municipality.
- (4) The SCMU is responsible for notifying the contract manager 90 (ninety) days prior to the expiry of each contract to allow the contract manager sufficient time to decide whether to renew a contract or efficiently conclude a new contract.
- (5) The contract manager must ensure that the contractor duly performs according to the specifications of the contract in delivering goods and/or services on time, in the correct manner and/or quantity and to the required standard.

- (6) Regular meetings and site inspections must be held by the contract manager and the contractor to inspect the progress, deliverables, identify potential problems and/or possible remedial action during the contract period.

13.14 Contract guidelines

- (1) A guideline, which provides a description of the roles and responsibilities of a contract manager during the contract administration stage, must be documented
- (2) The provisions of this paragraph are not an exhaustive description of contract administrative activities, and some tasks may not be carried out in the sequence presented, may be done concurrently with other tasks or may not be necessary in some circumstances.

13.15 Delegating to contract administrator

- (1) Where appropriate, a contract manager may delegate some contract administration duties to a contract administrator.
- (2) The contract administrator will be required to perform duties related to processes for record keeping, authorising payment and collecting data on contractor performance.
- (3) The contract manager will however remain ultimately responsible and accountable for the performance of the contract

13.16 Contract management process

- (1) The contract manager must ensure that the contractor fulfils its obligations and complies with its liabilities under the contract and must also ensure that contractors are treated fairly and honestly. Any non-compliance with the terms of the contract and any non-delivery or anticipated non-delivery or breaches must be reported to the Municipal Manager in writing immediately.
- (2) Both parties adhering to the agreed terms will result in:
 - (a) value for money;
 - (b) timeliness,
 - (c) cost effectiveness, and
 - (d) proper contract performance.
- (3) In the event of non-compliance with any contract, the contractor must be placed in default in writing approved by the Municipality's legal advisors and a complete record of all written notices of non-compliance or nature of breach, as the case may be, must be kept on record.

13.17 Document retention

- (1) The need exists to retain documents on a contract file for information and audit purposes, and in order to comply with the requirements of the records office
- (2) Proper records regarding all aspects of the contract must accordingly be maintained. The contract manager shall be responsible for ensuring that the Municipality has, on the appropriate control sheet, copies of all procurement documents, bids, awards, notices and other written communications

13.18 Guidelines on contract administration

- (1) The responsibilities of a contract manager may include the following:
- (a) establishing a contract management plan for the execution of the contract, especially for contracts pertaining to construction and land development projects;
 - (b) reviewing the contract management process (including the contract management plan) on a regular basis;
 - (c) providing a liaison between internal managers and users, and suppliers to pre-empt, identify and resolve issues as they arise,
 - (d) monitoring the contractor's continuing performance against contract obligations,
 - (e) providing the contractor with advice and information regarding developments within the department, where such developments are likely to affect the products provided,
 - (f) determining if staged products should continue, and providing a procurement process for additional stages which meet the principle of obtaining value for money;
 - (g) providing accurate and timely reporting to the senior management in charge of the project, highlighting significant performance issues or problems;
 - (h) ensuring that insurance policy terms and conditions provide adequate protection for the Municipality and are maintained throughout the contract period,
 - (i) ensuring all products provided are certified as meeting the specifications before the supplier is paid;
 - (j) maintaining adequate records (paper and/or electronic) in sufficient detail on an appropriate contract file to provide an audit trail,
 - (k) managing contract change procedures,
 - (l) resolving disputes as they arise,

- (m) conducting post contract reviews;
- (n) pursuing remedies in the event of any breach of the contract,
- (o) reporting on performance/non-performance to the Municipal Manager monthly; and
- (p) the Municipal Manager must establish capacity and a system to ensure effective contract management.

14 DISPOSAL MANAGEMENT

- (1) The disposal management system of the Municipality provides an effective system for the transfer of ownership, disposal or letting of assets, including unserviceable, redundant or obsolete assets, subject to section 14 of the MFMA and the MATR in as far as capital assets are concerned.
- (2) Every disposal by the Municipality must comply with the relevant and applicable provisions of the MFMA and MATR in as far as capital assets are concerned.
- (3) The way assets may be disposed of by the Municipality includes, but is not limited to, the following
 - (a) transferring an asset to another organ of state in terms of a provision of the MFMA enabling the transfer of assets,
 - (b) transferring the asset to another organ of state at market related value or, when appropriate, free of charge;
 - (c) selling the asset, or
 - (d) destroying the asset

- (4) Immovable property may be sold only at market related prices except when the public interest or the plight of the poor demands otherwise and in accordance with the provisions of the Disposal Policy of the Municipality
- (5) Movable assets may be sold either by way of written price quotations, a competitive bidding process, auction or at market related prices, whichever is the most advantageous to the Municipality
- (6) In the case of the free disposal of computer equipment, the provincial department of education must first be approached to indicate within 30 (thirty) days whether any of the local schools are interested in the equipment.
- (7) In the case of the disposal of firearms, the National Conventional Arms Control Committee must approve any sale or donation of firearms to any person or institution within or outside the Republic.
- (8) Immovable property must be let at market related rates except when the public interest or the plight of the poor demands otherwise.
- (9) All fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property must be reviewed annually.
- (10) Where assets are traded in for other assets, the highest possible trade-in price must be negotiated.
- (11) As far as possible, assets to be disposed of must be subjected to recycling Disposal to landfill is not allowed unless there are no available recycling options.

- (12) Non-exempted capital assets must be transferred or permanently disposed of strictly in accordance with section 14 of the MFMA read with Chapter 2 of the MATR.
- (13) Exempted capital assets must be transferred strictly in accordance with Chapter 3 of the MATR.
- (14) The granting of rights by the Municipality to use, control or manage municipal capital assets, where section 14 of the MFMA do not apply, must be executed strictly in accordance with Chapter 4 of the MATR

14.1 DISPOSAL MANAGEMENT FRAMEWORK

The authority to make the determinations and subsequently in principle approve the disposal of movable assets with a value of less than R 1 million in terms of section 14(2) (a) and (b) of the MFMA as set out in MAT regulation 5(1) (b) (i) and (ii) is delegated to the accounting officer in terms of paragraph 5(6) of the MAT regulations

14.2 DISPOSAL CATEGORIES

A. Non-exempted capital assets

- (1) General determinations
 - (a) The fair market value of all non-exempted capital assets should be determined before the transfer or disposal thereof is considered
 - (b) Where assets are traded in for other assets, the highest possible trade-in price should be negotiated
- (2) Approval in principle

- (a) A capital asset may only be transferred or otherwise be permanently disposed of after the determinations have been made and an approval has been granted in principle in terms of sub-section 14 (2) of the MFMA as set out in MAT Regulation 5(1)(b)(i) and(ii)

- (3) Advertising of proposed disposals in terms of the Local Government Ordinance 1939.

The proposed disposal of a non-exempted immovable capital asset should be advertised in case of objections in terms of section 79(18) of the Local Government Ordinance, 1939, if a public participation process is not required, as set out in sub-paragraph (4) and any objections should be submitted for consideration with the proposal in terms of MAT regulation 5(1) (b) (i) and (ii).

- (4) Public participation process

- (a) Capital assets may only be transferred or otherwise disposed of after the Accounting Officer has conducted a public participation process to facilitate the determinations and approval has been granted in principle in terms of the section 14(2) of the MFMA, if

- (i) the fair market value of the capital asset exceeds any of the following amounts:

- (aa) R50 million; or

- (bb) one percent of the total value of the capital assets of the Municipality as determined from the latest available audited annual financial statements of the Municipality, or

- (ii) the combined value of any capital assets that the Municipality intends to transfer or dispose of in the relevant financial year exceeds five percent of the total value of its assets as determined in the latest audited financial

- (b) Only the Municipal Council may authorize the public participation process referred to in sub-paragraph (a).

- (i) A request to the Municipal Council for authorization of a public participation process must be accompanied by an information statement stating
 - (aa) the valuation of the capital asset to be transferred or disposed of and the method of valuation used to determine that valuation,
 - (bb) the reasons for the proposal to transfer or dispose of the capital asset,
 - (cc) any expected benefits to the Municipality that may result from the transfer or disposal,
 - (dd) any expected proceeds to be received by the Municipality arising from the transfer of disposal; and
 - (ee) any expected gain or loss that will be realized or incurred by the Municipality arising from the disposal
- (c) If the Municipal Council has authorized the accounting officer to conduct a public participation process in connection with any proposed transfer or disposal of a high-value capital asset or other asset referred to in MAT regulation 5(2), the accounting officer must at least 60 days before the meeting of the Council at which the determinations referred to in MAT regulation 5(1) (b) are to be considered,
 - (j) in accordance with section 21A of the Municipal Systems Act,
 - (aa) make public the proposal to transfer or dispose of the capital asset together with the information statement referred to in paragraph (b)(i), and
 - (bb) invite the local community and other interested persons to submit to the Municipality comments or representations in respect of the proposed transfer or disposal of the capital asset; and
 - (ii) Solicit the views and recommendations of the National Treasury and the provincial treasury on the matter
- (5) Consideration of proposals and applications

- (a) The Municipal Council and the accounting officer in cases where the authority has been delegated, must, when considering any proposed transfer or disposal of a non-exempted capital asset in terms of MAT regulation 5(1)(b)(i) and (ii), take into account
 - (i) whether the capital asset may be required for the Municipality's own use at a later date,
 - (ii) the expected loss or gain that is expected to result from the proposed transfer or disposal,
 - (iii) the extent to which any compensation to be received in respect of the proposed transfer or disposal will result in a significant economic or financial cost or benefit to the Municipality;
 - (iv) the risks and rewards associated with the operation or control of the capital asset that is to be transferred or disposed of in relation to the Municipality's interests;
 - (v) the effect that the proposed transfer or disposal will have on the credit rating of the Municipality, its ability to raise long- term or short-term loans in the future and its financial position and cash flow,
 - (vi) any limitations or conditions attached to the capital asset or the transfer or disposal of the asset, and the consequences of any potential non-compliance with those conditions;
 - (vii) the estimated cost of the proposed transfer or disposal;
 - (viii) the transfer of any liabilities and reserve funds associated with the capital asset,
 - (ix) any comments or representations on the proposed transfer or disposal received from the local community and other interested persons;
 - (x) any written views and recommendations on the proposed transfer or disposal by the National Treasury and the relevant provincial treasury,
 - (xi) the interests of any affected organ. of state, the legal and economic interests and the interests of the local community, and

- (xii) compliance with the legislative regime applicable to the proposed transfer or disposal
- (b) Approval in principle in terms of regulation 5(1)(b)(ii) that a non-exempted capital asset may be transferred or disposed of, may notwithstanding anything to the contrary in this policy, be given subject to any conditions, including conditions specifying
 - (i) the way in which the capital asset is to be sold or disposed of;
 - (ii) a floor price or minimum compensation for the capital asset;
 - (iii) whether the capital asset may be transferred or disposed of for less than its fair market value, in which case the criteria set out in MAT regulation 13(2) must first be considered,
 - (iv) a framework within which direct negotiations for the transfer or disposal of the capital asset must be conducted with another person, if the transfer or disposal is subject to direct negotiations
- (c) A decision by the municipal council that a specific capital asset is not needed to provide the minimum level of basic municipal service may in terms of section 14 of the MFMA not be reversed by the Municipality after that asset has been sold, transferred or otherwise disposed of

14.3 DISPOSAL MECHANISMS

- (1) The following disposal mechanisms should be used unless determined otherwise in terms of paragraph:
 - (a) Immovable assets
 - (i) the following immovable capital assets should be sold out of hand if only one unsolicited bid or application is received for the purchase of such asset:
 - (aa) Redundant portions of land and portions of land required for gardening purposes of less than 450 square meters in extent

- (bb) Church sites
- (cc) unimproved residential sites
- (ii) transfers and disposals of immovable assets other than in terms of sub- paragraph (a) (i),
- (iii) subsidiary assets attached to immovable assets that are unsafe and/or not economically viable to repair, may be destroyed after approval in principle has been obtained in terms of section 14(2) of the MFMA, subject thereto that
- (aa) in case of a building, the necessary permit be obtained from the Municipality Planning Division,
- (bb) the assets may be destroyed with in-house capacity or a service may be procured through the procurement processes set out in this policy
- (b) Movable assets
- (1) The following disposal methods should be used in respect of movable assets.
- (aa) obsolete and redundant movable assets which cannot be disposed of in terms of the afore-going mechanisms, may be destroyed after approval in principle has been obtained in terms of section 14(2) of the MFMA- subject thereto that the assets may be destroyed with in-house capacity or a service procured through the procurement processes set out in this policy
- (2) The disposal mechanisms set out in this paragraph do not apply to the transfer of a non-exempted capital asset if
- (a) the Municipality
- (i) reviews in terms of Chapter 8 of the Municipal Systems Act its service delivery mechanisms for the performance of a municipal service;
- (ii) appoints a private sector party through a competitive bidding process as the service provider for the performance of that municipal service; and

- (iii) transfers the capital asset as an integral component of the performance of that municipal service to that service provider; or
- (b) the Municipality –
- (i) appoints a private sector party or organ of state through a competitive bidding process as the service provider for the performance of a commercial service, and
- (ii) transfers the capital asset as an integral component of the performance of that commercial service to that service provider.
- (3) The Municipality may negotiate directly with the selected service provider regarding the transfer of a capital asset
- (4) The Municipality may not commence with the process refer or negotiations unless approval in principle has been given in terms of MAT regulation 5(1)(b)(ii)) that the relevant capital asset may be transferred or disposed of.
- (5) In applying the process referred to in sub-paragraph (1) or conducting negotiations referred to in sub-regulation (3), the Municipality must consider the gain or loss that will
 - (a) result from the transfer or disposal of the relevant capital asset; and
 - (b) be recorded in the accounting records of the Municipality
- (6) If the Municipality intends to transfer to a private sector party or organ of state a non-exempted capital asset following the selection through a competitive bidding process of a service provider for the performance of a municipal service or for the performance of a commercial service
 - (a) all assets needed or directly related to the performance of that service must be properly identified to distinguish those assets from the other assets of the Municipality,

- (b) all decisions referred to in MAT regulation 5(1)(b)(i) and (ii) relating to the transfer of the capital asset must be taken as an integral part of the broader decision-making process on the appointment of a service provider for the performance of that service, and
 - (c) all documents prepared for the purpose of those decisions, must be taken into account in any feasibility study conducted to determine the financial and other implications of appointing a service provider for the performance of that service.
- (7) Compensation for transfer of non-exempted municipal capital assets
- (a) The compensation payable to the Municipality or for the transfer of a non-exempted capital asset must, subject to sub-paragraphs (b) and (c), reflect fair market value.
 - (b) The minimum selling prices of immovable property must be determined as set out in the Supplementary Alienation Policy Framework attached as annexure to the Supply Chain Management Policy
 - (c) If the Municipality, on account of the public interest, in particular in relation to the plight of the poor, intends to transfer a non-exempted capital asset for less than its fair market value, the Municipality must, when considering the proposed transfer, take into account
 - (i) the interests of the State and the local community;
 - (ii) the strategic and economic interests of the Municipality, including the long-term effect of the decision on the Municipality;
 - (iii) the constitutional rights and legal interests of all affected parties; whether the interests of the parties to the transfer should carry more weight than the interest of the local community, and how the individual interest is weighed against the collective interest; and

- (iv) whether the local community would be better served if the capital asset is transferred at less than its fair market value, as opposed to a transfer of the asset at fair market value.
- (8) Discharge of loans on assets transferred or disposed of
 - (a) The proceeds received from the transfer or disposal of an asset must be used to discharge any loans against the asset as at its redemption date, or another date as may be negotiated with the lender
 - (b) Sub-paragraph (a) may not be read as preventing the Municipality from negotiating with the private sector party or organ of state to whom an asset is transferred, to take over, as part of the compensation payable to the Municipality, any loan the Municipality made against the asset.
- (9) Transfer agreements
 - (a) The Municipality may transfer assets approved for transfer to a private sector party or organ of state in terms of this policy, only by way of a written transfer agreement concluded between the Municipality and the receiving private sector party or organ of state.
 - (b) A transfer agreement must set out the terms and conditions of the transfer, including, at least –
 - (i) a sufficient description of the capital asset being transferred in order to identify the asset,
 - (ii) particulars of any subsidiary assets that are transferred with the capital asset,
 - (iii) particulars of any liabilities transferred with the asset,
 - (iv) the amount of compensation payable to the Municipality for the transfer of the asset or assets, and the terms and conditions of payment, and
 - (v) the effective date from which the risk and accountability for the asset or assets are transferred to the receiving party.

- (a) If a capital asset is transferred following the selection of a service provider for the performance of a municipal service referred to in MAT regulation 12(2)(a) or for the performance of a commercial service referred to in MAT regulation 12(2)(b), through a competitive bidding process, the transfer agreement
 - (i) must make provision for:
 - (aa) contract termination in the case of non- or underperformance,
 - (bb) dispute resolution mechanisms to (bb)settle disputes between the parties, and
 - (cc) a period review of the agreement once in every three years, in the case of an agreement for longer than three years, and may be incorporated into any service delivery agreement or procurement contract to be concluded with the service provider.
- (10) Access to transfer agreements
 - a) An agreement in terms of which the Municipality transfers a non-exempted capital asset in terms this policy
 - (i) must be made available in its entirety to the council of the Municipality, and
 - (ii) may not be withheld from public scrutiny except as provided for in terms of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000).
- (11) Non-exempted capital assets not transferred or disposed of in terms of this policy
 - (a) Housing schemes. This policy is not applicable to housing schemes and disposals for the plight of the poor.
 - (b) Public private partnerships: The transfer and disposal of non-exempted capital assets emanating from public private partnership agreements should be done in terms of section 14 of the MFMA read with the Municipal Public Partnership Regulations promulgated in terms of the said Act

14.4 DISPOSAL OF REDUNDANT AND OBSOLETE GOODS, STOCK AND MATERIALS

- (1) Goods and stock do not meet the requirements of capital assets, as they cannot continuously and repeatedly be used for a period of more than one year in the production or supply of goods and services or for administrative purposes, or for rental to others and future economic and social benefit cannot be derived from them
- (2) Redundant and obsolete stock must be reported to the CFO on a quarterly basis, including the values of the said stock and the reasons why it has become redundant or obsolete.
- (3) All determinations with regard to the advertising and selling or destruction of movable assets set out in this policy are mutatis mutandis applicable to the disposal of redundant and obsolete stock that has been written off by the CFO in terms of the relevant delegation

15 RISK MANAGEMENT

- (1) The risk management system of the Municipality provides for an effective system to identify, consider and avoid potential risks in the Supply Chain Management System
- (2) The management of risks pertaining to supply chain management must always comply with the criteria laid down in the Risk Management Policy of the Municipality.
- (3) Managing risk must be part of the philosophy, practices and business plans of the Municipality and should not be viewed and practiced as a

separate activity in isolation but must be integrated in the systems and functions of the Municipality. Risk management is an integral part of good management of acquisition activities and cannot be effectively performed in isolation from other aspects of acquisition management.

- (4) Risk management includes, but is not limited to:
 - (a) *early and systematic identification of risks on a case-by-case basis, analysis and assessment of risk, including conflicts of interest and the development of plans for handling the same,*
 - (b) *the allocation and acceptance of the responsibility of risk to the party best suited and placed to manage such risk;*
 - (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 risk in a pro-active manner and the provision of adequate cover for residual risk,*
 - (e) *the assignment of relative risk to the contracting parties through clear and unambiguous contract documentation,*
 - (f) *ensuring that the costs incurred in managing risk are commensurate with the importance of the purchase and the risk to the operations of the Municipality; and*
 - (g) *taking appropriate professional advice from the appropriate officials or service providers to identify appropriate processes, procedures, outcomes, controls and other pertinent factors prior to undertaking activities with high levels of risk.*
- (5) The risk management process must be applied to all stages of supply chain management, be it the conceptual stage, project definition, specification preparation, acquisition approval or implementation to completion.

- (6) Appropriate risk management conditions must therefore be incorporated in contracts and monitored

16 PERFORMANCE MANAGEMENT

- (1) The performance management system of the Municipality provides for an effective internal monitoring system to determine, based on a retrospective analysis, whether the authorised supply chain management processes are being, or were followed, and whether the desired objectives of this policy are being or were achieved
- (2) The Municipal Manager must establish and implement the system contemplated in sub-paragraph (1) above.
- (3) Performance management must contain a monitoring process together with a process of retrospective analysis to determine whether:
 - (a) value for money has been attained;
 - (b) proper processes have been followed,
 - (c) desired objectives have been achieved,
 - (d) there is an opportunity to improve the process and limit similar risk in future;
 - (e) suppliers have been assessed and the results of the assessment; and
 - (f) there has been deviation from procedures and, if so, what the reasons for such deviation are.
- (4) The performance management system must accordingly focus on, amongst other outcomes, the.
 - (a) achievement of goals;

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

CHAPTER 3
OTHER MATTERS

17. PROHIBITION ON AWARDS TO PERSONS WHOSE/WHICH TAX MATTERS ARE NOT IN ORDER

(1) The Municipality may not under any circumstances, irrespective of the procurement process followed, make an award above R15000.00 to any person or entity whose/which tax matters have not been declared to be in order by The South African Revenue Services.

(2) Before making an award to a person or entity, the Municipality must first check with the South African Revenue Services whether that person's or entities' tax matters are in order.

- (3) If the South African Revenue Services does not respond within 7 (seven) days such person's or entities' tax matters may for purposes of sub-paragraph (1) above, be presumed to be in order.

18. PROHIBITION ON AWARDS TO PERSONS IN THE SERVICE OF THE STATE

The Municipality may not under any circumstances, irrespective of the procurement process followed, make an award to a person or entity:

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

19. AWARDS TO CLOSE FAMILY MEMBERS OF PERSONS IN THE SERVICE OF THE STATE

The Municipal Manager must ensure that the notes to the annual financial statements of the Municipality disclose the particulars of any award of more than R2 000 00 to a person who is a spouse, child or parent of a person in the service of the state, or who has been in the service of the state in the previous 12 (twelve) months, including.

- (a) the name of that person,
- (b) the capacity in which that person is or was in the service of the state, and
- (c) the amount of the award.

20. CODE OF ETHICAL STANDARDS

- (1) In addition to this code of ethical standards, the codes of conduct for councillors and municipal staff members as set out in Schedule 1 and Schedule 2 to the MSA shall apply in the implementation of this policy.

(2) The code of ethical standards for officials and all other role-players in the Supply Chain Management System which is established hereby seeks to promote:

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

(3) An official and/or other role-player involved in the implementation of this 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 more than R350 00 in value,
- (d) notwithstanding sub-paragraph(c) above, must declare to the Municipal Manager details of any reward, gift, favour, hospitality or other benefit promised, offered or granted to that person or to any close family member, partner or associate of that person,
- (e) must declare to the Municipal Manager details of any private or business interest which that person, or any close family member, partner or associate, may have in any proposed procurement or disposal process of, or in any award of a contract by the Municipality;
- (f) must immediately withdraw from participating in any manner whatsoever in a procurement or disposal process or in the award of a contract in which that person, or any close family member, partner or associate, has any private or business interest,
- (g) must be scrupulous in his or her use of property belonging to the Municipality,

- (h) must assist the Municipal Manager in combating fraud, corruption, favouritism, unfair and irregular practices in the Supply Chain Management System; and
- (i) must report to the Municipal Manager any alleged irregular conduct in the Supply Chain Management System which that person may become aware of, including:
 - (i) any alleged fraud, corruption, favouritism or unfair conduct;
 - (ii) any alleged contravention of Regulation 47 of the SCMR, or
 - (iii) any alleged each of the code of ethical standards.
- (4) All declarations in terms of sub-paragraph 20(3)(d) and 20(3)(e) above, must be recorded by the Municipal Manager in a register which the Municipal Manager must keep for this purpose
- (5) All declarations by the Municipal Manager must be made to the Executive Mayor of the Municipality, who must ensure that such declarations are recorded in the register
- (6) The Municipal Manager is responsible to ensure that appropriate steps are taken against any official or other role-player who commits a breach of any provision of this code of ethical standards, and Council must ensure that the same measures are enforced where a breach has been committed by the Municipal Manager
- (7) A breach of the code of ethical standards and any adopted code/s of conduct must be dealt with in accordance with Schedule 1 or Schedule 2 of the MSA, depending upon the circumstances, or the Disciplinary Regulations
- (8) This Municipal Manager must, in his/her implementation of this policy, consider, adopt and apply the National Treasury's Code of Conduct for Supply Chain

Management Practitioners (Practise Note SCM 4 of 2003). This code of conduct is binding on all officials and other role-players involved in the implementation of this policy and a copy thereof is available on the website www.treasury.gov.za/mfma located under "legislation".

20.1 Inducements, rewards, gifts and favours to the Municipality, its officials and/or other role-players

- (1) No person who is a provider or prospective provider of goods and/or services to the Municipality, or a recipient or prospective recipient of goods disposed or to be disposed of by the Municipality, may either directly or through a representative or intermediary promise, offer or grant:
 - (a) any inducement or reward to the Municipality for or in connection with the award of a contract; or
 - (b) any reward, gift, favour or hospitality to any official of the Municipality or any other role-player involved in the implementation of this policy of the Municipality.
- (2) The Municipal Manager of the Municipality must promptly report any alleged contravention of sub-paragraph (1) above 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-paragraph (1) above does not apply to gifts less than R350.00 in value
- (4) The Municipal Manager must, on becoming aware that any reasonably suspected crime has been committed involving any procurement or disposal process or contract, report same to the SAPS, Council and the Provincial and

National Treasuries. The Municipality may help the SAPS and the National Prosecuting Authorities to ensure the effective prosecution of wrongdoers.

- (5) The Municipality has a "zero tolerance" approach to criminal wrongdoing.

20.2 Sponsorships

The Municipal Manager of the Municipality must promptly disclose to the National Treasury and the relevant Provincial Treasury any sponsorship promised, offered or granted to the Municipality or any of its officials, whether directly or through a representative or intermediary, by any person who is.

- (a) a provider or prospective provider of goods and/or services to the Municipality, or
- (b) a recipient or prospective recipient of goods disposed or to be disposed of by the Municipality.

20.3 Objections and complaints

Persons aggrieved by decisions or actions taken by the Municipality in the implementation of this policy, may lodge within 14 (fourteen) days of the decision or action, a written objection or complaint against the decision or action

20.4 Resolution of disputes, objections, complaints and queries

- (1) The Municipal Manager must appoint an independent and impartial person not directly involved in the supply chain management processes of the Municipality.
 - (a) to assist in the resolution of disputes between the Municipality and other persons regarding

- (i) any decisions or actions taken by the Municipality in the implementation of its Supply Chain Management System; or
- (ii) any matter arising from a contract awarded during its Supply Chain Management System, or
- (b) to deal with objections, complaints or queries regarding any such decisions or actions or any matters arising from such contract.

- (2) The Municipal Manager, or another official designated by the Municipal Manager, is responsible for assisting the appointed person to perform his or her functions effectively.

- (3) The person appointed by the Municipal Manager in terms of sub-paragraph (1) above must:
 - (a) strive to resolve promptly all disputes, objections, complaints or queries received, and
 - (b) submit monthly reports to the Municipal Manager on all disputes, objections, complaints or queries received, attended to or resolved.

- (4) A dispute, objection, complaint or query may be referred to the relevant Provincial Treasury if:
 - (a) the dispute, objection, complaint or query is not resolved within 60 (sixty) days; or
 - (b) no response is received from the Municipality within 60 (sixty) days

- (5) If the Provincial Treasury does not or cannot resolve the matter, the dispute, objection, complaint or query may be referred to the National Treasury for resolution

- (6) This paragraph must not be read as affecting a person's rights to approach a court at any time

20.5 Contracts providing for compensation based on turnover

Where 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.

21 CESSION

The Municipal Manager or a delegated authority may allow cessions for the purpose of supplier/contractor development without putting Rustenburg Local Municipality at higher risk. Such conditions are subject to standard terms and conditions of contracts.

Cessions may include the following:

21.1 SUPPLIER-TO-SUPPLIER COMPANY BASED ON A VALID AGREEMENT

This is where company A decides to give between 25 and 45% of its work to a competent company based on certain changes (financial or capacity-wise) after the award. The company may decide to cede its portion of the work based on a written cession agreement. The company is also required to notify Rustenburg Local Municipality and explain the rationale behind such a move.

21.2 CESSION BASED ON MATERIAL SUPPLIES

Based on lack of finance, the company that was awarded the bid may cede the entire or part of its payment to suppliers who will claim 'from his/her payment certificate. In this case, Rustenburg Local Municipality may pay the suppliers directly or accept a formal agreement between the suppliers and contractors' payment conditions until the end of the contract

21.3 CESSION BASED ON ACCESS TO FINANCE

This shall also include cases where a financial company pays the supplier/contractor in advance and later claims on the contractor's certificate. The bank may want a contractor to cede a certain portion of the contract to it as part of risk management. If that becomes the case, Rustenburg Local Municipality needs to be aware of such an arrangement and make its own analysis of the risks involved.

21.4 CESSION BASED ON INSURANCE

The same may apply to insurance companies before they award insurance affecting cessions based on access to finance.

21.5 CESSIONS BASED ON CAPACITY

A company may obtain extra capacity owing to lack of skills within the company and allow a skilled company to take over part or a larger part of its work not more than 40%, based on an agreed cession without promoting fronting.

22 SUPPLIER DEVELOPMENT PROGRAMME

- (1) The objective of this programme is to help increase the capacity and capability of all suppliers doing business with the Rustenburg Local Municipality. Capacitate the suppliers on sustainable procurement requirements/practices and also promote BEE-related entrepreneurial development.

The E-Procurement Database Categories businesses in the following manner:

- (a) women-owned businesses
- (b) youth-owned businesses
- (c) businesses owned by people with disability
- (d) SMME-owned businesses.
- (e) Military veterans- owned businesses
- (2) The mechanism in supporting this programme will include.
 - (a) tender accessibility - to reach all suppliers from all sectors of society by advertising through the E-Procurement, National Treasury e-tender portal and appropriate media.
 - (b) early payment - Council shall, upon receipt of all relevant documentation, pay small and micro-suppliers within 15 days whenever possible
 - (c) financial and non-financial support - assist small and micro-suppliers to expand capacity through. tendering advice, business training, access to procurement opportunities and contract guarantees.

23. CONTRACT TERMINATION

- (1) A contract may be terminated for many reasons, including a breach of contract, a legal dispute, supplier reconsideration, change of a supplier, etc. A contract may only be terminated strictly in accordance with the termination clauses and reasons for termination as contained in the contract
- (2) Before a contract is terminated, all risks need to be assessed in terms of the supply of the assets, goods or services, including legal risks, operational risks and financial risks. The Municipality Legal Department must get involved so as to determine the risk to the Municipality in terminating the contract, and how the Municipality's legal risk position will change, as a result of giving effect to a termination. The termination process and associated conditions thereof are described in the contract conditions. The payment to be settled between the

parties differs depending on whether the Municipality terminates the contract, or the supplier terminates the contract. It is of utmost importance that the Municipality Treasury Section is informed of any terminations in cases where there is FOREX involved with forward cover taken out. The contract file must be updated with all correspondence between the Municipality and the Supplier for audit purposes and/or in the event of legal issues.

36. EMERGENCY PROCUREMENT

- (1) In emergency cases, an institution may dispense with the invitation of bids and may obtain the required goods, works or services by preferably making use of the database of prospective suppliers, or otherwise in any manner to the best interest of the Rustenburg Local Municipality
- (2) Emergency 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 emergency case.)
- (3) *In the case of an emergency, where a deviation from the procurement processes is necessary, or in any other exceptional case where it is impractical or impossible to follow the official procurement processes; this policy will allow the Accounting Officer.*
 - (a) to dispense with the official procurement processes established by the policy and to procure any required goods or services through any convenient process, which may include negotiations; and
 - (b) to ratify or rectify 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
 - (c) *Appropriate authorisation must immediately be sought before work can commence.*
 - (d) Relevant approval documentation, including must be completed within 48 hours and submitted for FINAL ratification.

- (4) The Accounting Officer must record the reasons for any such deviation envisioned in sub-paragraph (1) above, and report them to the next meeting of the council or board of directors in the case of a municipal entity; as well as, include a note to the annual financial statements.
- (5) Sub-paragraph (2) does not apply to the procurement of goods and services contemplated in section 110(2) of the Act.

37 SOLE SOURCE

- (1) Where, as a result of proven in-depth market analysis, only one supplier in the market has been identified as being capable or available to supply the assets, goods or services in the existing circumstances, it may then become necessary to deviate from competitive tendering and follow the sole source process
- (2) Alternatively, the Sole Source Justification Form can be used to identify a supplier as a general sole source for a specified category of assets, goods or services to the Municipality for a maximum period of 1 year. In this case, the approval for the appointment of the supplier as a general sole source supplier for the identified category of supply /services needs to be obtained from the BAC, as this is considered to be a "blanket" approval with no specific value attached to the total number of orders / contracts to be placed with the supplier over the specified 1-year period. Suppliers falling into this category are generally OEM's. Once the "blanket" approval has been granted by the BAC to categorise the supplier as a general sole source for the category of supply /services, a Sole Source Justification Form will not be required for every order /contract placed with the supplier within the validity period of the "blanket approval" A list of these suppliers with their approved Sole Source Justification Forms, and corresponding validity periods, will be stored on the Documentation Management System for accessibility to all Supply Chain Management Officials
- (3) The management of sole suppliers is an important part of ensuring fairness, equitability, transparency, competitiveness and cost-effectiveness

- (4) *It is unacceptable for an End-User to refuse to use alternatives to a preferred supplier/brand where there is no valid technical or business case for such a decision*
- (5) Supply Chain Management Officials and End-Users are not permitted to negotiate without prior tendering in order to avoid competition, to discriminate against certain suppliers or groups of suppliers, or to give unwarranted protection to selected suppliers.
- (6) Sole Source Justification Forms will not be required in the case of negotiation with an Internal Supplier, or where the request for mandated negotiations is with two suppliers, which precludes execution of a competitive tender.
- (7) *It is furthermore a material breach of this policy for any employee to engage in negotiations with a supplier without an approved mandate to negotiate, or to participate in any negotiation on their own.*
- (8) There are a number of ways in which a supplier may be justified as a sole source.
 - (a) True Sole Source (Monopoly)

Assets, goods or services can be supplied only by a particular supplier and no reasonable alternative or substitute exists such as reasons connected with intellectual property rights (e.g. patents or copyrights), or in the absence of competition

Thorough market research must be done to ensure that a true monopoly exists both in the local, national and international markets. In the longer term, the Municipality should consider alternatives or try to encourage development of competition.
 - (b) Installed Base [Original Equipment Manufacturer (OEM)]

A change of supplier would compel the Municipality to obtain spare parts or additional assets, goods or services that are not compatible or interchangeable with existing assets, goods or services that were obtained from an original supplier. Spares can only be bought from the OEM, unless risk analysis shows

that the use of parts from alternative manufacturers is feasible, and this has been confirmed in writing by the applicable technical experts.

The implications of installed base should be factored into procurement decisions, based on the initial Total Cost of Ownership analysis which has been confirmed in writing by the applicable technical experts.

(c) Incompatible Material

Changing the source or type of materials, such as chemicals, lubricants or fuels, would necessitate the complete exchange of material due to incompatibility of material from different sources

The Supply Chain Management Official, together with the End-User, may conduct a market analysis and apply a Total Cost of Ownership model to establish whether the complete change of material, "flush-out" and opportunity costs will be beneficial over time.

(d) Established (On-site) Supplier

At times, additional works or services, not forming part of the initial contract, become necessary in order to complete the plant, system or structure. If separating the additional works / services from the original contract will be difficult for technical or economic reasons and/or the separation will cause significant cost or time constraints to the Municipality, a valid sole source motivation exists.

The Supply Chain Management Official together with the End-User must do a formal cost/benefit analysis to establish whether it is more cost-effective to continue with the established supplier, or whether to request competitive tenders/ proposals. This must form part of the motivation for the use of the supplier as a sole source. If negotiation only with the established supplier is envisaged, the negotiations must be based on a best estimate of the cost of the

works / services excluding site establishment costs and a properly motivated request for a mandate to negotiate must be presented to the BAC.

- (9) The following steps must be followed when a sole source supplier is identified:
- (a) The Head of Supply Chain Management, in developing the commercial strategy, arrives at the conclusion /deduction that a sole source supplier situation exists.
 - (b) The strategy indicating a sole source supplier situation must be compiled on the Commercial Strategy Approval template and approved by the Head of Supply Chain Management or delegated Official within Supply Chain Management and End User based on the strategy.
 - (c) Where the sole source is an OEM or a sole distributor of the OEM, who provides spare parts to the Municipality, the BAC must determine whether to proceed directly to negotiations or whether to follow an enquiry process. It is not permissible to request a quotation /proposal from a sole source supplier without first presenting the mandate request to the BAC, as Municipality employees (including Supply Chain Management Officials) are not permitted to engage with suppliers in negotiations without a formal mandate from an BAC.
 - (d) After approval of the commercial strategy, the Supply Chain Management Official together with the BEC, must complete a Commercial Transaction Approval Form requesting a mandate to negotiate from the BAC. The approval of the commercial strategy and the request for a mandate to negotiate may be handled together by the BAC
 - (e) A formal supporting motivation for the use of the supplier as a sole source must be provided by the End-User and approved by his/her

designated Official in their department, who is responsible for the technical and operational integrity of the assets, goods or services required. This motivation is set out within a Sole Source Justification Form which must be duly signed and validated by all required signatories and which must accompany the Commercial Transaction Approval Form for approval by the BAC.

- (f) Prior research into the prices needs to be conducted by the Supply Chain Management Official in order to determine a real and aspiration base for negotiations on price, and any other parameters which may become a negotiation objective, forming part of the mandate request.
- (g) The SCM Official and End-User, together with BSC may present the Commercial Transaction Approval Form, together with the signed Sole Source Justification Form to the BAC for approval
- (h) Once the mandate is approved, the Supply Chain Management Official either proceeds directly with negotiations or prepares a RFQ /RFP, based on the approved mandate, and in consultation with the BSC, and then issues the enquiry to the sole supplier for a quote/proposal. The offer /quotation is requested and submitted in the same way as for an informal tender amounting up to R200,000, and processed in the same way as a formal tender if greater than R200,000. The Supply Chain Management Official then develops and plans their strategy for negotiation based on the Supplier's proposal / quotation.
- (i) In order to proceed with negotiations, the Supply Chain Management Official arranges a venue, invites the relevant supplier and the negotiation team as per the approved mandate, formulates an agenda and ensures that minutes of the negotiations are recorded in writing
- (j) The lead negotiator, as assigned by the BAC granting the mandate, will lead the negotiations and ensure that all mandated parameters are discussed and agreed upon. After each session of negotiations, the

supplier and the Municipality sign off on the recorded minutes, as proof of what has been agreed upon and what remains outstanding for resolution.

- (k) Should negotiations not transpire as per the negotiation strategy or where negotiations result in failing to achieve the required mandate, the lead negotiator must seek advice from the assigned negotiation controller who must advise and direct the negotiation team toward resolution of the issues or toward an alternative negotiation strategy.
- (l) If the outcome of the negotiations is within the ambit of the approved mandate parameters, the Supply Chain Management Official submits feedback from the negotiations against the relevant section of the Commercial Transaction Approval Form to the BAC outlining the results of the negotiations against the mandate parameters.
- (m) If the outcome of negotiations is outside the mandated parameters, the Supply Chain Management Official in consultation with the negotiation team /BEC may request an approval of a negotiated outcome, a revised mandate or may request cancellation of the transaction from the BAC
- (n) Where the BAC grants approval to proceed with contract finalisation, the Supply Chain Management Official in consultation with the BEC prepares the contract documents and arranges for the signing thereof.
- (o) The SCM Official ensures that all relevant documents are filed for audit purposes.

38 PILOT / INNOVATIVE PROJECTS

- (1) A bid for a pilot project is considered to be a bid that is received outside the normal bidding process.

- (2) The Rustenburg Local Municipality is not obliged to accept a bid received to initiate a pilot project
- (3) If the Rustenburg Local Municipality decides to consider such a bid, it may do so only in accordance with a prescribed framework.
- (4) In the case of such, a pilot project being approved by the Accounting Officer and initiated on behalf of Rustenburg Local Municipality, the policy will only allow the pilot project to proceed, if the pilot project:
 - (a) offering the proposed product or service is a demonstrably or proven unique innovative concept for the Rustenburg Local Municipality,
 - (b) offering the proposed product or service will be exceptionally beneficial to Rustenburg Local Municipality;
 - (c) will be at no cost to the Rustenburg Local Municipality;
 - (d) there must be demonstrable benefits that accrue to the Municipality
 - (e) has a sound and approved business case which has been reviewed by the BAC, and
- (f) has an end user(s) which has/have accepted and remain liable and responsible for the project management plan, roll-out and deployment.
- (5) The pilot project may not exceed a life-span of twelve (12) months and once this life-span has come to an end
- (6) There would be no expectation that the Municipality will automatically award to prospective supplier.
- (7) The project must be advertised on an open tender and follow all policy processes and procedures in doing so.
- (8) In instances where such project will be acquired the normal procurement process will be followed.

CHAPTER 4

COMBATING ABUSE OF THE SUPPLY CHAIN MANAGEMENT SYSTEM

27. COMBATING OF ABUSE OF THE SUPPLY CHAIN MANAGEMENT SYSTEM

- (1) The terms of reference of this paragraph of this policy ensure compliance with Regulation 38 of the SCMR.

- (2) The Municipal Manager shall take all reasonable steps to prevent abuse of the Supply Chain Management System and to investigate any allegations of improper conduct against the concerned official, councillor, or other role player and when justified may
 - (a) take, or ensure that appropriate steps are taken, against such official, councillor or other role player; and/or
 - (b) inform the Speaker of any allegations against any councillor involved in contraventions of the Supply Chain Management System, and/or
 - (c) report any alleged criminal conduct to the South African Police Service and/or other recognised state authority dealing with criminal investigations.

- (2) The steps referred to in sub-paragraph (2) above which the Municipal Manager may take include registering the affected person in the Municipality's Register of Tender and Contract Defaulters as well as:
 - (a) rejection or withdrawal of recommendations, or invalidation of decisions that were unlawfully or improperly made or influenced, including recommendations or decisions that were made or in any way influenced by

- (i) councillors in contravention of item 5, 6 or 9 of the Code of Conduct for Councillors set out in Schedule 1 of the MSA; or
 - (ii) municipal staff members in contravention of item 4, 5 or 8 of the Code of Conduct for Municipal Staff Members set out in Schedule 2 of the MSA,
 - (vii) the unlawful or improper conduct of a bidder or its representatives in competing for the contract,
- (b) rejection of the bid of an affected person if that person or any of its representatives (including partners, directors of members).
- (i) has failed to pay municipal rates and taxes or municipal service charges and such rates, taxes and charges are in arrears for a period longer than 3 (three) months, as at the date of the submission of the bid;
 - (ii) has abused the Supply Chain Management System or has committed any improper conduct in relation to the Supply Chain Management System,
 - (iii) has been convicted of fraud or corruption during the 5 (five) year period immediately preceding the invitation of bid in question;
 - (iv) is listed

- (aa) in the Register for Tender and or Contract Defaulters in terms of the provisions of section 29 of the Prevention and Combating of Corrupt Activities Act;
 - (bb) on the National Treasury's database as a person prohibited from doing business with the public sector or;
 - (cc) on the Municipality's Register of Tender and Contract Defaulters.
 - (v) who, during the last 5 (five) year period immediately preceding the invitation of the bid in question, failed to perform satisfactorily on a previous or current contract with the Municipality or other organ of state after written notice was given to the affected person that such person's performance was unsatisfactory; and/or
 - (vi) wilfully neglected and/or breached any government, municipal or other public-sector contract during the 5 (five) year period immediately preceding the invitation of the bid in question,
- (c) cancellation of a contract awarded to a person if that person
- (i) committed a fraudulent act during the procurement process or the execution of the contract,
 - (ii) incited or participated in any corrupt or fraudulent act, by an official, councillor or other role-player during the procurement process or in the execution of that contract and the person who committed the corrupt or fraudulent act benefited there from.

27.1 Municipality's register of tender and contract defaulters

- (1) The Municipal Manager shall, subject to the procedures prescribed in this policy, be entitled to list a person or any of its representatives, where applicable, on the Municipality's Register of Tender and Contract Defaulters for a period not exceeding 5 (five) years in any of the circumstances listed in terms of this policy.
- (2) In the circumstances referred to in paragraph 21(3)(c)(i) and 21(3)(c)(ii) above, the person convicted of the relevant offence shall automatically also be listed on the Municipality's Register of Tender Contract Defaulters by the Municipal Manager.
- (3) In circumstances where a preference in terms of the PPPFA has been obtained on a fraudulent basis or any specific goals are not attained in the performance of the contract, the affected person may be listed on the Municipality's Register of Tender and Contract Defaulters for a period not exceeding 10 (ten) years.
- (4) Any listing in terms of paragraph 21(3) above shall, at the discretion of the Municipal Manager, also be applicable to any other enterprise or any partner, manager, director or other person who wholly or partly exercises or exercised or may exercise control over the enterprise of the first mentioned person, and with which enterprise or person the first-mentioned person, is, or was, in the opinion of the Municipal Manager, actively associated.
- (5) A person who has been listed on the Municipality's Register of Tender and Contract Defaulters shall not be entitled to be awarded any contract by the Municipality for the duration of the period reflected on such register.

- (6) The Municipal Manager may, on worthy cause shown, remove a person from the Municipality's Register of Tender Contract Defaulters or reduce the period for which a person is prohibited from being awarded any contract by the Municipality. The reasons therefor shall be disclosed at the next opportunity to Council

27.2 Automatic rejection of bid

The Municipal Manager may, after written verification with a person, automatically reject the bid of such a person if the person:

- (a) has been convicted of fraud or corruption during the past 5 (five) year period immediately preceding the invitation of the bid in question, and/or
- (b) is listed on the
 - (i) Register for Tender Defaulters in terms of the provisions of section 29 of the Prevention and Combating of Corrupt Activities Act;
 - (ii) National Treasury's database as a person prohibited from doing business with the public sector, and/or
 - (iii) Municipality's Register of Tender and Contract Defaulters.

27.3 Adequate notice of manner of abuse of Supply Chain Management System

- (1) Once the Municipality has obtained *prima facie* evidence which it deems to be sufficient to initiate proceedings to take steps against the affected person as contemplated in paragraph 21(2) and 21(3) of this policy, the Municipality must give the affected person adequate written notice of the way it is alleged that the affected person abused the Supply Chain Management System

- (2) In order to constitute adequate notice of the way it is alleged that the affected person abused the Supply Chain Management System the notice must:
- (a) outline the grounds on which it is alleged that the affected person abused the Supply Chain Management System, with sufficient particulars to enable the affected person to respond to the allegations stipulated in the notice;
 - (b) refer to the applicable provisions of this policy in terms of which steps may be taken in the event where it is proved that the affected person abused the Supply Chain Management System;
 - (c) stipulate that the affected person must make written representations in response to such allegations of abuse of the Supply Chain Management System within 14(fourteen) calendar days of the date when the notice was served by a duly authorised person, acting on behalf of the Municipality, on the affected person,
 - (d) state that written submissions received after the due date for such submissions shall be disregarded, unless worthy cause is shown by way of a request for condonation for the late lodgement of the submissions and only when the condonation would not lead to unnecessary delays or otherwise prejudice the public interest,
 - (e) state the name, official title, postal address, street address, telephone number of the official of the Municipality to whom written submissions or any correspondence in terms of this policy must be sent

27.4 Right of access to information

- (1) When furnishing the affected person with the notice referred to in paragraph 21.3 above, the Municipality shall furnish the affected person with access to all documents upon which the Municipality relies in respect of the allegations against the affected person.

- (2) The affected person shall be furnished by the Municipality with any such additional information as the affected person is entitled to in terms of PAIA on the same terms provided therein.
- (3) Where further information is requested, the Municipality may, in its sole discretion and upon a written request to do so, appropriately extend the period contemplated in paragraph 21.3(2)(c) so that the affected person is granted adequate time to consider any information provided pursuant to such request prior to the due date for such submissions

27.5 Administration of hearings

- (1) The Municipal Manager shall appoint an independent and impartial person, who may be an official of the Municipality, to preside and adjudicate on allegations of abuse of the Supply Chain Management System against an affected person.
- (2) The Presiding Officer will adjudicate on the matter based on the written notice and written response and will inform all relevant parties accordingly should the matter, or part thereof be referred for an oral hearing.

27.6 Right to be heard

- (1) An affected person shall, in accordance with and subject to, the procedures in terms of this policy, be granted the right to be heard upon receiving notice as contemplated in terms of paragraph 21.3 above, and prior to the Municipal Manager taking any of the steps listed in paragraph 21(2) and 21(3) above

27.7 Oral hearings

- (1) An affected person does not have an automatic right to an oral hearing but may apply to the presiding officer to have the matter set down for an oral hearing in instances where the presiding officer decided to entertain the matter without oral evidence being heard, or not to refer the matter for an oral hearing.
- (2) The presiding officer may grant such an opportunity in its discretion where the affected person has provided sufficient grounds to the presiding officer to refer the matter for an oral hearing
- (3) The presiding officer shall take any relevant factor into account when deciding whether or not to grant an application referred to in sub-paragraph (2) above by an affected person.
- (4) The presiding officer must ensure that notice of an oral hearing shall be served by a duly authorised person on all relevant parties within 7 (seven) days of receipt of their presentations referred to in paragraph 21.3(2)(c) above, and must:
 - (a) set the date of the oral hearing,
 - (b) inform the affected person of their right to legal representation, and
 - (c) include any other information which the presiding officer may deem relevant or necessary to be included in the notice
- (5) The Municipality must be appropriately represented at these hearings by a natural person to lead the evidence against the affected person.

27.8 Procedure at oral hearing

- (1) The procedure to be followed at an oral hearing shall be determined by the presiding officer
- (2) Witnesses must testify under oath
- (3) Affected person(s) or their representatives shall have the right to present their case and to cross-examine any witnesses who testify at the hearing.
- (4) Witnesses called by the affected person(s) shall be subjected to cross-examination by any party who may have an interest at the hearing

27.9 Onus of proof

The onus is on the Municipality to prove any allegations of abuse of the Supply Chain Management System *which proof shall be on a balance of probabilities*

27.10 Right to legal representation

An affected person shall have a right to legal representation.

27.11 Right to request reasons

An affected person shall be informed of the right to request written reasons in terms of the provisions of section 5 of PAIA in respect of any decision taken by the Municipality in terms of this policy.

27.12 Criminal proceedings

The Municipal Manager shall institute criminal proceedings where there is *prima facie* proof of abuse of the Supply Chain Management System that constitutes a criminal offence of corruption or fraud.

27.13 Informing Provincial and National Treasury

The Municipal Manager must inform the Provincial and National Treasury of any actions taken in terms of this paragraph.

CHAPTER5

PREFERENTIAL PROCUREMENT

28. PLANNING AND STIPULATION OF PREFERENCE POINT SYSTEM TO BE UTILISED

The Municipality must, prior to making an invitation for bidders.

- (1) properly plan for, and, as far as possible, accurately estimate the costs of the provision of goods and/or services for which an invitation for bids is to be made,
- (2) *determine and stipulate the appropriate preference point system to be utilised in the evaluation and adjudication of the bids; and*
- (3) determine whether the goods and/or services for which an invitation for bids is to be made have been designated for local production and content in terms of paragraph34 below.

29. EVALUATION OF BIDDERS ON FUNCTIONALITY

- (1) The Municipality must indicate in the invitation to submit a bid if such a bid will *be evaluated for functionality*
- (2) *The evaluation criteria for measuring functionality must be objective and clearly stated.*
- (3) When evaluating bids on functionality, the:
 - (a) evaluation criteria for measuring functionality;
 - (b) weight of each criterion,
 - (c) applicable values, and

- (d) minimum qualifying score for functionality, may not be so-
- low that it may jeopardize the quality of the required goods or services, or
 - high that it is unreasonably restrictive.

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

- (e) The above criteria must be clearly specified in the invitation to submit a bid

- (4) No bid must be regarded as an acceptable bid if such bid fails to achieve the minimum qualifying score for functionality as indicated in the bid invitation
- (5) Bids which have achieved the minimum qualification score for functionality must be evaluated further in terms of the preference point system prescribed in paragraphs 30 and 31 below
- (6) Score sheets should be signed by the panel members and if necessary written motivation may be requested from the panel members where there are vast discrepancies in the values awarded to each for each criterion or the committee can do the functionality together to avoid discrepancies and enhance objectivity

30. THE 80/20 PREFERENCE POINT SYSTEM FOR THE ACQUISITION OF GOODS AND/OR SERVICES UP TO A RAND VALUE OF R50 MILLION

- (1) (a) The following formula must be utilised to calculate the points for price in respect of bids (including price quotations) with a rand value equal to, or above R30 000.00 and up to a rand value of R50 million (all applicable taxes included):

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

Where.

P_s = Points scored for comparative price of bid or offer under consideration,

P_t = Comparative price of bid or offer under consideration, and

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

- (b) The Municipality may apply the formula in sub-paragraph (1)(a) above for price quotations with a value less than R30 000 00, where and when appropriate.

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

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

- (3) A tenderer must submit proof of its B-BBEE status level of contributor.

- (4) A tenderer failing to submit proof of B-BBEE status level of contributor or

is a non-compliant contributor to B-BBEE may not be disqualified, but-

- (a) may only score points out of 80 for price; and
- (b) scores 0 points out of 20 for B-BBEE.

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

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

31. THE 90/10 PREFERENCE POINT SYSTEM FOR THE ACQUISITION OF GOODS AND/OR SERVICES WITH A RAND VALUE ABOVE R50 MILLION

- (1) The following formula must be utilised to calculate the points for price in respect of bids with a rand value above R50 million (all applicable taxes included).

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

Where,

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

Pt = Comparative price of bid or offer under consideration; and

Pmin = Comparative price of lowest acceptable bid of offer

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

B-BBEE Status Level of Contributor	Number of Points
1	10
2	9

3	8
4	5
5	4
6	3
7	2
8	1
Non-compliant contributor	0

- (3) A tenderer must submit proof of its B-BBEE status level of contributor.
- (4) A tenderer failing to submit proof of B-BBEE status level of contribution or is a non-compliant contributor to B-BBEE may not be disqualified, but-
- (a) may only score points out of 90 for price, and
 - (b) scores 0 points out of 10 for B-BBEE.
- (5) A tenderer may not be awarded points for B-BBEE status level of contributor if the tender documents indicate that the tenderer intends subcontracting more than 25% of the value of the contract to any other person not qualifying for at least the points that the tenderer qualifies for, unless the intended subcontractor is an EME that has the capability to execute the subcontract
- (6) The points scored by a tenderer for B-BBEE contribution in terms of sub regulation (2) must be added to the points scored for price under sub regulation (1).
- (7) The points scored must be rounded off to the nearest two decimal places.

- (8) Subject to sub regulation (9) and regulation 11, the contract must be awarded to the tenderer scoring the highest points.
- (9) (a) If the price offered by a tenderer scoring the highest points is not market related, the organ of state may not award the contract to that tenderer
- (b) The organs of state may-
 - (i) negotiate a market-related price with the tenderer scoring the highest points or cancel the tender,
 - (ii) if the tenderer does not agree to a market-related price,

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

32. AWARD OF CONTRACTS TO BIDDERS NOT SCORING THE HIGHEST NUMBER OF POINTS

A contract may be awarded to a bidder who/which did not score the highest total number of points, but only if objective criteria in addition to those contemplated in section 2(1)(d) and section 2(1)(e) of the PPPFA justify the award to another tenderer

33. CANCELLATION AND RE-INVITATION OF BIDS

- (1)
 - (a) When, in the application of the 80/20 preference point system as stipulated in the bid documents, **all** bids received exceed the estimated rand value of R1 million, the bid invitation must be cancelled
 - (b) Where 1 (one) or more of the acceptable bids received are within the prescribed threshold of R1 million, all bids received must be evaluated on the 80/20 preference point system
- (2)
 - (a) When, in the application of the 90/10 preference point system as stipulated in the bid documents, **all** bids received are equal to, or below R1 million, the bid must be cancelled
 - (b) Where 1 (one) or more of the acceptable bids received are above the prescribed threshold of R1 million, all bids received must be evaluated on the 90/10 preference point system.
- (3) Where the Municipality cancels a bid invitation as contemplated in sub-paragraphs (1) and (2) above, the Municipality must re-invite bidders and must stipulate in the bid documents the correct preference point system to be applied.
- (4) The Municipality may, prior to the award of a bid, cancel such a bid when:
 - (a) due to changed circumstances, there is no longer a need for the requested goods and/or services;
 - (b) funds are no longer available to cover the total envisaged expenditure of the bid; or
 - (c) no acceptable bids are received

- (5) The decision to cancel a bid in terms of sub-paragraph (4) above must be published in the Government Tender Bulletin or the media in which the original bid invitation was advertised
- (6) An organ of state may only with the prior approval of the relevant treasury cancel a tender invitation for the second time.
- (7) Negotiation with bidders who offered a none market related price.
- If the price offered by a bidder scoring the highest point is not market related
 - the organ of state may not award the contract to the bidder, the organ of state may negotiate the price with the bidder or cancel the bid.

34. PROCESS TO APPOINT FROM A PANEL OF APPOINTED SERVICE PROVIDERS

- (1) The appointment of a panel of service-providers must be executed against a signed and approved specification which incorporates the sustainable procurements elements. An approval for contract award must be obtained from a relevant Delegated Approval Authority.
- (2) The appointment of a panel of service providers must follow a two-stage process. The first stage is conducted as a pre-qualification enquiry where suppliers are first screened and pre-qualified for general compliance to technical, SHE, quality, and Product Development requirements, including specific goals, if applicable. Price is generally not requested as part of the pre-qualification enquiry, unless a standard rate is prescribed for acceptance.
- (3) Once pre-qualified, suppliers on the panel may then compete on a per task order basis as part of the second stage, where they may quote based on the 80.20 or 90 10 preference point system as may be relevant to the task

order, or where capacity /capability /location, treated as objective criteria, may become factors in task order award

- (4) The principle of rotation when sourcing form panels must be used to promote fairness and equitable work distribution
- (5) The Head of Supply Chain Management is responsible for putting in place appropriate systems and controls to ensure that:
 - (i) The department to send their request to SCM for the panel appointment process to start,
 - (ii) Requests from departments to include specifications and be signed off by the Group Head
 - (iii) work / task orders to be distributed fairly and equitably among the panel of suppliers;
 - (iv) all RFQs relating to task orders must be formally received and
 - (v) task orders are placed against contracts with sufficient funds and time available for the completion of the supply / services,
 - (vi) Price and BBEE level of contribution to be evaluated and scored accordingly before the award is made,
 - (vii) Approved task orders are supported by an appointment letter from the accounting officer confirming the order / commitment, and
 - (viii) Procurement targets and objectives to be being monitored and tracked
- (6) All of the above controls must be dealt with upfront as part of the approved strategy and executed during the contract management phase.
- (7) Where FIXED RATES are applicable as in the case of framework contracts, direct appointment will be made without requesting quotations but strict compliance to ROTATION PRINCIPLE must be adhered to.
- (8) An approval report will be signed by the Head of Supply Chain Management, relevant Director and relevant Municipal Manager.
- (9) A letter of appointment will be forwarded to the Accounting Officer or his/her nominee as per delegation for signature

- (10) Supply Chain Management will issue the appointment letter to the successful panellist and hand over the process to the department
- (11) Reports on the efficacy of the panel are to be compiled and submitted to Accounting Officer.
- (12) If the appointment of a service provider from the panel is in year two and the project duration is five years, MFMA section 33 will have to be complied with
- (13) With reference to the opinion on the use of panel received from National Treasury on 27 March 2017, the following guidelines is to be implemented with immediate effect
- (14) An approved panel/list of service providers established through a competitive bidding process will be used for service that are routine or of simple nature where the scope and content of work to be done can be described, and for a period of not more than three years. This includes consulting services.
- (15) All panels in the Municipality are subject to annual review by contract management
- (16) The period of a framework agreement that is repetitive nature for services that the Municipality has an obligation to provide on an ongoing basis for the duration of the resulting contract(s), cannot extent beyond the 3 years period covered in the annual budget for the financial year in which the contract will commence, unless all related legislative process are complied with.

35. LOCAL PRODUCTION AND CONTENT

- (1) The Municipality must, in the case of designated sectors, where local production and content is of critical importance in the award of bids, advertise such bids with a specific bid condition that only locally produced goods and/or services or locally manufactured goods, with a stipulated minimum threshold for local production and content will be considered

- (2) The instructions, circulars and guidelines issued by the National Treasury with specific reporting mechanisms to ensure compliance with sub-paragraph (1) above, must be considered by the Municipality when applying this paragraph
- (3) Where there is no designated sector, the Municipality may include, as a specific bid condition, that only locally produced goods and/or services or locally manufactured goods with a stipulated minimum threshold for local production and content will be considered, provided 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 Trade and Industry
- (4) Every bid issued in terms of this paragraph must be measurable and audited
- (5) Where necessary, for bids referred to in sub-paragraphs (1) and (3) above, a two-stage bidding process may be followed, where the first stage involves functionality and minimum threshold for local production and content and the second stage price and B-BBEE with the possibility of price negotiations only with the short-listed bidder(s).
- (6) Evaluation of bids based on a stipulated minimum threshold for local production and content
- (7) Bids that were invited based on local production and content should be evaluated by following a two-stage bidding process.

7.1 STAGE 1

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

b) A bid will be disqualified if the bidder fails to achieve the stipulated minimum threshold for local production and content or if the declaration certificate for local content (MBD 6.2) is not submitted as part of the bid documentation.

i. Since 16 July 2012, the Minister of Finance has approved the issuance of directive together with the Municipal Bidding Documents (MBD 6.2) "Declaration of Certificate for Local Production and Content for Designated Sectors" for the following sectors that have been designated.

- Textiles, clothing, leather and footwear
- Buses (bus body)
- Steel power pylons
- Canned/processed vegetables
- Rail Rolling Stock
- Set top boxes
- Furniture
- Electrical and telecom cable products

All queries in this regard maybe directed to the National Treasury, tell (012) 315 5339

ii For bids in respect of local content, only locally produced or locally manufactured textiles, clothing, leather and footwear from local raw materials or inputs will be considered.

iii. If the raw material or input to be used for a specific item is not available locally, bidders should obtain written authorisation from the DTI, should there be a need to import such raw materials or input

iv A copy of an authorisation letter must be submitted together with the bid document at the closing date and time of the bid. For further information, bidders may contact the clothing, textile and leather unit within DTI at telephone 012 394 3717/1390

- v. The accounting officer or delegated must stipulate in the bid invitation the exchange rate published by the South African Reserve Bank at 12:00 on the date of advertising of the bid.
- vi. Only SABS approved technical specification number SATS 1286.2011 must be used to calculate the local content.

36. B-BBEE STATUS LEVEL CERTIFICATE

- (1) Bidders with an annual total revenue of R5 million or less qualifies as exempted micro enterprises in terms of the B-BBEE and must submit a certificate issued by a registered auditor, accounting officer (as contemplated in section 60(4) of the Close Corporation Act, Act 69 of 1984) or an accredited verification agency.
- (2) Bidders other than exempted micro enterprises 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) The B-BBEE status level attained by the bidder must be utilised to determine the number of points allocated in terms of paragraphs 24(2) and 25(2) above.

30. GENERAL CONDITIONS

- (1) Only bidders who/which have completed and signed the declaration part of the bid documentation may be considered for such bid
- (2) The Municipality must, when calculating comparative prices, consider any discounts which have been offered unconditionally as reflected in the bid
- (3) A discount which has been offered conditionally must, despite not being considered for evaluation purposes, be implemented when payment is provided
- (4) Points scored must be rounded off to the nearest 2 (two) decimal places.
- (5) In the event that 2 (two) or more bids have scored equal total points, the successful bid must be the one scoring the highest number of preference points for B-BBEE.
 - (a) When, however, functionality is part of the evaluation process and 2 (two) or more bids have scored equal points including equal preference points for B-BBEE, the successful bidder must be the one scoring the highest score for functionality.
 - (b) Where 2 (two) or more bids are equal in all respects, the award will be decided by the drawing of lots.
- (6) A trust, consortium or joint venture will qualify for points for its B-BBEE status level as a legal entity, provided that such entity submits its B-BBEE status level certificate.

(7) A trust, consortium or joint venture will qualify for points for its B-BBEE status level as an unincorporated entity, provided such entity submit its consolidated B-BBEE scorecard as if the entity is a group structure and that such a consolidated B-BBEE scorecard is prepared for every separate bid.

(8) Subcontracting as condition of tender

(1) If feasible to subcontract for a contract above R10 million, the Municipality must apply subcontracting to advance designated groups

(2) If the Municipality applies subcontracting as contemplated in sub regulation (1), the organ of state must advertise the tender with a specific tendering condition that the successful tenderer must subcontract a minimum of 30% of the value of the contract to-

- (a) an EME or QSE;
- (b) an EME or QSE which is at least 51% owned by black people,
- (c) an EME or QSE which is at least 51% owned by black people who are youth,
- (d) an EME or QSE which is at least 51% owned by black people who are women;
- (e) an EME or QSE which is at least 51% owned by black people with disabilities,
- (f) an EME or QSE which is 51% owned by black people living in rural or underdeveloped areas or townships,
- (g) a cooperative which is at least 51% owned by black people;
- (h) an EME or QSE which is at least 51% owned by black people who are military veterans, or
- (i) more than one of the categories referred to in paragraphs (a) to (h).

(3) The organ of state must make available the list of all suppliers registered on a database approved by the National Treasury to provide the required goods or

services in respect of the applicable designated groups mentioned in sub regulation (2) from which the tenderer must select a supplier.

(9) Subcontracting after award of tender

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

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

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

38. CORPORATE SOCIAL RESPONSIBILITY CONTRIBUTION

A Corporate social responsibility contribution of one (1) percent inclusive of 15%VAT will be levied on all companies/ service providers appointed as successful bidders if such companies are not based in the area of jurisdiction of Rustenburg Local Municipality

38. DECLARATIONS

(1) A bid must, in the manner stipulated in the bid document, compel a bidder to declare that:

- (a) the information provided is true and correct;
- (b) the signatory to the bid is duly authorised, and
- (c) documentary proof regarding any bid issue must, when required, be submitted to the satisfaction of the Municipality.

39. REMEDIES

Upon detecting that a tenderer submitted false information regarding its B-BBEE status level of contributor, local production and content, or any other matter required in terms of these Regulations which will affect or has affected the evaluation of a tender, or where a tenderer has failed to declare any subcontracting arrangements, the organ of state must-

- (a) inform the tenderer accordingly;
- (b) give the tenderer an opportunity to make representations within 14 days as to why-
 - (i) the tender submitted should not be disqualified or, if the tender has already been awarded to the tenderer, the contract should not be terminated in whole or in part,
 - (ii) If the successful tenderer subcontracted a portion of the tender to another person without disclosing it, the tenderer should not be penalized up to 10 percent of the value of the contract; and
 - (iii) the tenderer should not be restricted by the National Treasury from conducting any business for a period not exceeding 10 years with any organ of state; and
- (c) if it concludes, after considering the representations referred to in sub regulation

(1) that-

- (i) such false information was submitted by the tenderer-
 - (aa) disqualify the tenderer or terminate the contract in whole or in part; and
 - (bb) if applicable, claim damages from the tenderer; or
- (ii) the successful tenderer subcontracted a portion of the tender to another person without disclosing, penalize the tenderer up to 10 percent of the value of the contract.

(2) (a) The Municipality must-

- (i) inform the National Treasury, in writing, of any actions taken in terms of sub regulation (1);
- (ii) provide written submissions as to whether the tenderer should be restricted from conducting business with any organ of state; and
- (iii) submit written representations from the tenderer as to why that tenderer should not be restricted from conducting business with any organ of state

(c) The National Treasury may request an organ of state to submit further information pertaining to sub regulation (1) within a specified period.

(3) The National Treasury must-

- (a) after considering the representations of the tenderer and any other relevant information, decide whether to restrict the tenderer from doing business with any organ of state for a period not exceeding 10 years; and

- (b) maintain and publish on its official website a list of restricted suppliers.

40 TREASURY INSTRUCTION NOTE ON COST CONTAINMENT

- 1 It is mandatory for accounting officers of departments and constitutional institutions and accounting authorities of public entities listed Schedules 2 and 3 to the PFMA to implement the cost containment measures.
2. - Hotel accommodation and related costs in respect of consultants may not exceed the amount of R1300 a night, air travel must be restricted to economy class and claims for kilometres may not exceed the rates approved by the Automobile Association of South Africa.
3. - Expenses related to Catering and events the municipality may not incur catering expenses for internal meeting, i.e. for meetings attended only by persons in its employ, unless approved by the accounting officer.
- 4 - the accounting officer must ensure that team building exercises and social functions, including year-end functions, are not financed from the municipal budget or by any suppliers or sponsors.
5. - Corporate branded items availed to employees must be recovered at full cost.
- 6 - Meetings and planning sessions must, as far as practically possible, be held in-house. In instances where such sessions cannot be held in-house, alternate facilities at other government institutions must be sought, unless approved by the accounting officer.

CHAPTER 6

GENERAL PROVISIONS/ADDITIONAL INFORMATION

41.COMPLIANCE

(1) Every contract entered by the Municipality shall be entered pursuant to or in connection with the Municipality's functions and shall comply with Acts and regulations

42 SCM OBJECTIVES

The objectives of Supply Chain Management (SCM) are to:

- give effect to the provisions of the Constitution-section 217, 1996,
 - give effect to the provisions of the MFMA, 2003,
 - transform outdated procurement and provisioning practises into an integrated SCM function;
 - ensure that SCM forms an integral part of the financial management system of the Municipality,
 - make significant improvement to financial management in the broader public sector,
 - introduce a system for the appointment of consultants,
-
- create a mutual understanding and interpretation of government's preferential *procurement policy objectives*,

- promote consistency in respect of Supply Chain Management policy and other related policy initiatives in Government, align with global trends and ensure that South Africa adheres to international best practices

42. AVAILABILITY OF THIS POLICY

- (1) A copy of this policy shall be included in the Municipality's Municipal Code as required by the provisions of section 15 of the MSA
- (2) The Municipality shall take all required legal steps to inform consumers, debtors, owners and occupiers of the content of this policy
- (3) A copy of this policy shall be available for inspection at the offices of the Municipality at all reasonable times.
- (4) A copy of this policy may be obtained from the Municipality against payment of an amount as determined by the Council.

43. IMPLEMENTATION AND REVIEW OF THIS POLICY

- (1) This policy shall be implemented once approved by Council as part of the budgetary policies of the Municipality, as referred to in the provisions of regulation 7 of the Municipal Budget & Reporting Regulations, 2008, and section 17(3)(e), section 21(1)(b)(ii) (bb), section 22(a)(i) and section 24(2)(c)(v) of the MFMA

- (2) In terms of the provisions of section 17(1)(e) of the MFMA this policy must be reviewed on annual basis and the reviewed policy tabled to Council for approval as part of the budget process

44. SHORT TITLE

This policy shall be called the Supply Chain Management Policy of the Rustenburg Local Municipality.

The 2017 PPPFA have been included verbatim thus reference to sub-regulations, readers should read the policy in juxtaposition with the PPPFA 2017 regulations for clear understanding.

The policy was reviewed and approved at a Council sitting on the _____
Item number _____