

BUSHBUCKRIDGE LOCAL MUNICIPALITY



SUPPLY CHAIN MANAGEMENT POLICY

2014/2015

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

Date of adoption: *[insert date]*

Council resolves in terms of section 111 of the Local Government Municipal Finance Management Act (No. 56 of 2003), to adopt the following proposal as the Supply Chain Management Policy of **Bushbuckridge Local Municipality**.

TABLE OF CONTENTS

1. Definitions

CHAPTER 1

IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY

2. Supply chain management policy
3. Amendment of supply chain management policy
4. Delegation of supply chain management powers and duties
5. Subdelegations
6. Oversight role of council
7. Supply chain management units
8. Training of supply chain management officials

CHAPTER 2

SUPPLY CHAIN MANAGEMENT SYSTEM

9. Format of supply chain management system

PART 1: DEMAND MANAGEMENT

10. System of demand management

PART 2: ACQUISITION MANAGEMENT

11. System of acquisition management
12. Range of procurement processes
13. General preconditions for consideration of written quotations or bids
14. Lists of accredited prospective providers
15. Petty cash purchases
16. Written or verbal quotations
17. Formal written price quotations
18. Procedures for procuring goods or services through written or verbal quotations and formal written price quotations
19. Competitive bidding process
20. Process for competitive bidding
21. Bid documentation for competitive bids
22. Public invitation for competitive bids
23. Procedure for handling, opening and recording of bids
24. Negotiations with preferred bidders
25. Two-stage bidding process
26. Committee system for competitive bids
27. Bid specification committees
28. Bid evaluation committees
29. Bid adjudication committees

30. Procurement of banking services
31. Procurement of IT related goods or services
32. Procurement of goods and services under contracts secured by other organs of state
33. Procurement of goods necessitating special safety arrangements
34. Proudly SA Campaign
35. Appointment of consultants
36. Deviation from, and ratification of minor breaches of, procurement processes
37. Unsolicited bids
38. Combating of abuse of supply chain management system

PART 3:

LOGISTICS, DISPOSAL, RISK AND PERFORMANCE MANAGEMENT

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

PART 4:

OTHER MATTERS

43. Prohibition on awards to persons whose tax matters are not in order
44. Prohibition on awards to persons in the service of the state
45. Awards to close family members of persons in the service of the state
46. Ethical standards
47. Inducements, rewards, gifts and favours
48. Sponsorships
49. Objections and complaints
50. Resolution of disputes, objections, complaints and queries
51. Contracts providing for compensation based on turnover

1. DEFINITIONS

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

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

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

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

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

1.5 **“in the service of the state”** means to be –

(a) A member of –

(i) Any municipal council;

(ii) Any provincial legislature; or

(iii) The National Assembly or the National Council of Provinces;

(b) A member of the board of directors of any municipal entity;

(c) An official of any municipality or municipal entity;

- (d) An employee of any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No.1 of 1999);
 - (e) A member of the accounting authority of any national or provincial public entity; or
 - (f) An employee of Parliament or a provincial legislature;
- 1.6 “long term contract”** means a contract with a duration period exceeding one year;
- 1.7 “list of accredited prospective providers”** means the list of accredited prospective providers which the **municipality** must keep in terms of paragraph 14 of this policy;
- 1.8 “other applicable legislation”** means any other legislation applicable to municipal supply chain management, including –
- (a) The Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000);
 - (b) The Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003); and
 - (c) The Construction Industry Development Board Act, 2000 (Act No.38 of 2000);
- 1.9 “Treasury guidelines”** means any guidelines on supply chain management issued by the Minister in terms of section 168 of the Act;
- 1.20 “the Act”** means the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);

- 1.21 **“the Regulations”** means the Local Government: Municipal Finance Management Act, 2003, Municipal Supply Chain Management Regulations published by Government Notice 868 of 2005;
- 1.22 **“written or verbal quotations”** means quotations referred to in paragraph 12(1) (b) of this Policy.
- 1.23 **“Database of restricted bidders”** means the database or bidders restricted from doing business with
- 1.24 **“CIDB”** means Construction Industry Development Board Act, Act 38 of 2000;

CHAPTER 1

2. IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY

2.1 SUPPLY CHAIN MANAGEMENT POLICY

2.1.1 All officials and other role players in the supply chain management system of the **municipality** must implement this Policy in a way that –

- (a) Gives effect to –
 - (i) Section 217 of the Constitution; and
 - (ii) Part 1 of Chapter 11 and other applicable provisions of the Act;
- (b) is fair, equitable, transparent, competitive and cost effective;
- (c) Complies with:
 - (i) The Regulations; and
 - (ii) Any minimum norms and standards that may be prescribed in terms of section 168 of the Act;
- (d) is consistent with other applicable legislation;
- (e) Does not undermine the objective for uniformity in supply chain management systems between organs of state in all spheres; and
- (f) is consistent with national economic policy concerning the promotion of investments and doing business with the public sector.

2.1.2 This Policy applies when the **municipality** –

- (a) procures goods or services;
- (b) Disposes goods no longer needed;
- (c) Selects contractors to provide assistance in the provision of municipal services otherwise than in circumstances where Chapter 8 of the Municipal Systems Act applies; or
- (d) Selects external mechanisms referred to in section 80 (1) (b) of the Municipal Systems Act for the provision of municipal services in circumstances contemplated in section 83 of that Act

2.1.3 This Policy, except where provided otherwise, does not apply in respect of the procurement of goods and services contemplated in section 110(2) of the Act, including:

- (a) Water from the Department of Water Affairs or a public entity, another municipality or a municipal entity; and
- (b) Electricity from Eskom or another public entity, another municipality or a municipal entity.

2.2 AMENDMENT OF THE SUPPLY CHAIN MANAGEMENT POLICY

2.2.1 The accounting officer must –

- (a) at least annually review the implementation of this Policy; and
- (b) When the accounting officer considers it necessary, submit proposals for the amendment of this Policy to the Council.

2.2.2 If the accounting officer submits proposed amendments to the Council that differs from the model policy issued by the National Treasury, the accounting officer must –

- (a) ensure that such proposed amendments comply with the Regulations; and
- (b) Report any deviation from the model policy to the National Treasury and the relevant provincial treasury.

2.2.3 When amending this supply chain management policy the need for uniformity in supply chain practices, procedures and forms between organs of state in all spheres, particularly to promote accessibility of supply chain management systems for small businesses must be taken into account.

2.3. DELEGATION OF SUPPLY CHAIN MANAGEMENT POWERS AND DUTIES

2.3.1 The Council hereby delegates all powers and duties to the accounting officer which are necessary to enable the accounting officer –

- (a) To discharge the supply chain management responsibilities conferred on accounting officers in terms of:
 - (i) Chapter 8 or 10 of the Act; and
 - (ii) This Policy;
- (b) to maximise Administrative and operational efficiency in the implementation of this Policy;
- (c) to enforce reasonable cost-effective measures for the prevention of fraud, corruption, favouritism and unfair and irregular practices in the implementation of this Policy; and
- (d) To comply with his or her responsibilities in terms of section 115 and other applicable provisions of the Act.

2.3.2 Sections 79 and 106 of the Act apply to the sub-delegation of powers and duties delegated to an accounting officer in terms of subparagraph (1).

2.3.3 The accounting officer may not sub-delegate any supply chain management powers or duties to a person who is not an official of municipality or to a committee which is not exclusively composed of officials of the municipality;

2.3.4 This paragraph may not be read as permitting an official to whom the power to make final awards has been delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in paragraph 26 of this Policy.

2.4 SUB-DELEGATIONS

2.4.1 The accounting officer may in terms of section 79 or 106 of the Act sub-delegate any supply chain management powers and duties, including those delegated to the accounting officer in terms of this Policy, but any such sub-delegation must be consistent with subparagraph 2.5.2 of this paragraph and paragraph 2.4 of this Policy.

2.4.2 The power to make a final award –

- (a) Above R10 million (VAT included) may not be sub-delegated by the accounting officer;
- (b) Above R2 million (VAT included), but not exceeding R10 million (VAT included), may be sub-delegated but only to:

- (i) The chief financial officer;
 - (ii) The Bid adjudication committee (as comprised in 2(c) (iii) below) of which the chief financial officer or a senior manager is a member; or
- (c) Not exceeding R2 million (VAT included) may be sub-delegated but only to:
- (i) The chief financial officer;
 - (ii) A manager directly accountable to the chief financial officer as sub-delegated by the CFO; or
 - (iii) A bid adjudication committee consisting of the following Directors or persons acting in their stead:
 - Chief Financial Officer
 - Director Corporate Services
 - Director Technical Services
 - Director Community Services
 - Director EDPE

2.4.3 The bid adjudication committee to which the power to make final awards has been sub-delegated in accordance with subparagraph (2.5) must within five days of the end of each month submit to the official referred to in subparagraph (2.4) a written report containing particulars of each final award made by such official or committee during that month, including–

- (a) The amount of the award;
- (b) The name of the person to whom the award was made; and
- (c) The reason why the award was made to that person.

2.4.4 A written report referred to in subparagraph (3) must be submitted –

- (a) To the accounting officer, in the case of an award by:
 - (i) The chief financial officer;
 - (ii) A bid adjudication committee of which the chief financial officer or a senior manager is a member; or

- (b) To the chief financial officer or the senior manager responsible for the relevant bid, in the case of an award by:
 - (i) A manager referred to in subparagraph (2)(c)(iii); or
 - (ii) A bid adjudication committee of which the chief financial officer or a senior manager is not a member.

2.4.5 Subparagraphs (3) and (4) of this policy do not apply to procurements out of petty cash.

2.4.6 This paragraph may not be interpreted as permitting an official to whom the power to make final awards has been sub-delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in paragraph 26 of this Policy.

2.4.7 No supply chain management decision-making powers may be delegated to an advisor or consultant.

2.5 OVERSIGHT ROLE OF COUNCIL

2.5.1 The Council reserves its right to maintain oversight over the implementation of this Policy.

2.5.2 For the purposes of such oversight the accounting officer must –

- (a) within 30 days of the end of each financial year, submit a report on the implementation of this Policy and the supply chain management policy of any municipal entity under the sole or shared control of the municipality, to the council of the municipality; and
- (b) Whenever there are serious and material problems in the implementation of this Policy, immediately submit a report Council.

2.5.3 The accounting officer must, within 10 days of the end of each quarter, submit a report on the implementation of the supply chain management policy to the Mayor.

2.5.4 The reports must be made public in accordance with section 21A of the Municipal Systems Act.

2.6 SUPPLY CHAIN MANAGEMENT UNIT

2.6.1 A supply chain management unit is hereby established to implement this Policy.

2.6.2 The supply chain management unit operates under the direct supervision of the Chief Financial Officer or an official to whom this duty has been delegated in terms of section 82 of the Act.

CHAPTER 2 SUPPLY CHAIN MANAGEMENT SYSTEM

9. FORMAT OF SUPPLY CHAIN MANAGEMENT SYSTEM

9.1 This Policy provides systems for:

- (a) Demand management;
- (b) Acquisition management;
- (c) Logistics management;
- (d) Disposal management;
- (e) Risk management; and
- (f) Performance management.

PART 1: DEMAND MANAGEMENT

10. SYSTEM OF DEMAND MANAGEMENT

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

10.2 The demand management system must:

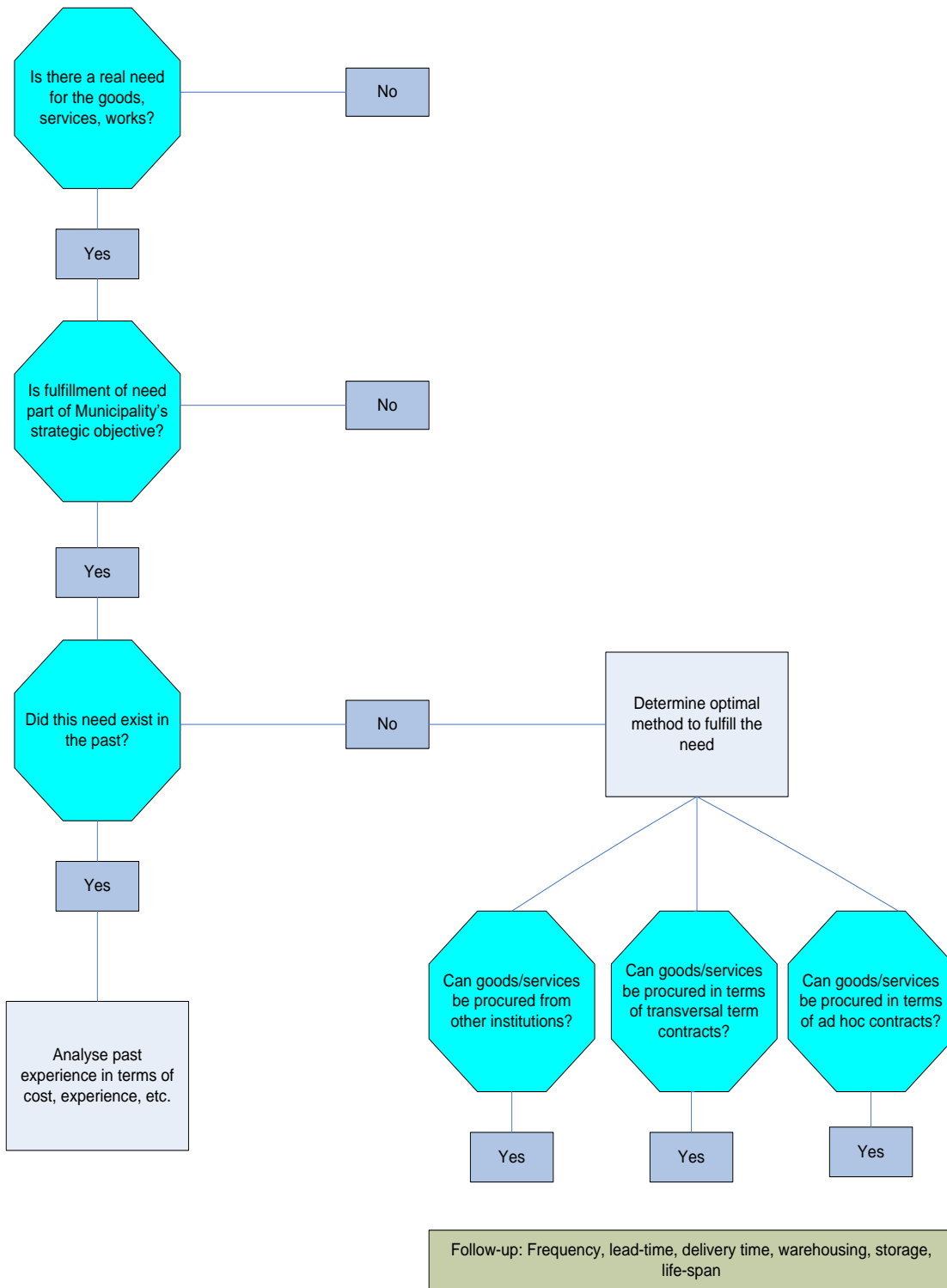
- (a) include timely planning and management processes to ensure that all goods and services required by the municipality are quantified, budgeted for and timely and effectively delivered at the right locations and at the critical delivery dates, and are of the appropriate quality and quantity at a fair cost;
- (b) take into account any benefits of economies of scale that may be derived in the case of acquisitions of a repetitive nature; and

- (c) Provide for the compilation of the required specifications to ensure that its needs are met.
- (d) Undertake appropriate industry analysis and research to ensure that innovations and technological benefits are maximized to the extent appropriate and within the available resources.

10.3 Request to proceed with the supply chain process:

- (a) The end user to submit the fully completed and signed request for bid process to the SCM unit to proceed with the relevant supply chain process to procure the required goods and services.
- (b) The specifications must be compiled as follows:
 - (i) Budget and funding sources be confirmed;
 - (ii) Proposed cash flow expenditure over the term of contract;
 - (iii) Technical requirements including methodology, scope of works, unit of measures and minimum requirements.

10.4 Demand Management Process flowchart in terms of decisions to be made by Senior Management of the municipality (Refer to next page):



PART 2: ACQUISITION MANAGEMENT

11. SYSTEM OF ACQUISITION MANAGEMENT

11.1 The accounting officer must implement the system of acquisition management set out in this Part in order to ensure:

- (a) That goods and services are procured by Municipality in accordance with authorised processes only;
- (b) That expenditure on goods and services is incurred in terms of an approved budget in terms of section 15 of the Act;
- (c) That the threshold values for the different procurement processes are complied with;
- (d) That bid documentation, evaluation and adjudication criteria, and general conditions of a contract, are in accordance with any applicable legislation; and
- (e) That any Treasury guidelines on acquisition management are properly taken into account.

11.2 When procuring goods or services contemplated in section 110(2) of the Act, the accounting officer must make public the fact that such goods or services are procured otherwise than through the municipality's supply chain management system, including –

- (a) The kind of goods or services; and
- (b) The name of the supplier.

12. RANGE OF PROCUREMENT PROCESSES

12.1 Goods and services may only be procured by way of:

- (a) petty cash purchases, up to a transaction value of R2 000 (VAT included);
- (b) Written or verbal quotations for procurements of a transaction value over R2 000 up to R10 000 (VAT included);
- (c) Formal written price quotations for procurements of a transaction value over R10 000 up to R200 000 (VAT included); and
- (d) A competitive bidding process for:
 - (i) Procurements above a transaction value of R200 000 (VAT included); and
 - (ii) The procurement of long term contracts.

12.2 The accounting officer may, in writing:

- (a) lower, but not increase, the different threshold values specified in subparagraph (1); or
- (b) Direct that:
 - (i) Written or verbal quotations be obtained for any specific procurement of a transaction value lower than R2 000;
 - (ii) Formal written price quotations be obtained for any specific procurement of a transaction value lower than R10 000; or
 - (iii) A competitive bidding process be followed for any specific procurement of a transaction value lower than R200 000.

12.3 Goods or services may not deliberately be split into parts or items of a lesser value merely to avoid complying with the requirements of the policy. When determining transaction values, a requirement for goods or services consisting of different parts or items must as far as possible be treated and dealt with as a single transaction.

12.4 Sundry Payments

- (a) The following line items are not required to be procured through the SCM process.
- (b) The end user to complete and submit the sundry documents with the original invoice to the SCM unit to check for legal compliancy:
 - i) Audit Fees;
 - ii) Compensation for injuries and diseases;
 - iii) Congresses/ Prof Meetings (S & T);
 - iv) Donations/ grants by Council;
 - v) Entertainment;
 - vi) Finance – cash collection;
 - vii) Medical expenses not on contract;
 - viii) Bursaries and student practical work;
 - ix) Telecommunication (Telkom)
 - x) Reference books and magazines;
 - xi) Bank Charges;
 - xii) Election Activities;
 - xiii) Legal Expenses;
 - xiv) License Fees;
 - xv) Postage;
 - xvi) Mayoral donations;
 - xvii) Membership Fees;
 - xviii) Nutritional care;

- xix) Insurance claims;
 - xx) Ward Committee Allowances;
 - xxi) Inter-departmental Charges;
 - xxii) Bushbuckridge Water Board
 - xxiii) Eskom;
 - xxiv) Debit Orders;
 - xxv) Purchase of specialized Library Equipment & Books
 - xxvi) All employee/ Councilors related costs
- (c) Fixed term service contracts appointed through the formal bid process where it is difficult to identify beforehand what the total quantity of work will be done on sundry payments (e.g. maintenance of tarred roads, vacuum tank services, maintenance of sewer pipeline, etc) clearly marked with the bid number;
- (d) Purchase less than R2 000-00 (vat inclusive) for emergency situations may be sourced directly from vendors listed on BLM accredited data list and paid by sundry payment with the approval of the Director and Chief Financial Officer;
- (e) All the above requests must be signed by the requestor, the relevant Director and CFO/ delegated person;
- (f) All other fixed contracts and items not on contract must follow the relevant SCM processes and systems;
- (g) No order will be amended to include extra work not authorised through the correct processes and therefore the orders will not be cancelled to accommodate such work or payments;
- (h) Any additional work/ services must be requested through the correct SCM process and a new order be printed for approval by the relevant Director and CFO/ delegated person;
- (i) All printed orders expect for the IT orders are to be collected from the SCM office on a daily basis.

12.4 Splitting of works/ services

- (a) Goods or services may not deliberately be split into parts or items of a lesser value merely to avoid complying with the requirements of the policy. When determining transaction values, a requirement for goods or services consisting of different parts or items must as far as possible be treated and dealt with as a single transaction.**

13. GENERAL PRECONDITIONS FOR CONSIDERATION OF WRITTEN QUOTATIONS OR BIDS

13.1 A written quotation or bid may not be considered unless the provider who submitted the quotation or bid:

- (a) Has furnished that provider's:
 - (i) Full name;
 - (ii) Identification number or company or other registration number; and
 - (iii) Tax reference number and VAT registration number, if any.
- (b) Has authorised the municipality to obtain a tax clearance from the South African Revenue Services that the provider's tax matters are in order; and
- (c) Has indicated:
 - (i) Whether he or she is in the service of the state, or has been in the service of the state in the previous twelve months;
 - (ii) if the provider is not a natural person, whether any of its directors, managers, principal shareholders or stakeholder is

in the service of the state, or has been in the service of the state in the previous twelve months; or

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

14. LISTS OF ACCREDITED PROSPECTIVE PROVIDERS

- (a) The municipality must establish and maintain a list of accredited prospective providers for goods and services for obtaining written or verbal quotations and formal written price quotations.
- (b) The list must be compiled per commodity and per type of service;
- (c) The municipality must, at least once a year, through newspapers commonly circulating locally, the website of the municipality and any other appropriate way, invite prospective providers of goods and services to apply for evaluation and listing as accredited prospective providers.
- (d) The list of accredited prospective providers must be used effectively to promote SMME`S through the participation of black-owned enterprises, black empowered enterprises, and black women-owned enterprises as well as the promotion of businesses owned by other SMMEs.
- (e) The listing criteria for accredited prospective providers must be specified.
- (f) Prospective providers whose names appear on the National Treasury's database as prohibited from doing business with the public sector, or appear on the Register of Tender Defaulters must be disallowed.

14.1 ESTABLISHMENT DETAILS

- (a) The municipality must, every year, through an advertisement placed in the local representative newspaper(s), the municipality website and if so decided, the Government Tender Bulletin, invite prospective providers to apply for evaluation and listing in different commodities categories and regions/areas, as an accredited prospective provider.
- (b) The municipality needs to compile the list per commodity, categories, subcategories, regions/areas and if required, monetary categories to provide for capacity. If one list is compiled without differentiation between categories and regions/areas, it will be difficult to efficiently administer the list.

14.2 APPLICATION DETAILS

- (a) The following essential information must be obtained and included on the bid by each prospective provider to enable Local municipality to establish a provider profile:
 - i) Name of the entity/individual.
 - ii) Physical and postal address.
 - iii) Entity type, for example public company, private company, closes corporation, partnership, or sole trader.
 - iv) Appropriate registration numbers.
 - v) Contact details, such as telephone number, facsimile numbers and e-mail if applicable.
 - vi) Name(s) of director(s), member(s), partner(s) and owner(s)/principal(s) of the entity.
 - vii) Annual turnover of the entity/individual where it is so required on the bid.
 - viii) Equity profile of the entity.

- ix) BEE profile of the entity.
- x) Proof that tax affairs are in order (compulsory) but not older than three months. And not more than R200.00 in arrears.
- xi) List of products/services offered linked to requirement categories and regions/ areas applicable as determined by municipality.
- xii) Capacity and capability should be indicated for the entity.
- xiii) Specific expertise vested in the entity/individual, linked to requirement categories and regions/ areas applicable as determined by Bushbuckridge Local Municipality.
- xiv) A list of relevant previous/current projects with at least two (2) contactable references.
- xv) Bank details (physical, postal and electronic banking address)

14.3 EVALUATION AND APPROVAL FOR LISTING

- (a) The listing criteria for accredited prospective providers must be specified.
- (b) The provider's compliance with the essential requirements must be evaluated to determine whether the entity will be placed on the list of accredited prospective providers.
- (c) The assessment criteria referred to above, to determine placement of the prospective provider on the list, must be determined prior to the request being sent out and based on the categories chosen for the list, it may be the following:
 - i) Sufficient expertise vested in the entity/individual linked to requirement categories of Bushbuckridge Local Municipality;
 - ii) At least 2 (two) contactable references of previous/current projects proving the capability of the entity/individual; and
 - iii) Proof of sufficient capacity;

- (d) All information pertaining to the providers must be treated as confidential and maintained as such.
- (e) After closing of registration, the list is compiled, the relevant Bid Evaluation Committee evaluates the applications and makes a recommendation to the relevant award structure that will consider and approve the recommended list.
- (f) Bushbuckridge Local Municipality must prevent the listing in the following circumstances:
 - i) Any prospective provider whose name appears on the National Treasury's database as a provider prohibited from doing business with the public sector.
 - ii) A provider whose name appears on the Register of Tender Defaulters.
 - iii) A provider who has been placed in to liquidation.
 - iv) Provider whose tax affairs are not in order.
 - v) Provider involved in proven bribery, fraud and corruption.
 - vi) Provider who has not registered in accordance with statutory requirements.
- (g) Successful applicants must be informed and reasons for non-inclusion in the list must be furnished to the unsuccessful applicants on request.

14.4 UPDATING OF THE LIST

- (a) The list of accredited prospective providers must be updated at least quarterly to include additional prospective providers and any new commodities or types of services.
- (b) Prospective providers must be allowed to submit applications for listing at any time.

- (c) The Accounting Officer or delegate must prevent the listing of any prospective provider whose name appears on the National Treasury's database as a provider prohibited from doing business with the public sector.
- (d) A provider that did not qualify for placement on the list during the first round, can re-apply to be included in the list of accredited prospective providers if their status changed and it is felt that they will now conform to the requirements.
- (e) Prospective providers may provide their details on a continuous basis for consideration by completing the application form, but they will only be considered for placement on the list on a quarterly basis with effect from the next quarter.
- (f) Collect all the requests for placement on the list over the period of the quarter and then evaluate it together.
- (g) Should Bushbuckridge Local Municipality wish to consider providers for placement on the list on a more regular basis, they are free to do so.

14.5 UTILISATION PROCEDURE

- (a) All bids shall be finalized within 90 working days starting from the date of advertisement.
- (b) For the various quotation thresholds, Bushbuckridge Local Municipality must invite accredited prospective providers (in the relevant commodity, category and regions/areas), featured on the list of accredited prospective providers, to submit a quote.
- (c) The invitation of price quotations from the provider list must be done in such a manner that ongoing competition amongst providers is promoted. The following selection method must be used for the procurement of goods and services:-

14.5.1 Multiple source selection-

- (a) The official responsible shall select more than one supplier from the system through an electronic rotation, where-after the official user will evaluate the quotation to select one supplier taking into consideration value for money, delivery period, quality and quantity and cost effectiveness.

14.5.2 Single source selection-

- (a) The official responsible shall select one supplier from the system; the system will select one supplier only. the selection must be used only during emergency, urgent cases or where the total amount falls under the relevant threshold value

14.5.3 Sole source selection-

- (a) the delegated or responsible supplier shall use the selection only if the service or product is unique and the supplier has a patent right of that service or product, the supplier must be the sole supplier in South Africa not necessarily in that specific area-value for money, quality, quantity, cost effectiveness, delivery period, price section 113 of the MFMA must be adhered to in case where the service provider is the supplier of the main product, service plant or equipment, the service or components, part there of or any related item may be sourced from the principal or such service provider
- (b) When using the list of accredited prospective providers, the Accounting Officer or delegate must:

- i) Promote ongoing competition amongst providers, such as inviting providers to submit quotations on a rotation basis.
- ii) Take all reasonable steps to ensure that the procurement of goods and services through written or verbal quotations or formal written price quotations is not abused.
- iii) On a monthly basis, be notified in writing of all written or verbal quotations and formal written price quotations accepted by an official acting in terms of a sub -delegation.
- iv) Promote the objectives of the Broad-based Black Economic Empowerment Act.
- v) Once the list has been established per commodity, quotations should be invited there from.
- vi) Successful applicants are numbered and depending on the number of providers listed per category and regions/areas, quotations should preferably be invited from all the listed providers per commodity to promote ongoing competition.
- vii) The invitation per commodity should be done on a rotation basis in the event that there are too many names on the list of prospective providers per commodity, for example by requesting at least five (5) providers to quote each time.
- viii) No accredited prospective provider that provided a quote after being requested to do so may be approached to quote again before all providers for a specific commodity had the opportunity to quote.
- ix) Bushbuckridge Local Municipality must manage and utilize all its prospective providers efficiently and effectively.
- x) Records (manual or electronic) must be kept to record full particulars of price quotations obtained from the list.

14.6 REMOVAL FROM THE LIST OF ACCREDITED PROSPECTIVE PROVIDERS

- (a) Accredited prospective providers may be removed from the list on request or for non-compliance with relevant legislation, proven non-delivery and proven fraud and/or corruption.
- (b) A provider must be removed from the provider list under the following circumstances:
 - i) The entity ceases to exist.
 - ii) Sole proprietor dies.
 - iii) Liquidation/sequestration of the entity.
 - iv) Continual proven non-delivery (two and more times) or unable to meet minimum specification continuously.
 - v) Non-compliance with legislation or statutory requirement e.g. its tax status.
 - vi) Proven fraud and/or corruption.
 - vii) On provider's request.
 - viii) By mutual agreement, in writing.
- (c) Where required, the relevant legal expertise will assist in ensuring that the correct processes are followed to deal with providers fairly in executing this process.

15. PETTY CASH PURCHASES

- 15.1 The conditions for the procurement of goods by means of petty cash purchases referred to in paragraph 12 (1) (a) of this Policy, are as follows:

- (a) The Account Officer may delegates the responsibility to the Chief Financial Officer to issue petty cash to the various departments.
- (b) Petty Cash requests not exceeding R2 000-00 vat included, per transaction may be issued by the approved officials.

15.2 The following departments are approved to be issued petty cash floats and are restricted as follows:

(a) Mayor's Office:

- (i) R1 000-00 per month – approval by the Director Corporate Service or delegated officials.

(b) Community Services:

- (i) R3 000-00 per month – approval by the Director Social Services or delegated officials.

(c) Regional Offices:

- (i) R25 000-00 per month – approval by the Regional Manager or delegated officials.

(d) Financial Services:

- (i) R10 000-00 per month (this includes, Corporate Services, EDEP, Technical Services) – approval by the Chief Financial Officer.

15.3 Petty Cash purchase are restricted to emergency cases where the necessity is required within 1 day to a maximum of R2 000-00 vat inclusive that could not been foreseen.

15.4 The following does not qualify as an emergency:

- (a) Stationery
- (b) Items on fixed contract
- (c) Ward meetings
- (d) Catering excluding situation where afterhours or unforeseen meetings occurs
- (e) Other (to be identified)

15.5 A monthly reconciliation report from each manager must be provided to the Chief Financial Officer or delegated officials, including-

- (a) the total amount of petty cash purchases for that month; and
- (b) Receipts and appropriate documents for each purchase.

16. WRITTEN OR VERBAL QUOTATIONS

16.1 The conditions for the procurement of goods or services through written or verbal quotations are as follows:

- (a) Quotations must be obtained from at least 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 listed, such providers must meet the listing criteria set out in paragraph 14(1) (b) and (c) of this Policy;
- (b) To the extent feasible, providers must be requested to submit such quotations in writing;
- (c) If it is not possible to obtain at least three quotations, the reasons must be recorded and reported quarterly to the accounting officer or another official designated by the accounting officer;

- (d) The accounting officer must record the names of the potential providers requested to provide such quotations with their quoted prices; and
- (e) If a quotation was submitted verbally, the order may be placed only against written confirmation by the selected provider.

17. FORMAL WRITTEN PRICE QUOTATIONS

17.1 The conditions for the procurement of goods or services through formal written price quotations are as follows:

- (a) Quotations must be obtained in writing from at least three different providers whose names appear on the list of accredited prospective providers of the municipality;
- (b) Quotations may be obtained from providers who are not listed, provided that such providers meet the listing criteria set out in paragraph 14(1) (b) and (c) of this Policy;
- (c) if it is not possible to obtain at least three quotations, the reasons must be recorded and approved by the chief financial officer or an official designated by the chief financial officer, and
- (d) The accounting officer must record the names of the potential providers and their written quotations.

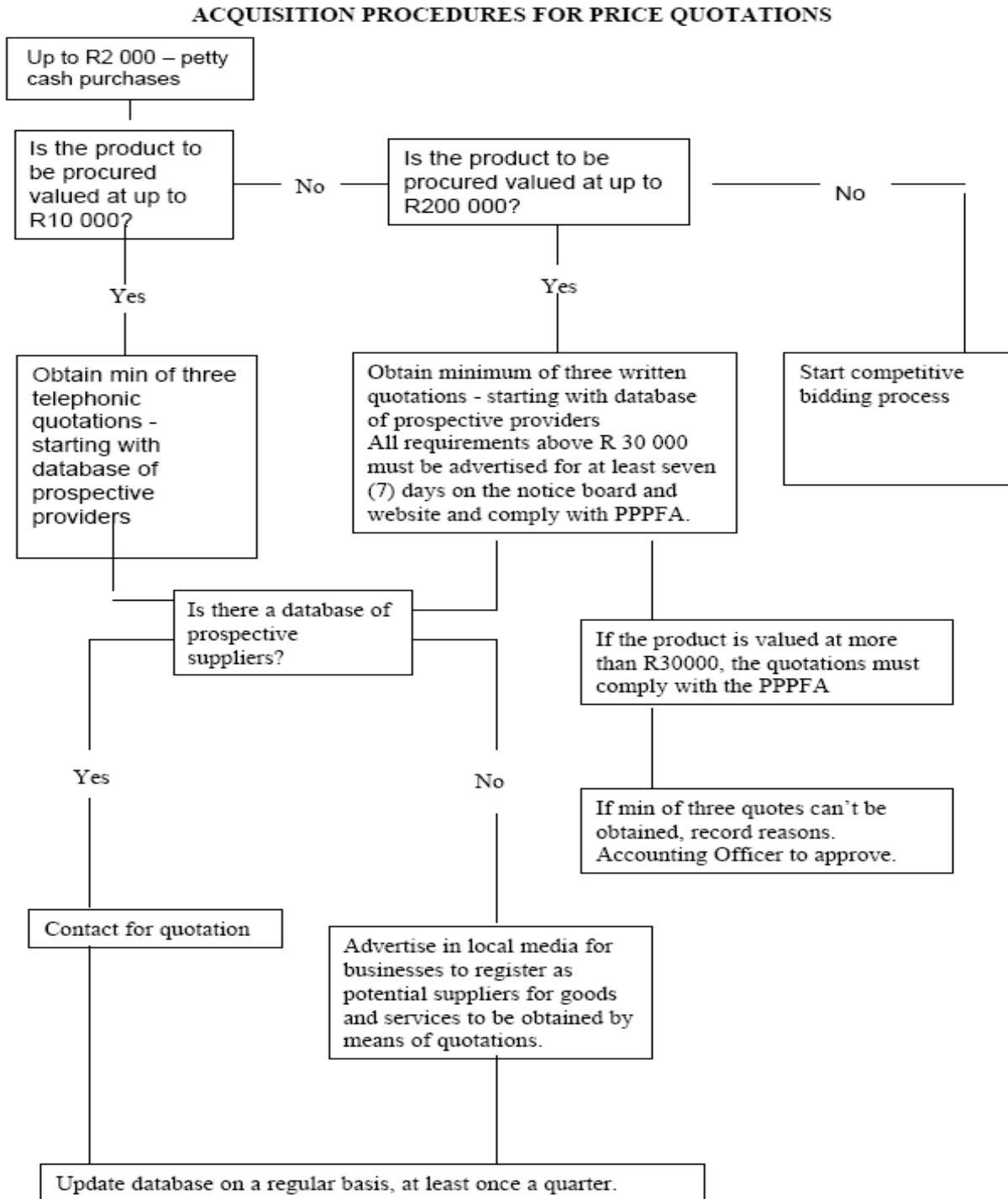
17.2 A designated official referred to in subparagraph (1) (c) must within three days of the end of each month report to the chief financial officer on any approvals given during that month by that official in terms of that subparagraph.

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

18.1 The procedure for the procurement of goods or services through written or verbal quotations or formal written price quotations is as follows:

- (a) When using the list of accredited prospective providers the accounting officer must promote ongoing competition amongst providers by inviting providers to submit quotations on a rotation basis;
- (b) all requirements in excess of R30 000 (VAT included) that are to be procured by means of formal written price quotations must, in addition to the requirements of paragraph 17, be advertised for at least seven days on the website and an official notice board of the municipality;
- (c) Offers received must be evaluated on a comparative basis taking into account unconditional discounts;
- (d) the accounting officer or chief financial officer must on a monthly basis be notified in writing of all written or verbal quotations and formal written price quotations accepted by an official acting in terms of a sub-delegation;
- (e) Offers below R30 000 (VAT included) must be awarded based on compliance to specifications and conditions of contract, ability and capability to deliver the goods and services and lowest price;
- (f) Acceptable offers, which are subject to the preference points system (PPFA and associated regulations), must be awarded to the bidder who scored the highest points;
- (g) Record of approved specifications, minutes of the evaluation committees and approval memos must be kept on file for audit purposes.

18.2 Internal procedures for the procurement of goods or services through written or verbal quotations or formal written price quotation within BLM must be as follows:



19. COMPETITIVE BIDS

- 19.1 Goods or services above a transaction value of R200 000 (VAT included) and long term contracts may only be procured through a competitive bidding process, subject to paragraph 11(2) of this Policy.
- 19.2 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.

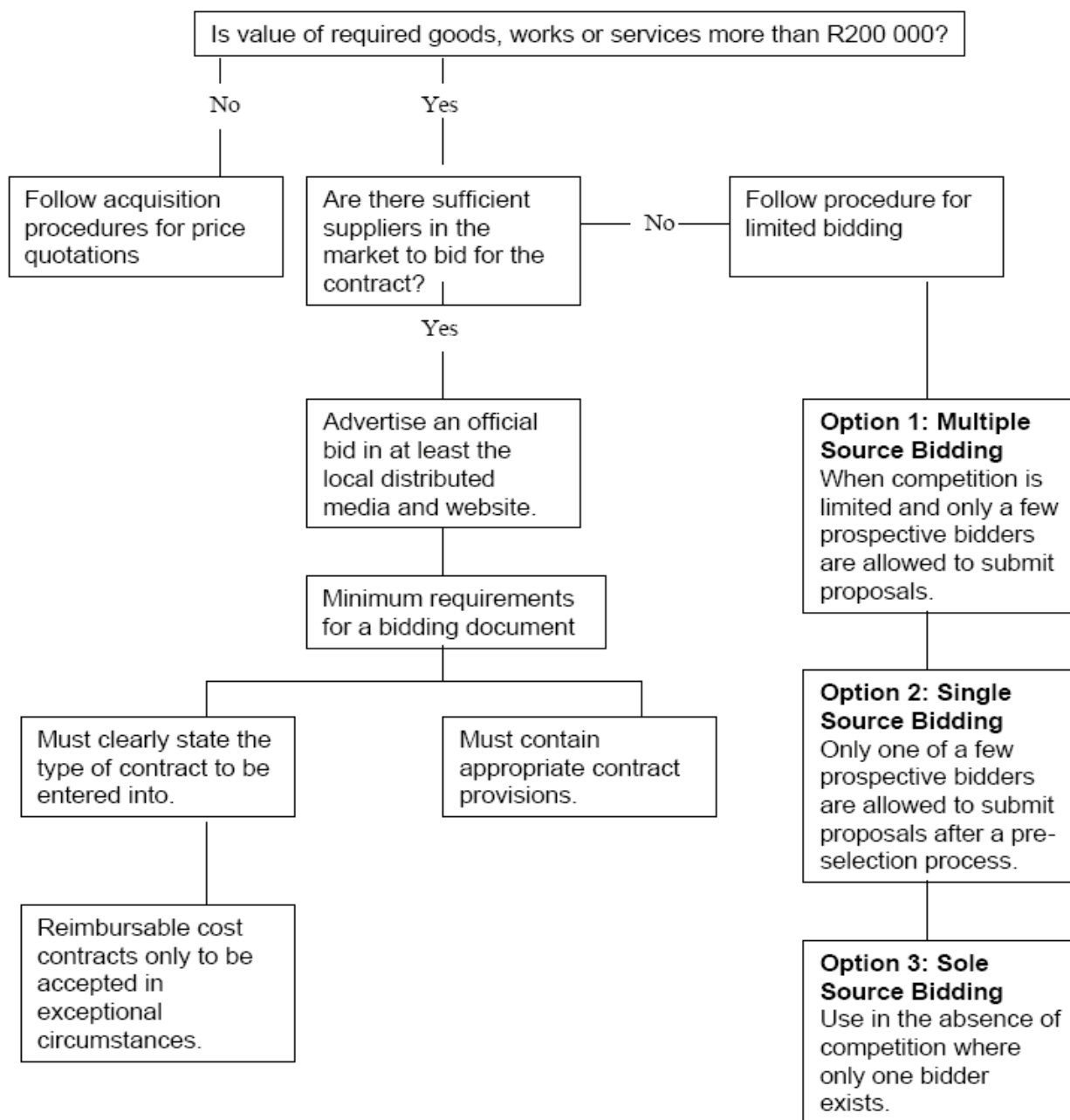
20. PROCESS FOR COMPETITIVE BIDDING

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

20.2 Internal procedures for the procurement of goods or services through competitive bids within BLM must be as follows:

ACQUISITION PROCEDURES FOR COMPETITIVE BIDDING

Objective: To provide all prospective bidders with timely and adequate notification of an institution's requirements and an equal opportunity to bid for the required goods, works or services.



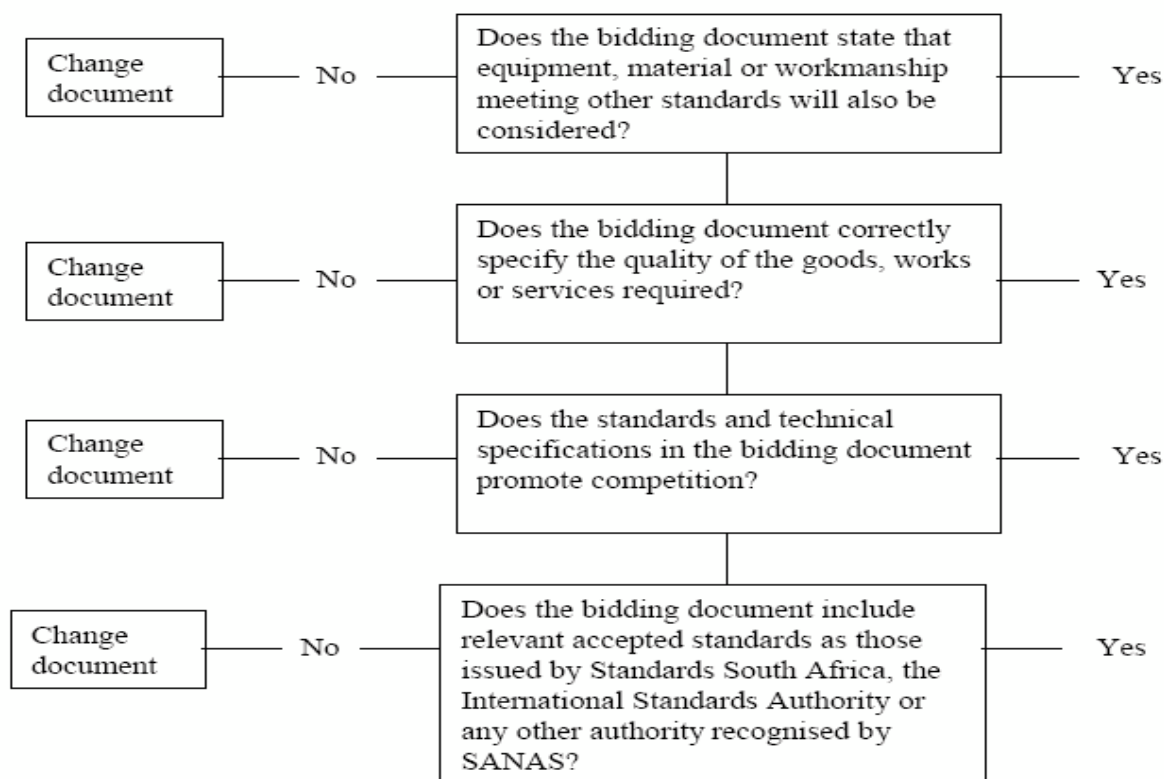
20.3 Legal sound written contracts or service level agreements

- a) Accounting officers must ensure that all written contracts or service level agreements that are entered into by their respective institutions are legally sound. This measure is aimed at avoiding potential litigation and minimizing possible fraud and corruption.
- b) Such contracts or agreements must be actively managed in order to ensure that both parties (the municipality or municipal entity and the contractors) meet their respective obligations.

21. BID DOCUMENTATION FOR COMPETITIVE BIDS

STANDARD BID DOCUMENT SETTING

Bidding documents should ensure that all prospective bidders have an equal opportunity in being awarded the contract. As such, it should ensure that the bidding document is very specific and clear and that little is left to the interpretation of the applicant. The following check list could be used to assist in this regard.



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

- (a) Take into account –
 - (i) The general conditions of contract and any special conditions of contract, if specified;
 - (ii) Any Treasury guidelines on bid documentation; and
 - (iii) The requirements of the Construction Industry Development Board, in the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure.
- (b) include the preference points system to be used , goals as contemplated in the Preferential Procurement Regulations and evaluation and adjudication criteria, including any criteria required by other applicable legislation;
- (c) Compel bidders to declare any conflict of interest they may have in the transaction for which the bid is submitted;
- (d) If the value of the transaction is expected to exceed R10 million (VAT included), require bidders to furnish–
 - (i) 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;
 - (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 days;
- (iii) Particulars of any contracts awarded to the bidder by an organ of state during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract;
 - (iv) a statement indicating whether any portion of the goods or services are expected to be sourced from outside the Republic, and, if so, what portion and whether any portion of payment from the municipality or municipal entity is expected to be transferred out of the Republic; and
- (e) Stipulate that disputes must be settled by means of mutual consultation, mediation (with or without legal representation), or, when unsuccessful, in a South African court of law.

22. PUBLIC INVITATION FOR COMPETITIVE BIDS

22.1 The procedure for the invitation of competitive bids is as follows:

- (a) Any invitation to prospective providers to submit bids must be by means of a public advertisement in newspapers commonly circulating locally, the website of the municipality or any other appropriate ways (which may include an advertisement in the Government Tender Bulletin); and
- (b) The information contained in a public advertisement, must include:
 - (i) the closure date for the submission of bids, which may not be less than 30 days in the case of transactions over R10 million (VAT included), or which are of a long term nature, or 14 days in any other case, from the date on which the

advertisement is placed in a newspaper, subject to subparagraph (2) of this policy;

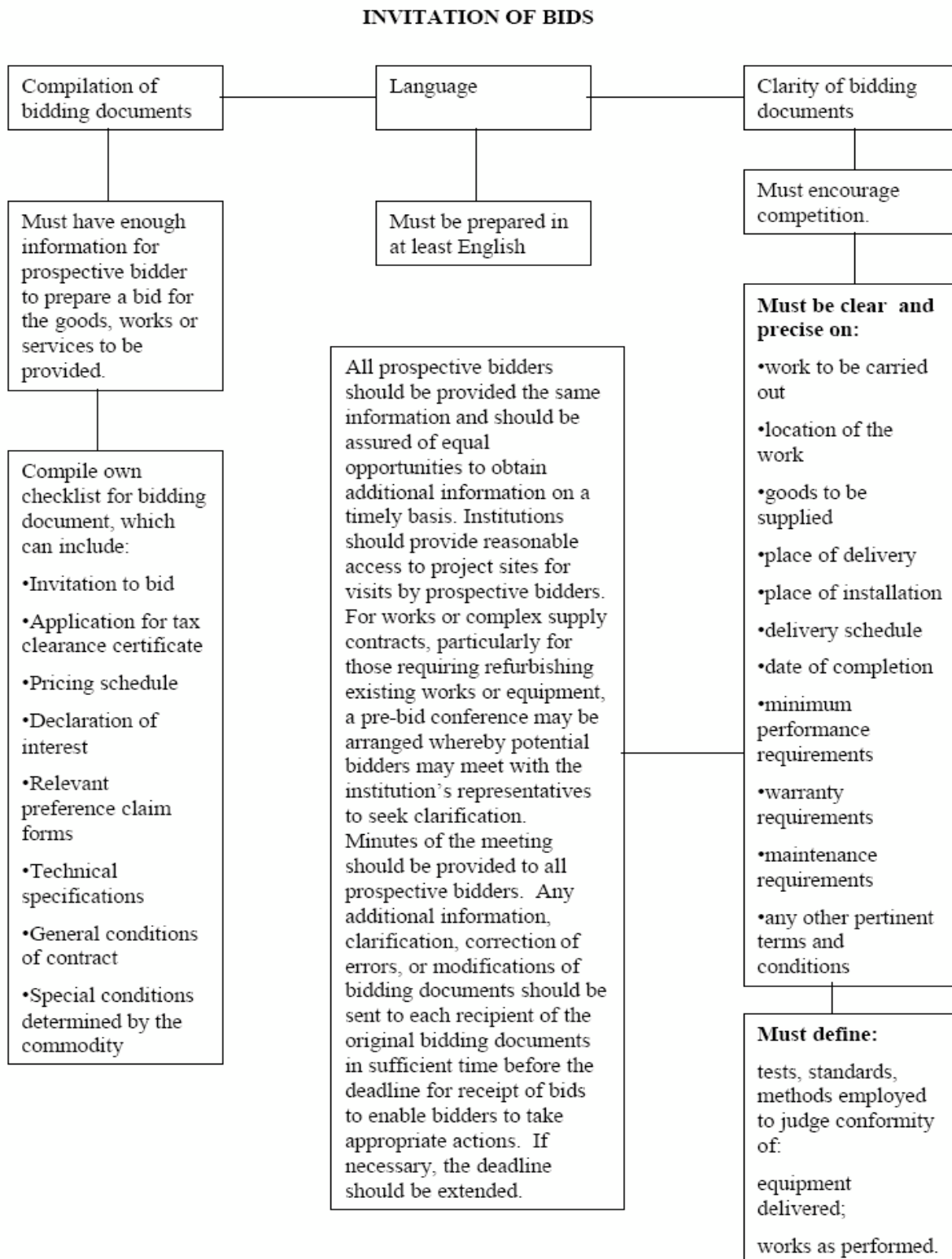
- (ii) A statement that bids may only be submitted on the bid documentation provided by the municipality; and
- (ii) Date, time and venue of any proposed site meetings or briefing sessions;

22.2 The accounting officer may 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.

22.3 Bids submitted must be sealed and marked clearly with the bid number and description.

22.4 Where bids are requested in electronic format, such bids must be supplemented by sealed hard copies.

22.5 Process for competitive bidding



- (a) The competitive bidding process must include the following stages and procedure(s):
 - i) Receipt of written request from the end user department submitted to SCM Unit.
 - ii) The compilation of bidding documentation: bidding document/ specifications must be submitted to the Supply Chain Management's Bids and Database Administration for consideration by the Bids Specification Committee;

- (b) Verification by the Chief Financial Officer prior to advertisement of bids above R10 million
 - i) The following information must be submitted by the Senior Manager responsible for the Vote to the CFO prior to the public advertisement of any bids in excess of R10 million (all applicable taxes included):
 - (aa) Proof that budgetary provision exists for procurement of the goods, services and/or infrastructure projects;
 - (bb) Any ancillary budgetary implications related to the bid, for example, if the project is for the acquisition of a municipal asset, does budgetary provision exist for the operation of the asset, maintenance costs relating to the asset administration costs and rehabilitation/renewal costs;
 - (cc) any multi-year budgetary implications, for example, if a project will take more than one financial year, the estimated expenditure per financial year.

- (dd) Goods, services and/or infrastructure projects above the value of R10 million (all applicable taxes included) may only be advertised after the CFO has verified in writing that budgetary provision exists for the commencement of the particular project.
 - (ee) Requirements may not be deliberately split into parts or items of lesser value merely to avoid the information being submitted.
- (c) Verification from the Chief Financial Officer prior to the award of contracts above the value of R10 million
Contracts above the value of R10 million (all applicable taxes included) may only be awarded to the preferred bidder after the Chief Financial Officer has verified in writing that budgetary provision exists for the acquisition of the goods, infrastructure projects and/or services and that it is consistent with the Integrated Development Plan.
- (d) Confirmation of bidding process for bids in excess of R10 million (all applicable taxes included)
- (e) Internal audit units must compile risk based audit plans, review internal control measures, and ensure that supply chain management, including the requirements of this Circular, is sufficiently and adequately covered in the annual coverage plan.
- (f) Internal auditors must be alert to fraud risks and design audit procedures and indicators that would reasonably assist in preventing and detecting potential or actual fraud and corruption.
- (g) During competitive bidding and adjudication processes or before the award of a contract, the

accounting officer may, at his or her discretion, specifically request the internal audit function to carry out audit procedures and provide an opinion on compliance of the bidding process with the Municipal Supply Chain Management Regulations.

- (h) Where bids involve internal audit service, the audit of the bidding process may be outsourced to an independent external service provider or internal audit function of another organ of state, subject to the oversight of the audit committee.
- (i) The accounting officer may, at his or her discretion, decide to have a specific contract audited by external service providers prior to the award of the contract.

23. PROCEDURE FOR HANDLING, OPENING AND RECORDING OF BIDS

23.1 The procedures for the handling, opening and recording of bids, are as follows:

- (a) Bids:
 - (i) Must be opened only in public by two representative in the presence of the bidders and whereof one must be a SCM Official;
 - (ii) Must be opened at the same time and as soon as possible after the period for the submission of bids has expired; and
 - (iii) Received after the closing time should not be considered and returned unopened immediately.

- (iv) Should the bidder who submitted a late bid not be at the opening or the envelope not have a return address, such bid will be filed un-opened for the duration of the bid process and thereafter be opened to obtain the postal address and the re-sealed envelope returned to the bidder.
- (b) Any bidder or member of the public has the right to request that the names of the bidders who submitted bids in time must be read out and, if practical, also each bidder's total bidding price;
- (c) No information, except the provisions in subparagraph (b), relating to the bid should be disclosed to bidders or other persons until the successful bidder is notified of the award; and
- (d) The accounting officer must:
 - (i) record in a register all bids received in time;
 - (ii) Make the register available for public inspection; and
 - (iii) Publish the entries in the register and the bid results on the website.

24. NEGOTIATIONS WITH PREFERRED BIDDERS

24.1 The accounting officer may negotiate the final terms of a contract with bidders identified through a competitive bidding process as preferred bidders, provided that such negotiation:

- (a) Does not allow any preferred bidder a second or unfair opportunity;
- (b) is not to the detriment of any other bidder; and
- (c) Does not lead to a higher price than the bid as submitted.

24.2 Minutes of such negotiations must be kept for record purposes and are minuted by the relevant Director and forwarded to the SCM unit for filing.

24.3 Such negotiation meetings are attended by the relevant Director, a SCM representative and the bidder.

25. VARIOUS BIDDING PROCESS

25.1 Two-stage bidding process is allowed for –

- (a) Large complex projects;
- (b) Projects where it may be undesirable to prepare complete detailed technical specifications; or
- (c) Long term projects with a duration period exceeding three years (e.g. Valuers, Bank services, etc);

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

25.2 On receipt of such proposals, a suitable design is accepted and formal specifications are drafted and approved at the formal bid specifications committee.

25.3 In the second stage final technical proposals and priced bids are invited from the bidders who submitted proposals only following a closed bid process.

25.4 Functionality qualifying bidding process

- (a) This phase is a two-envelope bidding system that is allowed for:
 - (i) Procuring specialized services (e.g. consultants, attorneys, etc) that require accredited training and a reasonable amount of experience in the local government field relating to the demand.
 - (ii) Procuring specialized works/ goods (e.g. water, sewer or electrical networks).

- (b) Process for the functionally two-envelope bidding system:
 - (i) Bidders are requested to submit two envelopes;
 - (ii) First envelope contains the technical methodology to determine whether the bidder understand the scope of works as set out in accordance with criteria stipulated in the bid documents and that they have the required capacity, experience and resources to successfully complete the project/ services.
 - (iii) The second envelope will contain the fully completed and signed bidding documents containing price, returnable documents and PPPFA requirements.

- (c) Functionally Process
 - (i) Upon closing of the tender, the technical envelopes are opened first and a formal bid evaluation committee (as appointed by the Accounting Officer and must where possible be the same persons who approved the specifications) in the presence of SCM Officials will score

the tenders in accordance with the technical methodology and points as set out in the bidding documents. Bidders need to achieve a minimum score of the stipulated points out of 100 before their financial proposals and BEE levels are evaluated.

- (ii) Qualifying bidder's envelopes containing the priced bid documents are then opened and the price and BEE evaluation completed by the evaluation committee members present. The proceedings are minuted and recommendation of the highest scoring bidder is formulated to the Bid Adjudication Committee for approval.

26. COMMITTEE SYSTEM FOR COMPETITIVE BIDS

26.1 A committee system for competitive bids is hereby established, consisting of the following committees for each procurement or cluster of procurements as the accounting officer may determine:

- (a) A bid specification committee;
- (b) A bid evaluation committee; and
- (c) A bid adjudication committee;

26.2 The accounting officer appoints the members of each committee, taking into account section 117 of the Act; and

26.3 A neutral or independent observer (Legal/ Auditor), appointed by the accounting officer, must attend or oversee a committee when this is appropriate for ensuring fairness and promoting transparency.

26.4 The committee system must be consistent with:

- (a) Paragraph 27, 28 and 29 of this Policy; and
- (b) Any other applicable legislation.

26.5 The accounting officer may apply the committee system to formal written price quotations.

27. BID SPECIFICATION COMMITTEES

27.1 A bid specification committee must compile the specifications for each procurement of goods or services by the municipality.

27.2 Specifications –

- (a) Must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services;
- (b) must take account of any accepted standards such as those issued by Standards South Africa, the International Standards Organisation, or an authority accredited or recognised by the South African National Accreditation System with which the equipment or material or workmanship should comply;
- (c) Must, where possible, be described in terms of performance required 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 labeling of conformity certification;

- (e) may not make reference to any particular trade mark, name, patent, design, type, specific origin or producer unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the word “equivalent”;
 - (f) must indicate each specific goal for which points may be awarded in terms of the points system set out in the Preferential Procurement Regulations 2001; and
 - (g) Must be approved by the accounting officer prior to publication of the invitation for bids in terms of paragraph 22 of this Policy.
- 27.3 (a) A bid specification committee must be composed of a minimum of three officials of the municipality including the manager/ delegate responsible for the function involved, a SCM representative, officials from other departments within BLM who may have valid input/ experience relating to the specifications or end result, and may when appropriate, include internal/ external specialist advisors upon approval by the Accounting Officer as set out in Section 26.2. Officials from the engineering services, Project Management Unit and Development and Planning Department must form part of the specifications committee where construction works are involved.
- (b) The signed off checklist (Annexure ‘C’) must accompany the request for supply chain process and specifications.
- 27.4 **No person, advisor or corporate entity involved with the bid specification committee, or director of such a corporate entity, may bid for any resulting contracts.**

28. BID EVALUATION COMMITTEES

28.1 A bid evaluation committee must –

- (a) Evaluate bids in accordance with –
 - (i) Commercial evaluation for compliance in terms of valid original tax clearance certificate, check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not in arrears, documents completed and signed in full, etc.
 - (ii) Technical compliancy as described in the Oxford dictionary: “relating to a particular subject, art, craft or its techniques relating to special knowledge to be understood” of the specifications for a specific services or items evaluate including each bidder’s ability to execute the contract and confirmed references relating to such and may include a panel scoring session as set out in Section 25.2.2(a), (b) and
 - (iii) Pricing and the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000, its regulations and its amendments) compliance.
- (b) Submit to the adjudication committee a report and recommendations regarding the award of the bid or any other related matter.

28.2 A bid evaluation committee must as far as possible be composed of-

- (a) Officials from departments requiring the goods or services; and
- (b) At least one supply chain management practitioner of the municipality.

29. BID ADJUDICATION COMMITTEES

29.1 A bid adjudication committee must:

- (a) Study and consider the report and recommendations of the bid evaluation committee; and
- (b) Either:
 - (i) Depending on its delegations, make a final award or a recommendation to the accounting officer to make the final award; or
 - (ii) Make another recommendation to the accounting officer how to proceed with the relevant procurement.

29.2 A bid adjudication committee must consist of at least 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; and
- (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 or an external service provider/ expert for clarity reasons may be invited to clarify any queries raised by the Bid Adjudication Committee members, if such an expert exists and have been involved in the specification and or evaluation process.
- (d) Any issues of clarity should be referred to the relevant user department in writing at least 48 hours before the sitting of the BAC meeting and that the written responses are forwarded to the SCM unit for consideration by the BAC.

- (e) Should the bid committee member have been involved in the item under consideration, they must recuse themselves from the decision making process and be recorded/ minute as such.
- 29.4 (a) the following officials are appointed in terms of this policy through the office of the Accounting Officer as members of the Bid Adjudication:
- (i) Chief Financial Officer
 - (ii) Director Corporate Services
 - (iii) Director Community Services
 - (iv) Director LED
 - (v) Director Technical Services
 - (vi) Acquisitions Officer (SCM Unit – in and support services only)
- (b) The accounting officer must appoint the chairperson of the committee. If the chairperson is absent from a meeting, the members of the committee who are present must elect one of them to preside at the meeting.
- 29.5 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.
- (a) Should a Director be involved in a bid evaluation committee and the item serves at the BAC for approval, the relevant Director is required to declare such and the committee minutes his recusal from the decision making under the item as he was involved in the drawing up of the evaluation process.

29.6 If the bid adjudication committee decides to award a bid other than the one recommended by the bid evaluation committee, the bid adjudication committee must prior to awarding the bid –

- (a) check in respect of the preferred bidder whether that bidder's municipal rates and taxes and municipal service charges are not in arrears, and;
- (b) Notify the accounting officer.

29.7 The accounting officer may –

- (a) After due consideration of the reasons for the deviation, ratify or reject the decision of the bid adjudication committee referred to in paragraph (a); and
- (b) If the decision of the bid adjudication committee is rejected, refer the decision of the adjudication committee back to that committee for reconsideration.

29.8 The accounting officer may at any stage of a bidding process, refer any recommendation made by the evaluation committee or the adjudication committee back to that committee for reconsideration of the recommendation.

29.9 The accounting officer must comply with section 114 of the Act within 10 working days

30. PROCUREMENT OF BANKING SERVICES

30.1 A contract for banking services –

- (a) Must be procured through competitive bids;
- (b) Must be consistent with section 7 or 85 of the Act; and
- (c) May not be for a period of more than five years at a time.

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

30.3 The closure date for the submission of bids may not be less than 60 days from the date on which the advertisement is placed in a newspaper in terms of paragraph 22(1). Bids must be restricted to banks registered in terms of the Banks Act, 1990 (Act No. 94 of 1990).

31. PROCUREMENT OF IT RELATED GOODS OR SERVICES

31.1 The accounting officer may request the State Information Technology Agency (SITA) to assist with the acquisition of IT related goods or services through a competitive bidding process.

31.2 Both parties must enter into a written agreement to regulate the services rendered by, and the payments to be made to, SITA.

31.3 The accounting officer must notify SITA together with a motivation of the IT needs if:

- (a) the transaction value of IT related goods or services required in any financial year will exceed R50 million (VAT included); or
- (b) The transaction value of a contract to be procured whether for one or more years exceeds R50 million (VAT included).

31.4 If a SITA comment on the submission and the municipality disagrees with such comments, the comments and the reasons for rejecting or not following such comments must be submitted to the council, the National Treasury, the relevant provincial treasury and the Auditor General.

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

32.1 The accounting officer may procure goods or services under a contract secured by another organ of state, but only if –

- (a) The contract has been secured by that other organ of state by means of a competitive bidding process applicable to that organ of state;
- (b) There is no reason to believe that such contract was not validly procured;
- (c) There are demonstrable discounts or benefits to do so; and
- (d) That other organ of state and the provider have consented to such procurement in writing.

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

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

33. PROCUREMENT OF GOODS NECESSITATING SPECIAL SAFETY ARRANGEMENTS

33.1 The acquisition and storage of goods in bulk (other than water), which special safety arrangements, including gasses and fuel, should be avoided where ever possible.

33.2 Where the storage of goods in bulk is justified, such justification must be based on sound reasons, including the total cost of ownership, cost advantages and environmental impact and must be approved by the accounting officer.

34. PROUDLY SA CAMPAIGN

34.1 Municipality supports the Proudly SA Campaign to the extent that, all things being equal, preference is given to procuring local goods and services from:

- (a) Firstly – suppliers and businesses within the municipality or district;
- (b) Secondly – suppliers and businesses within the relevant province;
- (c) Thirdly – suppliers and businesses within the Republic.

35. APPOINTMENT OF CONSULTANTS

35.1 The accounting officer may procure consulting services provided that any Treasury guidelines in respect of consulting services are taken into account when such procurements are made.

35.2 Consultancy services must be procured through competitive bids if

- (a) The value of the contract exceeds R200 000 (VAT included); or
- (b) The duration period of the contract exceeds one year.

35.3 In addition to any requirements prescribed by this policy for competitive bids, bidders must furnish particulars of –

- (a) all consultancy services provided to an organ of state in the last five years; and
- (b) Any similar consultancy services provided to an organ of state in the last five years.

35.4 The accounting officer must ensure that copyright in any document produced, and the patent rights or ownership in any plant, machinery, thing, system or process designed or devised, by a consultant in the course of the consultancy service is vested in the municipality.

35.5 Sureties for due performance

- (a) Sureties for the procurement of goods and services (including consultant services) will not generally be called for, but in exceptional circumstances, where required, will be in accordance with the limits described below.
- (b) The sureties required for each class of contract are as follows:
 - (i) Micro: waived (that is, no surety is required);
 - (ii) Minor (under R1000 000.00): 2.5% of the bid sum;
 - (iii) Medium (over R1000 000.00): 5% of the bid sum;
 - (iv) Major (over R10 000 000.00): 7.5% of the bid sum;
 - (v) Unless otherwise provided for in the standard conditions of contract prescribed by the CIDB in respect of construction work.

35.6 Retention

- (a) Retention for procurement of goods and services (including consultant services) will not generally be called for, but where required, will be in accordance with the limits described below.
- (b) The value of retention to be deducted shall be as follows:
 - (i) Micro and minor (under and over R1000 000.00): 10% of the value of work carried out with no limit, reducing to 5% for the duration of the maintenance period;
 - (ii) Unless otherwise provided for in the standard conditions of contract prescribed by the CIDB in respect of construction work.
- (c) Where consultant services are to be completed at the end of the maintenance (defects liability) period in respect of a construction contract, the value of this work (typically 5%) may be invoiced at the end of the construction period, but shall be held as retention until the completion of the service (typically, an end of maintenance inspection and the preparation of the final account). Alternatively, the value of this work must be budgeted for in the following financial year.

35.7 Variation orders

- (a) In cases where the estimated value of the envisaged changes in purchase does not vary more than 15% of the total value of the original contract, the contractor may be instructed to deliver the goods or render the services as such. In cases of measurable quantities, the contractor may be approached to reduce the unit price, and such offers may be accepted provided that there is no escalation in price.
- (b) The expansion or variation of orders against the original contract has, however, led to wide scale abuse of the current SCM system. In order to mitigate such practices, accounting officers of municipalities are advised that, from the date of MFMA Circular 62, contracts may be expanded or varied by not more than 20% for construction related goods, services and/or infrastructure projects and 15% for all other goods and/or services of the original value of the contract. Municipal Councils are required to amend their supply chain management policies accordingly. Furthermore, anything beyond the abovementioned thresholds must be reported to council.
- (c) Any expansion or variation in excess of these thresholds must be dealt with in terms of the provisions of section 116(3) of the MFMA which will be regarded as an amendment to the contract.

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

36.1 The accounting officer may –

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

36.2 The accounting officer must record the reasons for any deviations in terms of subparagraphs (36.1) (a) and (b) of this policy and report them to the next meeting of the council and include as a note to the annual financial statements.

36.3 Subparagraph (36.2) does not apply to the procurement of goods and services contemplated in paragraph 11(2) of this policy.

36.4 Emergency/ After Hour Services

(a) Any work or service procured after hours or during an emergency situation as defined in the MFMA may be paid on Sundry Payment request and the following to be attached:

- (i) the original tax invoice; and
- (ii) Fully completed and signed ex post forms as set out hereunder.

APPLICATION FOR EX POST FACTO APPROVAL: FORM A

TO: HEAD OF DEPARTMENT:.....

Application is hereby made for ex post facto approval for:

.....
.....

Indicate under which circumstances action was taken.

- (A) In case of emergency
- (b) In case of best interest of the state

It is hereby certified that the action did not occur as a result of negligence or ignorance, that the action was taken with care and coincided with what is expected of a reasonable person and that no fruitless expenditure has been incurred.

SUBMITTED BY:

SURNAME & INITIALS	DATE
.....
DESIGNATION	SIGNATURE
.....
SECTION	CONTACT NO.
.....

Instruction for the completion of this application form

- (a) The policy and procedures for irregular actions (ex post facto approval) and emergency services are applicable and must be adhered to at all times.
- (b) This application (Form A) must be accompanied by either a completed Form B or C.
- (c) The application must be completed in full giving detailed explanatory notes in which the circumstances are explained.
- (d) All applications must be signed by the Requestor, the HOD for submission to the SCM Unit will peruse and check legal compliance and forward it to the Chief Financial Officer and the Municipal Manager for approval.
- (e) The SCM unit will report to the council on such approval.

CASES OF EMERGENCY: FORM B

ANNEXURE B1

(Please tick where applicable)

NB: This form must be completed and submitted under cover of the completed Form A, in matters where action was taken in the case of an emergency (as defined in Section 36 of this policy).						
QUESTIONNAIRE	DESCRIPTION					
Describe full participates of the circumstances that could not be foreseen						
Outline the dangerous/perilous condition, misery/defect or life threat that occurred as a result of the state of emergency, or could have resulted, or damage that could have been incurred						
Indicate what was intended with the action in order to relieve, stem or to prevent the state of emergency.						
Date and time the requirement came know	DATE		TIME		NAME	
The supplier was instruction as follows.		Against a contract awarded Bid Number:..... ...		Order placed Order Number:.....		As a verbal instruction: Name:..... ...
Date and time the instruction was given	DATE		TIME		NAME	
Date and time the emergency works were completed by the appointed contractor.	DATE		TIME		NAME	
What attempts were made to obtain prior authorization from the bidding committee or HOD?						
Is the pricing of the works required market related? Please elaborate.						

CASES OF EMERGENCY: FORM B (CONTINUED)

ANNEXURE B2

(Please tick where applicable)

Did the application arise from an Audit inquiry?		No	Yes (give details)		
REQUEST SUBMITTED BY:		..... USER DEPARTMENT	..... NAME	..... DATE	..... SIGNATURE
DELEGATED APPROVAL	Yes/ No	PLEASE INDICATE IN THE BOX IF THE EX-POST FACT IS APPROVED OR NOT			
		HEAD OF DEPARTMENT	..... NAME	..... DATE	..... SIGNATURE
			..... NAME	..... DATE	..... SIGNATURE
		MUNICIPAL MANAGER	..... NAME	..... DATE	..... SIGNATURE

BEINTEREST: FORM C**ANNEXURE C1**

(Please tick where applicable)

NB: This form must be completed and submitted under cover of the completed Form A, in matters where action was taken in the in the best interest of the state.

QUESTIONNAIRE	DESCRIPTION					
Furnish and motivate the reasons for the urgent action.						
Motivate the negative results that could have occurred if prescribed bidding procedures were taken and a comparison of the result that was brought about by this section.						
Did the unauthorized action yield better results than would have been yielded if the prescribed bidding procedures had been followed? Motivate.						
Date and time the requirement came know	DATE		TIME		NAME	
The supplier was instruction as follows.		Against a contract awarded Bid Number:..... ...		Order placed Order Number:.....		As a verbal instruction: Name:..... ...
Date and time the instruction was given	DATE		TIME		NAME	
Date and time the emergency works were completed by the appointed contractor.	DATE		TIME		NAME	
What attempts were made to obtain prior authorization from the bidding committee or HOD?						
Is the pricing of the works required market related? Please elaborate.						

(Please tick where applicable)

Did the application arise from an Audit inquiry?		No	Yes (give details)		
REQUEST SUBMITTED BY:		..... USER DEPARTMENT	..... NAME	..... DATE	..... SIGNATURE
DELEGATED APPROVAL	Yes/ No	PLEASE INDICATE IN THE BOX IF THE EX-POST FACT IS APPROVED OR NOT			
		HEAD OF DEPARTMENT	..... NAME	..... DATE	..... SIGNATURE
			..... NAME	..... DATE	..... SIGNATURE
		MUNICIPAL MANAGER	..... NAME	..... DATE	..... SIGNATURE

CHECKLIST FOR SUPPLY CHAIN PROCESS TO PROCEED

REQUIREMENT	DESCRIPTION	RESPONSIBLE PERSON	YES/ NO	DATE/ DETAILS
IDP	Was the capital project approved in the IDP – Council Approval	End user/ SCM		
BUDGET	Approved in operational or capital - Council Approval	End-user/ Budget unit		
VOTE NUMBER	Is the vote number allocated?	End-user/ Budget unit		
FUNDING SECURED CRR/ GRANT/ DONATIONS	a) Is the funding in the bank b) If not, what are the grant payment requirements: DME/ RBIG/ MIG/ DAC/ CRR?	End-user/ Budget unit		
CASH FLOW/ BUDGET	a) Did finance comment on the cash flow and confirm the funding?	End-user/ Income unit		
BUILDING PLAN (APPLICABLE TO CIDB CAPITAL PROJECT)	Have the building plan been approved or been submitted for approval?	End-user/ Dev & Plan		
PROJECT FILES (APPLICABLE TO CAPITAL PROJECTS)	Are the project files up to date at finance with all the relevant information pertaining to this bid (capital project)?	SCM		
COMMENTS	Are the comments of the entire Council department included in the report to be specs committee?	End-user		

DEPARTMENT	COMMENTS	SIGNATURE
a)		
b)		
c)		
d)		
e)		
f)		

.....
REQUESTED BY (SURNAME & INITIALS)

.....
DATE

.....
DESIGNATION

.....
SIGNATURE

37. UNSOLICITED BIDS

- 37.1 In accordance with section 113 of the Act there is no obligation to consider unsolicited bids received outside a normal bidding process.
- 37.2 The accounting officer may decide in terms of section 113(2) of the Act to consider an unsolicited bid, only if –
- (A) the product or service offered in terms of the bid is a demonstrably or proven unique innovative concept;
 - (b) The product or service will be exceptionally beneficial to, or have exceptional cost advantages;
 - (c) The person who made the bid is the sole provider of the product or service; and
 - (d) The reasons for not going through the normal bidding processes are found to be sound by the accounting officer.
- 37.3 If the accounting officer decides to consider an unsolicited bid that complies with subparagraph (2) of this policy, the decision must be made public in accordance with section 21A of the Municipal Systems Act, together with –
- (a) Reasons as to why the bid should not be open to other competitors;
 - (b) An explanation of the potential benefits if the unsolicited bid were accepted; and
 - (c) An invitation to the public or other potential suppliers to submit their comments within 30 days of the notice.
- 37.4 The accounting officer must submit all written comments received pursuant to subparagraph (3), including any responses from the unsolicited bidder, to the National Treasury and the relevant provincial treasury for comment.
- 37.5 The adjudication committee must consider the unsolicited bid and may award the bid or make a recommendation to the accounting officer, depending on its delegations.
- 37.6 A meeting of the adjudication committee to consider an unsolicited bid must be open to the public.

- 37.7 When considering the matter, the adjudication committee must take into account –
- (A) any comments submitted by the public; and
 - (b) Any written comments and recommendations of the National Treasury or the relevant provincial treasury.
- 37.8 If any recommendations of the National Treasury or provincial treasury are rejected or not followed, the accounting officer must submit to the Auditor General, the relevant provincial treasury and the National Treasury the reasons for rejecting or not following those recommendations.
- 37.9 Such submission must be made within seven days after the decision on the award of the unsolicited bid is taken, but no contract committing the municipality to the bid may be entered into or signed within 30 days of the submission.

38. COMBATING OF ABUSE OF SUPPLY CHAIN MANAGEMENT SYSTEM

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

- (d) Reject any bid from a bidder–
 - (i) if any municipal rates and taxes or municipal service charges owed by that bidder or any of its directors to the municipality, or to any other municipality or municipal entity, are in arrears for more than three months; or
 - (ii) Who during the last five years has failed to perform satisfactorily on a previous contract with the municipality or any other organ of state after written notice was given to that bidder that performance was unsatisfactory;
- (e) Reject a recommendation for the award of a contract if the recommended bidder, or any of its directors, has committed a corrupt or fraudulent act in competing for the particular contract;
- (f) Cancel a contract awarded to a person if:
 - (i) The person committed any corrupt or fraudulent act during the bidding process or the execution of the contract; or
 - (ii) An official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of the contract that benefited that person; and
- (g) Reject the bid of any bidder if that bidder or any of its directors:
 - (i) Has abused the supply chain management system of the municipality or has committed any improper conduct in relation to such system;
 - (ii) Has been convicted for fraud or corruption during the past five years;
 - (iii) has willfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
 - (iv) Has been listed in the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004).

38.2 The accounting officer must inform the National Treasury and relevant provincial treasury in writing of any actions taken in terms of subparagraphs (1)(b)(ii), (e) or (f) of this policy.

PART 3:
LOGISTICS, DISPOSAL, RISK AND PERFORMANCE MANAGEMENT

39. LOGISTICS MANAGEMENT

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

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

40 DISPOSAL MANAGEMENT

40.1 The criteria for the disposal or letting of assets, including unserviceable, redundant or obsolete assets, subject to sections 14 and 90 of the Act, will be determined for each situation in collaboration with the PPPFA Act, its regulates and amendments.

40.2 Assets may be disposed of by –

- (a) Transferring the asset to another organ of state in terms of a provision of the Act 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.

40.2 The accounting officer must ensure that –

- (a) immovable property is sold only at market related prices except when the public interest or the plight of the poor demands otherwise;
- (b) movable assets are sold either by way of written price quotations, a competitive bidding process, auction or at market related prices, whichever is the most advantageous;
- (c) Firearms are not sold or donated to any person or institution within or outside the Republic unless approved by the National Conventional Arms Control Committee;
- (d) Immovable property is let at market related rates except when the public interest or the plight of the poor demands otherwise;
- (e) All fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property are annually reviewed;
- (f) Where assets are traded in for other assets, the highest possible trade-in price is negotiated; and
- (g) In the case of the free disposal of computer equipment, the provincial department of education is first approached to indicate within 30 days whether any of the local schools are interested in the equipment.

4.1 RISK MANAGEMENT

41.1 The criteria for the identification, consideration and avoidance of potential risks in the supply chain management system, will be determined for each situation.

41.2 Risk management must include –

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

42. PERFORMANCE MANAGEMENT

- 42.1 The accounting officer must establish and implement an internal monitoring system in order to determine, on the basis of a retrospective analysis, whether the authorised supply chain management processes were followed and whether the objectives of this Policy were achieved.
- 42.2 To ensure that preferential procurement attains its objectives, performance will be monitored in terms of the Supply Chain Management performance management system.
- 42.3 For the purposes of implementing a preferential procurement system for consultants, the following classes of contract have been identified:
 - (a) The **Consultant Contract (up to R200 000)** where the estimated contract value is greater than R30 000, but is less than or equal to R200 000, and the duration of the contract is less than one year;
 - b) The **Consultant Contract (over R200 000)** where the estimated contract value is greater than R200 000, and/or the duration of the contract is greater than one year.

PART 4: OTHER MATTERS

43.1 PROHIBITION ON AWARDS TO PERSONS WHOSE TAX MATTERS ARE NOT IN ORDER

- 43.1 No award above R15 000 may be made in terms of this Policy to a person whose tax matters have not been declared by the South African Revenue Service to be in order.
- 43.2 Before making an award to a person the accounting officer must first check with SARS whether that person's tax matters are in order.
- 43.3 If SARS does not respond within 7 days such person's tax matters may for purposes of subparagraph (43.1) be presumed to be in order.

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

- 44.1 Irrespective of the procurement process followed, no award may be made to a person in terms of this Policy –
- (a) Who is in the service of the state?
 - (b) 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) A person who is an advisor or consultant contracted with the **municipality**.

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

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

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

46. ETHICAL STANDARDS

46.1 *Ethical Principles in the SCM Environment*

- (a) All SCM officials and other role players must comply with the highest ethical standards in order to promote:
 - (i) mutual trust and respect; and
 - (ii) An environment where business can be conducted with integrity and in a fair and reasonable manner.
- (b) Preserve the highest standards of honesty, impartiality and objectivity.
- (c) Maintain the highest level of impartiality and objectivity.
- (d) An official or other role player involved in the implementation of the SCM Policy:
 - (i) should treat all providers and potential providers equally whilst still promoting the BBBEE Act and the PPPFA;
 - (ii) Should not use his or her position for private gain or to improperly benefit another person;
 - (iii) must declare to the accounting officer details of any private or business interest which that person, or any close family member, partner or associate, may have in any proposed procurement or disposal process of, or in any award of a contract by, the municipality;
 - (iv) 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;
 - (v) Should ensure that officials are scrupulous in their use of property belonging to the municipality;
 - (vi) Must assist the accounting officer in combating fraud, corruption, favouritism and unfair and irregular practices in the supply chain management system; and

- (vii) must report to the accounting officer any alleged irregular conduct in the supply chain management system which that person may become aware of, including:
 - (aa) any alleged fraud, corruption, favouritism or unfair conduct;
 - (bb) any alleged contravention of section 86(1) of this policy; or
 - (cc) any alleged breach of this code of ethical standards.
- (e) The Accounting Officer shall take all reasonable steps to prevent abuse, corruption and collusion through at least regular internal audit reviews, and external audit as well as risk assessments in the supply chain environment.
- (f) All allegations of corruption, improper conduct or compliance failure shall be reported to the Accounting Officer and investigated by an appropriate individual/organization appointed by the Accounting Officer.
- (g) Take steps against such official or other role player and inform the Provincial Treasury of such steps.
- (h) Report any conduct that may constitute an offence to the South African Police Service.
- (i) The Accounting Officer shall ensure that the BLM considers all complaints received and shall respond thereto in a timely manner.
- (j) All bidders and contractors shall be made aware of the ethical standards of the BLM, its expectations of them and the consequences of non-compliance. The application of these standards by bidders that the BLM does business with must be promoted.

46.2 Confidentiality

- (a) Matters of a confidential nature in the possession of supply chain officials should be kept confidential unless legislation, the performance of duty or the provisions of law requires otherwise. Such restrictions should also apply after separation from service.

- (b) Any information that is the property of the BLM or its supplier/service providers should be protected at all times.

46.3 Independence

- (a) All SCM officials and role players may not use their position for private or to improperly benefit another person.
- (b) If a SCM official or other role player's family member, partner or associate of such official or role player, has any private or business interest in any bid to be submitted or to be adjudicated, such interest must be disclosed and recorded and the party with the interest must withdraw from participating in the evaluation process relating to the bid if there is a conflict of interest.

46.4 Gifts and Hospitality

- (a) An official or other role player involved in the implementation of the SCM Policy 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 for a value exceeding R350.
- (b) 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 must be declared to the accounting officer.
- (c) No person who is a provider or prospective provider of goods 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 –
 - (i) Any inducement or reward to the municipality for or in connection with the award of a contract; or
 - (ii) Any reward, gift, favour or hospitality to –
 - (aa) any official; or
 - (bb) any other role player involved in the implementation of the supply chain management policy.

- (d) The accounting officer must report any alleged contravention in terms of this section 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.

46.5 Declaration of Interest

- (a) All SCM officials and other role players must recognize and disclose any interest and determine any possible conflict that may arise.
- (b) SCM officials, to the extent required by their position, should declare any business, commercial and financial interest or activities undertaken for financial gain that may raise a possible conflict of interest. The Accounting Officer shall determine whether the interest declared, constitutes a conflict of interest in circumstances where it is not clear that it presents a conflict.
- (c) SCM officials or other role players should not place themselves under any financial or other obligation to outside individuals or organizations that might seek to influence them in the performance of their duties.
- (d) SCM officials should not take improper advantage of their previous office after leaving their official position.

46.6 Conduct of Members of Bid Committees

- (a) It is the responsibility of the SCM Unit to ensure that all members of Bid Committees are aware of the required conduct and that they are provided with a copy of the relevant documentation regulating the behaviour.

46.7 Fraud and Corruption

- (a) Government's policy is to require that bidders and/or contractors, including consultants, observe the highest standard of ethics during the selection and execution of contracts. In pursuance of this policy, Government defines, for the purposes of this provision, the terms set forth below:

- (i) “corrupt practice” means the offering, giving, receiving, or soliciting of anything of value to influence the action of a public official in the selection process or in contract execution; and
 - (ii) “fraudulent practice” means a misrepresentation of facts in order to influence a selection process or the execution of a contract to the detriment of the accounting officer, and includes collusive practices among bidders/contractors (prior to or after submission of proposals) designed to establish prices at artificial, non-competitive levels and to deprive the accounting officer of the benefits of free and open competition.
- (b) The accounting officer:
- (i) Must reject a proposal for award if he/she determines that the service supplier recommended for award, has engaged in corrupt or fraudulent activities in competing for the contract in question.
 - (ii) May insist that a provision is included in the contract agreement with the contractor, requiring contractors to permit the accounting officer and/or relevant treasury to inspect their accounts and records relating to the performance of the contract and to have them audited by auditors appointed by the accounting officer/relevant treasury.
 - (iii) Where evidence in support of corrupt, fraudulent practices or criminal offences are reported and substantiated, the accounting officer is to initiate criminal proceedings against such business entity, official or other role player, and inform the relevant Treasury of such measures.
 - (iv) must consult the National Treasury’s Register for Tender Defaulters before awarding of contracts.

- (c) Contractors shall observe the highest standard of ethics during selection and execution of the contract. In terms of this provision corrupt and fraudulent practices can be defined as follows:
- (i) Corrupt practice means the offering, giving, receiving or soliciting of anything of value to influence the action of a public official in the selection process or in contract execution.
 - (ii) Fraudulent practice means a misrepresentation of facts in order to influence a selection process or the execution of a contract to the detriment of the Accounting Officer and includes collusive practices designed to establish prices at artificial, non-competitive levels and to deprive the Accounting Officer of the benefits of competition.
- (d) Contractors must assist in combating corruption in supply chain management in line with the Prevention and Combating of Corrupt Activities Act, by not giving, receiving or soliciting any item of value to influence the action of an official dealing with supply chain management.
- (e) Contractors and departmental officials must assist in combating procurement fraud through awareness, vigilance and consistent assessment in line with the Prevention and Combating of Corrupt Activities Act by not misrepresenting facts in order to influence a procurement process or the execution of a contract to the detriment of the BLM including collusive practices.
- (f) The Constitution provides for rights such as just administration and access to information and requires high standards of ethics within public administration. Recent legislation dealing with transparency and anti-corruption measure strengthen Government's ability to combat corruption and also protects employees from making disclosures against their employers in both the public and private sectors.
- (g) All SCM practitioners and other role players must assist the Accounting Officer in combating corruption and fraud.

46.8 Combative Practices

- (a) Combative practices are unethical and illegal and should be avoided at all cost. They include but are not limited to:
 - (i) Suggestions of fictitious lower quotations.
 - (ii) Reference to non-existent competition.
 - (iii) Exploiting errors in bids.
 - (iv) Soliciting bids from bidders whose names appear on the list of restricted bidder/suppliers/persons.

46.9 Internal Abuse of the Preferential Procurement System

- (a) No official of the BLM should be involved in or promote the abuse of the preferential procurement system.
- (b) Internal control mechanisms should have as objective to at least try and avoid abuse of the system internally.

46.10 External Abuse of the Preferential Procurement System

- (a) BLM shall vigorously pursue all legal remedies available in the event that the preferential procurement points system is abused, particularly through for example, but not limited to the following ways:
 - (i) That a provider or contractor is suspected of contravening Regulation 13 of the PPPFA.
 - (ii) Has promised, offered or given a bribe during the bidding process and/or after conclusion of the contract.
- (b) Has acted in a fraudulent manner or in bad faith or in any other improper manner during the bidding process or after conclusion of the contract.
- (c) That an agreement was entered into with the contractor on the strength of information furnished by him, and it became apparent after conclusion of such agreement that the information provided was incorrect.

- (d) To protect both parties to an agreement, potential providers, contractors and officials must be made aware of the implications of any contraventions.
- (e) Potential providers shall be informed via the special conditions of contract and the applicable paragraphs in the GCC of implications of contraventions.

46.11 Fronting

- (a) Fronting is inseparably linked to equity and therefore largely finds its application in those particular circumstances.
- (b) Where after award of a contract it becomes evident that the award made to the organization based on incorrect information constituting fronting, the appropriate action is to be taken in accordance with all legal remedies available, especially the Prevention and Combating of Corrupt Activities Act, Act No 12 of 2004 and the Promotion of Administrative Justice Act, Act No 3 of 2000.
- (c) The BLM shall ensure that Regulation 13 of the PPPFA to i.e. equity ownership, active management and active control.
- (d) Where the BLM becomes aware of a possible fronting case, the following process that is in accordance with the Constitution, the rules of Administrative Law and the Promotion of Administrative Justice Act should be followed as a starting point:
- (e) BLM must inform the bidder/contractor of the alleged/suspected offence, i.e.
 - (i) That he is suspected of contravening Regulation 13 of the PPPFA or,
 - (ii) Has promised, offered or given an bribe during the bidding process and/or after conclusion of contract, or
 - (iii) Has acted in a fraudulent manner or in bad faith or in any other improper manner during the bidding process or after conclusion of contract, or

- (iv) That an agreement was entered into with the contractor on the strength of information furnished by him, and it became apparent after conclusion of such agreement that the information provided was incorrect.
- (f) The bidder/contractor must be informed of the recourse sought.
- (g) The bidder/contractor must also be afforded an opportunity to state their case. This is the application of the principles of natural justice, with particular reference to the audi alteram partem rule.
- (h) BLM must follow the requirement for procedural fairness as outlined in Section 3 of the Promotion of Administrative Justice Act, 3 of 2000. Briefly it states:
 - (i) An Administrator must give a person adequate notice of the nature and purpose of the proposed Administrative action.
 - (ii) A reasonable opportunity to make representations.
 - (iii) A clear statement of the BLM administrative action.
 - (iv) Adequate notice of any right of review or internal appeal, where applicable.
 - (v) Adequate notice of the right to request reasons in terms of Section 5 of this Act.

46.12 Action in respect of fraud or non-performance:

- (a) The Municipal Manager must, upon detecting that a preference in terms of the PPPFA and the revised regulations hereunder has been obtained on a fraudulent basis, or B-BBEE status level of contribution is not attained in the performance of the contract, act against the person awarded the contract. The Municipal Manager may in addition to any other remedy:
 - (b) Recover all cost, losses or damages it has incurred or suffered as a result of that person's conduct;
 - (c) Cancel the contract and claim any damages it has suffered as a result of having to make less favourable arrangements due to such cancellation;

- (d) Impose a financial penalty more severe than the theoretical financial preference associated with the claim which was made in the tender; and
- (e) Restrict the contractor, its shareholders and directors from obtaining business from the Municipality for a period not exceeding 10 years

46.13 Restriction of suppliers:

- (a) Notwithstanding the imposition of any penalties that may be applied under this Policy, if a supplier is found guilty of misrepresenting any facts in respect of either ownership or empowerment indicator, either in a bid submission, quote, or on the supplier database, in order to effect the outcome of a bid/quote, either before or after the award of a contract, then that supplier shall, with the approval of the Municipal Manager in consultation with the National Treasury, be restricted on the supplier database for a period as prescribed by the National Treasury and shall be notified accordingly.
- (b) The effect of such restriction is that absolutely no further work may be awarded to that supplier for the duration of the restriction.
- (c) Should it come to light that a false declaration was made by the bidder after the municipality had awarded the bid, the contract must be immediately suspended and payments made, recovered. False declarations by bidders can be viewed as a criminal offence and charges must be laid by the municipality with the South African Police Services for further investigation. Details will be reported to Council at its next meeting and information contained in the Annual Report of the municipality.
- (d) In the event that the Auditor-General detects irregular expenditure during the audit process as a result of possible false declarations and subsequent awards based on those declarations, the municipality or municipal entity will be informed of such irregular expenditure. The municipality or municipal entity will be required to rectify this matter by instituting the necessary remedial measures, by investigating the matter, recovering the funds spent, instituting disciplinary proceedings against those liable for such actions and possible criminal prosecution as may be appropriate. The accounting officer must also apply the remedial measures contained under "Termination for Default" in the General Conditions of Contract. The expenditure at this ***stage will not be classified as irregular expenditure.***

- (e) In the event that the same expenditure is detected in the following year's audit and the remedial measures referred to above were not instituted, the expenditure will then be classified as irregular expenditure. The measures contained in MFMA Circular 43 relating to the restriction of suppliers in terms of the Preferential Procurement Regulations are still relevant.

46.14 Calculation of penalties:

- (a) Penalties for failure to comply with specified or bid participation goals must be specified in each particular contract document and must be applied should the goals not be met.
- (b) Where, in terms of the bid documentation, preference points are granted in respect of contract participation goals offered, the offered goals of the successful bidder become the contractual goals which must be met.
- (c) The penalty to be applied for non-compliance with offered goals shall be as provided for in any prescribed standard contract documentation.

47. INDUCEMENTS, REWARDS, GIFTS AND FAVOURS TO MUNICIPALITY, OFFICIALS AND OTHER ROLE PLAYERS

47.1 No person who is a provider or prospective provider of goods or services, or a recipient or prospective recipient of goods disposed or to be disposed of may either directly or through a representative or intermediary promise, offer or grant –

- (a) any inducement or reward to the municipality for or in connection with the award of a contract; or
- (b) Any reward, gift, favour or hospitality to:
 - (i) Any official; or
 - (ii) Any other role player involved in the implementation of this Policy.

47.2 The accounting officer must promptly report any alleged contravention of subparagraph (47.1) to the National Treasury for considering whether the offending person, and any representative or intermediary through which such person is alleged to have acted, should be listed in the National

Treasury's database of persons prohibited from doing business with the public sector.

47.3 Subparagraph (47.1) does not apply to gifts less than R350 in value.

48. SPONSORSHIPS

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

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

49. OBJECTIONS AND COMPLAINTS

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

50. RESOLUTION OF DISPUTES, OBJECTIONS, COMPLAINTS AND QUERIES

50.1 The accounting officer must appoint an independent and impartial person, not directly involved in the supply chain management processes –

- (a) To assist in the resolution of disputes between the **municipality** and other persons regarding:
 - (i) Any decisions or actions taken in the implementation of the supply chain management system; or
 - (ii) Any matter arising from a contract awarded in the course of the supply chain management system; or

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

50.2 The accounting officer, or another official designated by the accounting officer, is responsible for assisting the appointed person to perform his or her functions effectively.

50.3 The person appointed must –

- (a) Strive to resolve promptly all disputes, objections, complaints or queries received; and
- (b) Submit monthly reports to the accounting officer on all disputes, objections, complaints or queries received, attended to or resolved.

50.4 A dispute, objection, complaint or query may be referred to the relevant provincial treasury if –

- (a) The dispute, objection, complaint or query is not resolved within 60 days; or
- (b) No response is forthcoming within 60 days.

50.5 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.

50.6 This paragraph must not be read as affecting a person's rights to approach a court at any time.

51. CONTRACTS PROVIDING FOR COMPENSATION BASED ON TURNOVER

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

- (a) A cap on the compensation payable to the service provider; and
- (b) That such compensation must be performance based.

52. COMMENCEMENT

52.1 This Policy takes effect on 01st of July 2014