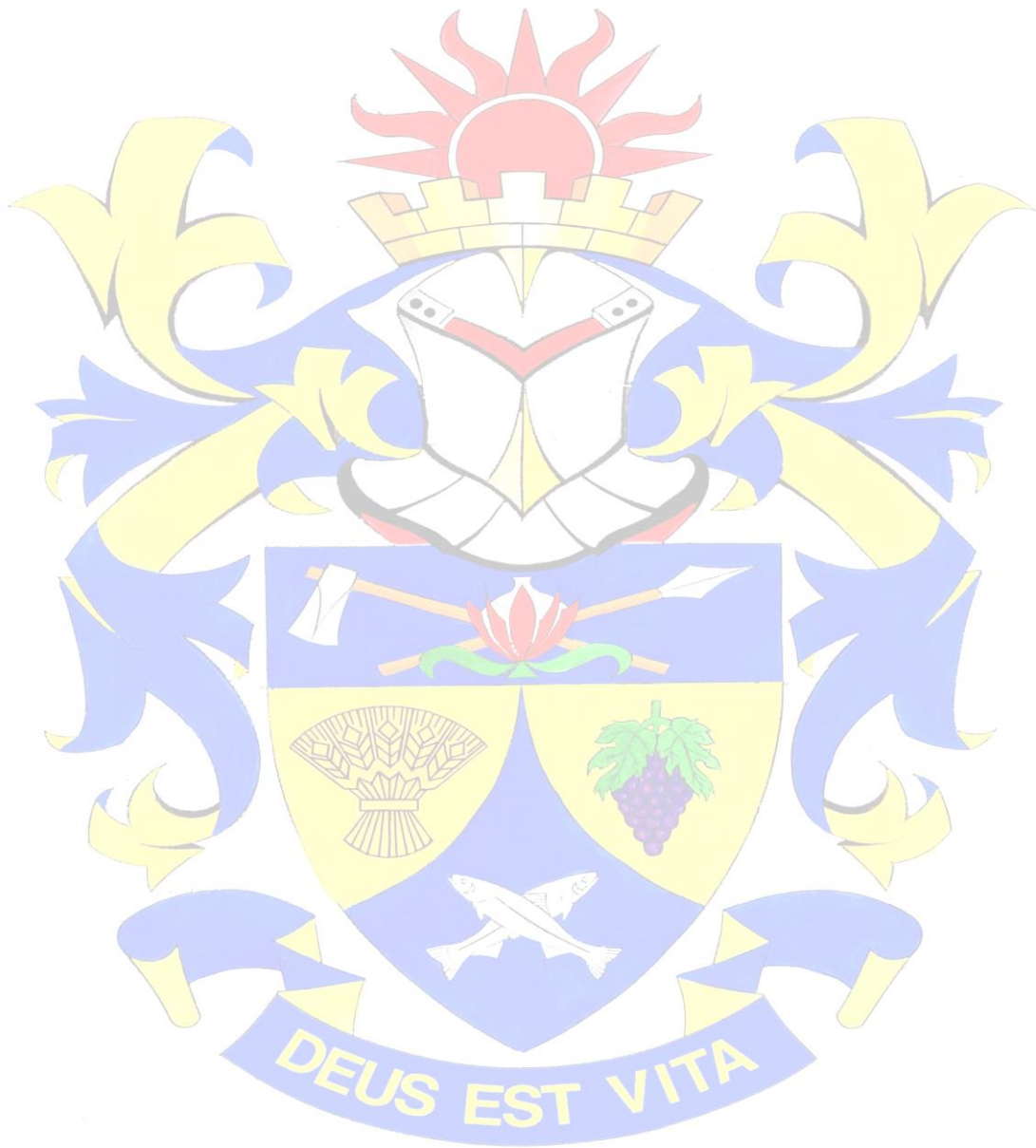


BERGRIVIER MUNICIPALITY



**REVISED
SUPPLY CHAIN MANAGEMENT
POLICY- MAART 2021**

BERGRIVIER MUNICIPALITY

REVISED MUNICIPAL SUPPLY CHAIN MANAGEMENT POLICY

LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003

Date of adoption:

Council resolves in terms of section 111 of the Local Government Municipal Finance Management Act (No. 56 of 2003), to adopt the under-mentioned revised policy as the Supply Chain Management Policy of the municipality.

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1. Definitions

In this policy and any bid documentation or directive issued in terms thereof, the singular includes the plural and vice versa, any one gender includes both genders and, unless the context otherwise indicates, a word or expression to which a meaning has been assigned in the Municipal Finance Management Act has the same meaning as in this Act, and -

“Accounting Officer” means the manager of the municipal administration and accounting officer of the municipality appointed by the council in terms of section 54A of the Local Government: Municipal Systems Act No. 32 of 2000 as amended in Act No. 7 of 2011 and includes any employee of the municipality who acts in his stead and, in the event of the municipality being subject to an intervention in terms of section 139 of the Constitution or any other applicable law, includes the “Administrator” appointed as a consequence of such intervention or in terms of the conditions pertaining thereto;

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

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

"B-BBEE status level of contributor" means the B-BBEE status received by a measured entity based on its overall performance using the relevant scorecard contained in the Codes of Good Practice on Black Economic Empowerment;

Bid Committees” means the committees established in terms of this policy to prepare bid specifications, bid documentation, evaluate responsive bids and, where so authorized, to adjudicate responsive bids and any reference in section 117 of the Municipal Finance Management Act to municipal tender committees shall be construed as a reference to the aforesaid committees;

“Bid documentation” means all documentation relating to or necessary in order to complete a procurement or disposal including but not limited to such specification, bidding, certification and contractual documentation as may be prescribed by National Treasury or the Construction Industry Development Board, as the case may be, for municipal supply chain management purposes and the implementation of this policy;

“Bidder” means any person who submits a bid or quotation to the municipality in response to an invitation to bid or quote and includes a **“tenderer”**;

“Bid rigging” means a prohibited collusive bidding practice in terms of which bidders that would normally be expected to compete in a procurement process either singularly or by association with other persons or firms in a horizontal relationship, secretly conspire to raise prices or lower the quality of goods and/or services or agree not to compete against each other in such process;

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

"Black people" is a generic term which means Africans, Coloureds and Indians;

"Broad-Based Black Economic Empowerment Act” means the Broad-Based Black Economic Empowerment Act No. 53 of 2003;

“Chief Financial Officer” means the official of the municipality designated as such in terms of section 80(2)(a) of the Municipal Finance Management Act;

“CIDB” means the Construction Industry Development Board

“CIDB regulations” means any regulations issued in terms of the Construction Industry Development Board Act No. 38 of 2000;

“Codes of Good Practice” means the Codes of Good Practice on Black Economic Empowerment issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act and contained in General Notice 12 of 9 February 2007;

“Comparative price” means the price after the factors of a non-firm price and all unconditional discounts that can be utilized, have been taken into consideration;

“Competitive bidding process” means a transparent procurement method in which bids from competing contractors, suppliers or vendors are invited by openly advertising the scope, specifications, terms and conditions of the proposed contract as well as the criteria by which responsive bids received will be evaluated;

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

“Consortium or joint venture” means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract;

“Construction works” means the provision of a combination of goods and services arranged for the development, extension, installation, repair, maintenance, renewal, removal, renovation, alteration, dismantling or demolition of a fixed asset including building and engineering infrastructure;

“Contractor” means a person or body of persons who undertakes to execute and complete construction works for or on behalf of the municipality;

“Contract” means the agreement that results from the acceptance of a tender by the municipality in accordance with this policy;

“Council” means the council of Bergrivier Municipality;

“Day” unless expressly otherwise provided in this policy, means a calendar day, provided that when any particular number of days is prescribed for the doing of any act, or for any other purpose, the same shall be reckoned exclusively of the first and inclusively of the last day, unless the last day happens to fall on a Sunday or on any public holiday, in which case the time shall be reckoned exclusively of the first day and exclusively also of every such Sunday or public holiday;

“Delegating authority” means the council, a duly authorized political structure or office bearer thereof, the Accounting Officer or other employee to whom original powers are assigned in terms of legislation and, in relation to a sub-delegation of a power, that delegated body;

“Delegation” means the issuing of a written authorization by a delegating authority to a delegated body to act in his stead and, in relation to a duty, includes an instruction or request to perform or to assist in performing the duty **and “delegate” and sub-delegate** has a corresponding meaning;

“Delegated body” in relation to the delegation of a power means the person to whom a power has been delegated by the delegating authority in writing;

“Designated group” means-

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

“Designated Official” means the official of the municipality to whom the accounting officer or the chief financial officer, as the case may be, have, in accordance with sections 79 and 82 of the Municipal Finance Management Act No. 56 of 2003 delegated powers, functions and duties in connection with the application and implementation of this policy; provided that a sub-delegation by the chief financial officer to an official that has not been allocated to him by the accounting officer or to a person contracted by the municipality for the work of its budget and treasury office may only be so authorized with the concurrence of the accounting officer and provided further that the said chief financial officer is satisfied that effective systems and procedures are in place to ensure control and accountability by the person concerned;

"Designated sector" means a sector, sub-sector or industry that has been designated by the Department of Trade and Industry in line with national development and industrial policies for local production, where only locally produced services, works or goods or locally manufactured goods meet the stipulated minimum threshold for local production and content;

“Disposal” means a process of preparing, negotiating and concluding a written contract relating to the alienation of a capital asset whether movable or immovable owned by or under the control of the municipality or rights in respect thereof, by means of a sale, lease, donation or cession and **“dispose of”** has a similar meaning;

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

"Firm price" means the price that is only subject to adjustments in accordance with the actual increase or decrease resulting from the change, imposition, or abolition of customs or excise duty and any other duty, levy or tax which, in terms of any applicable law or regulation, is binding on the contractor and demonstrably has an influence on the price of any supplies or the rendering costs of any service, for the execution of a contract;

“Formal written price quotations” means quotations referred to in paragraph 12 (1) (d) of this policy;

“Functionality” means the measurement according to predetermined norms, as set out in the tender specification, of a service or commodity that is designed to be practical and useful, working or operating, taking into account, among other factors, the quality, reliability, viability and durability of a service and the technical capacity and ability of a tenderer;

“Fronting” means a deliberate circumvention or attempted circumvention of the "Broad-Based Black Economic Empowerment Act and the Codes of Good Practice;

“Head of Department” means a senior manager as defined in the Municipal Finance Management Act and who is responsible for a vote as assigned by the accounting officer;

"Imported content" means that portion of the tender price represented by the cost of components, parts or materials which have been or are still to be imported (whether by the supplier or its sub-contractors) and which costs are inclusive of the costs abroad, plus freight and other direct importation costs, such as landing costs, dock dues, import duty, sales duty or other similar tax or duty at the South African port of entry;

“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 Act and the Public Finance Management Act, 1999 (Act No. 1 of 1999);
- (e) An executive member of the accounting authority of any national or provincial public entity; or
- (f) An employee of Parliament or a provincial legislature;

“Line manager” means a manager reporting directly to a senior manager and who is responsible for a cost centre as assigned by the relevant senior manager;

"Local content" means that portion of the tender price which is not included in the imported content, provided that local manufacture does take place;

“Long term contract” means a contract with a duration period exceeding one (1) year, but not exceeding three (3) years. For contracts exceeding three (3), section 33 of the Municipal Finance Management Act No. 56 of 2003 must be applied.

“List of accredited prospective providers” means the list of accredited prospective providers which the municipality must keep in terms of paragraph 15 of this policy;

"Mayor" means the councillor elected by the council as Mayor in terms of section 48 of the Local Government: Municipal Structures Act No. 117 of 1998 read with section 58 of the Municipal Finance Management Act;

“Municipality” means the Bergrivier Municipality, a municipality established in terms of section 12 of the Local Government: Municipal Structures Act No. 117 of 1998 and includes any employee entitled to or duly authorized to perform any function or duty in terms of this policy and/or is responsible for the implementation of this policy or any part thereof;

“Municipal Finance Management Act” means the Local Government: Municipal Finance Management Act No. 56 of 2003 and, unless otherwise stated in this policy, any reference to “the Act” shall mean a reference to this Act;

“Municipal Systems Act” means the Local Government: Municipal Systems Act No. 32 of 2000 and includes the regulations under this Act;

"Non-firm prices" means all prices other than "firm" prices;

“Other applicable legislation” means any other legislation applicable to municipal supply chain management, including but not limited to -

- (a) the Preferential Procurement Policy Framework Act No. 5 of 2000;
- (b) the Broad-Based Black Economic Empowerment Act No. 53 of 2003;

- (c) The Construction Industry Development Board Act No. 38 of 2000;
- (d) The Local Government: Municipal Systems Act No. 32 of 2000 (Municipal Systems Act);
- (e) the Promotion of Administrative Justice Act No. 3 of 2000;
- (f) the Promotion of Access to Information Act No. 2 of 2000;
- (g) the Protected Disclosures Act No. 26 of 2000;
- (h) the Competition Act No. 89 of 1998;
- (i) the Prevention and Combating of Corrupt Activities Act No. 12 of 2004;

"**Person**" includes an enterprise, partnership, trust, association, consortium, joint venture or a juristic person;

"**Petty cash**" means a relatively small amount of cash kept at hand for making immediate payment for miscellaneous small expenses incurred by the municipality.

"**Preferential Procurement Regulations**" means the Preferential Procurement Regulations, 2017 contained in Government Notice R32 of 20 January 2017 promulgated in Government Gazette No. 40553 of this date;

"**Procurement**" means the processes leading to the negotiation and conclusion of contracts whether in writing or verbally for the acquisition of goods, services or construction works or any combination thereof or the disposal of assets whether movable or immovable or any rights in such assets by means of purchase, sale, lease or donation and includes the preparation of all associated bid and contractual documentation and "**procured**" or "**procuring**" has a similar meaning;

"**Responsive bid**" means a bid that complies in all material aspects with the requirements set out in or contained in an invitation to bid including the applicable specification;

"**Small enterprise**" means a separate and distinct business entity, together with its branches or subsidiaries, if any, including cooperative enterprises, managed by one owner or more predominantly carried on in any sector or sub-sector of the economy mentioned in column 1 of the Schedule to the National Small Business Act No. 102 of 1996 which is contained in Annexure B to this policy and classified as a micro-, a very small, a small or a medium enterprise by satisfying the criteria mentioned in columns 3, 4 and 5 of the said schedule;

"**Stipulated minimum threshold**" means that portion of local production and content as determined by the Department of Trade and Industry from time to time;

"**Sub-contract**" means the primary contractor's assigning, leasing, making out work to, or employing, another person to support such primary contractor in the execution of part of a project in terms of a contract;

"**Rand value**" means the total estimated value of a contract in South African currency calculated at the time of tender invitations, and includes all applicable taxes and excise duties;

"**SANAS**" means the South African National Accreditation System;

"**Tender**" means a written offer in a prescribed or stipulated form in response to an invitation by the municipality for the provision of services, works or goods, through price quotations, advertised competitive tendering processes or proposals and "**bid**" has a corresponding meaning;

"Total revenue" bears the same meaning assigned to this expression in the Codes of Good Practice;

"Trust" means the arrangement through which the property of one person is made over or bequeathed to a trustee to administer such property for the benefit of another person;

"Trustee" means any person, including the founder of a trust, to whom property is bequeathed in order for such property to be administered for the benefit of another person;

"Treasury guidelines" means any guidelines on supply chain management issued by the Minister of Finance in terms of section 168 of the Municipal Finance Management Act;

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

"Verbal quotations" means a verbal process of inviting quotation from an identified limited number of potential suppliers for the supply of goods, services and/or works;

"Verification Certificate" means a B-BBEE certificate issued in compliance with the B-BBEE Codes of Good Practice and all Sector Codes issued in terms of Section 9(1) of the Broad-Based Black Economic Empowerment Act;

"Written quotations" means quotations referred to in paragraph 12 (1) (c) of this policy.

CHAPTER 1 **IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY**

2. Supply chain management policy

(1) All officials and other role players in the supply chain management system of the municipality must implement this policy in a way that -

- (a)** gives effect to Section 217 of the Constitution and Part 1 of Chapter 11 and other applicable provisions of the Act;
- (b)** is fair, equitable, transparent, competitive and cost effective;
- (c)** complies with the Regulations and 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 the conduct of business with the public sector.

(2) This policy applies when the municipality -

- (a)** procures goods or services;
- (b)** disposes of goods no longer needed;
- (c)** selects contractors to provide assistance with 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.

- (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, but not limited to -
- (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.
 - (c)** the acquisition of services of information and communication technology, IT licences and systems in use, financial system (Linked to the transversal tender of National Treasury as per SLA), IT programs and services that the acquisition of such services be dealt with in terms of the delegated powers as provided for in the Municipality's delegation register as amended from time to time, **Telemetry IT and communication system.**
 - (d)** The acquisition of services from specific vehicle agents, for repair and out of warranty services subject that the acquisition of such services be dealt with in terms of the delegated powers as provided for in the Municipality's delegation register as amended from time to time.
 - (e)** Insurance claims, Telkom, payments to the Auditor General, refunds to individuals
 - (f) Bursary payments to certain registered institutions and the assistance of the accommodation of the student.**
 - (g) Print rolls for bank card machines and printing of salary payday payslips.**
 - (h) Rental of machinery for emergency purposes for example pipe burst and digging of graves and trenches.**
 - i) Sole Provider of Biodyne and Envirobeads for wastewater treatment.**

(A) Notwithstanding anything to the contrary in this policy, the municipality shall not award a contract to a contractor in respect of the undertaking, carrying out or completion of any construction works or a portion thereof in terms of a competitive tender or quotation process provided for in this policy unless such contractor is registered with the Construction Industry Development Board established by section 2 of the Construction Industry Development Board Act No. 32 of 2000 and holds a valid registration certificate issued by such Board or is exempted from such registration either in terms of the Act or the "CIDB Regulations".

Amendment and adoption of the supply chain management policy

- (1)** The accounting officer must at least annually review the implementation of this policy and, when necessary, submit proposals for the amendment thereof to the council through the mayor acting in conjunction with the mayoral committee with a view to its adoption by the council.
- (2)** If the accounting officer submits proposed amendments to this policy to the council, he must ensure that same comply with the Regulations and Treasury guideline standards determining standards for municipal supply chain management policies.
- (3)** The accounting officer must report any deviation from the Regulations and Treasury guideline standards determining standards for municipal supply chain management policies to the National and Western Cape Provincial Treasuries.
- (4)** When amending this policy, the need for uniformity in supply chain practices, procedures and forms between all spheres of organs of state particularly to promote accessibility of supply chain management systems for small businesses, must be taken into account.

4. Delegation of supply chain management powers and duties

- (1)** The council hereby delegates all powers and duties to the accounting officer which are necessary to enable him -
 - (a)** to discharge the supply chain management responsibilities conferred on accounting officers in terms of –
 - (i)** chapters 8 or 10 of the Act; and
 - (ii)** this policy; and
 - (b)** to maximize administrative and operational efficiency in the implementation of this policy; and
 - (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 responsibilities in terms of section 115 and other applicable provisions of the Act.
- (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).
- (3)** The accounting officer may not sub-delegate any supply chain management powers or duties to a person who is not an official of the municipality or to a committee which is not exclusively composed of officials of the municipality.
- (4)** This paragraph may not be read as permitting an official to whom the power to make final awards has been delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in paragraph 27 of this policy.

5. Sub-delegations

- (1)** The accounting officer may, in terms of section 79 of the Act, sub-delegate any supply chain management powers and duties, including those bestowed upon him in terms of legislation or delegated to him in terms of this policy or by resolution of the council, but any such sub-delegation must be consistent with subparagraph (2) and paragraph 4 of this policy.
- (2)** The power to make a final award -
 - (a)** above R10 million (VAT included) may not be sub-delegated by the accounting officer;
 - (b)** above R2 million (VAT included), but not exceeding R10 million (VAT included), may be sub-delegated but only to a bid adjudication committee of which the chief financial officer or a senior manager is a member;
 - (c)** not exceeding R2 million (VAT included) may be sub-delegated but only to -
 - (i)** the chief financial officer;
 - (ii)** a senior manager; or
 - (iii)** a manager directly accountable to the chief financial officer or a senior manager; or
 - (iv)** a bid adjudication committee.

- (3)** An official or bid adjudication committee to whom or which the power to make final awards has been sub-delegated in accordance with subparagraph (2) must, within five days of the end of each month, submit to the official referred to in subparagraph (4) a written report containing particulars of each final award made by such committee during that month, including -
 - (i)** the amount of the award;
 - (ii)** the name of the person to whom the award was made; and
 - (iii)** the reason why the award was made to that person.
- (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 senior manager; or
 - (iii)** a bid adjudication committee of which the chief financial officer or a senior manager was a member;
 - (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 was not a member.
- (5)** Subparagraphs (3) and (4) do not apply to procurements out of petty cash.
- (6)** This paragraph may not be interpreted as permitting an official to whom the power to make final awards has been sub-delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in paragraph 27 of this policy.
- (7)** No supply chain management decision-making powers may be delegated to an advisor or consultant.
- (8)** Notwithstanding the delegations, the Manager: Expenditure & SCM is authorised to amend orders between R0 till R30 000.00 that was subject to price fluctuations within **5%** of the contract value after satisfying himself with the reason/s for the amendment.

6. Oversight role of the council

- (1)** A councillor cannot be a member of a bid committee or any other committee evaluating or approving quotations or bids nor attend any meeting of such committees as an observer.
- (2)** The council must maintain oversight over the implementation of this policy to ensure that the accounting officer implements all supply chain management activities in accordance therewith.
- (3)** 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 to the council through its mayor;

- (b) whenever there are serious and material problems in the implementation of this policy, immediately submit a report thereon to the council through its mayor.
- (4) The accounting officer must, within 10 days of the end of each quarter, submit a report on the implementation of this policy to the mayor.
- (5) The aforesaid reports must be made public in accordance with section 21A of the Municipal Systems Act.

7. Supply chain management unit

- (1) A supply chain management unit is hereby established to implement this policy.
- (2) The supply chain management unit shall operate under the direct supervision of the Chief Financial Officer to whom this duty is delegated by the accounting officer in terms of section 82 of the Act.
- (3) Where, due to operational reasons, the council appoints a senior manager to be responsible for the direct supervision of the supply chain unit referred to in subparagraph (1), the application and implementation of this policy and the municipality's supply chain management system, the accounting officer shall, in terms of section 79 of the Act, delegate appropriate duties, functions and powers to such senior manager to enable him to perform his duties aforesaid and such senior manager shall be included in the definition of "designated official" in section 1 of this policy.
- (4) Where the council appoints a senior manager in terms of subparagraph (3) for the purposes stated therein, any reference to the Chief Financial Officer in paragraph 5 (2) of this policy shall be construed as reference to the said designated official acting after consultation with the Chief Financial Officer.

8. Training of supply chain management officials

The training of officials involved in implementing this policy should be in accordance with any Treasury guidelines on supply chain management training and applicable prescribed competency level requirements.

CHAPTER 2 **SUPPLY CHAIN MANAGEMENT SYSTEM**

9. Format of supply chain management system

This policy provides systems for -

- (i) Demand management;
- (ii) Acquisition management;
- (iii) Logistics management;
- (iv) Disposal management;
- (v) Risk management; and
- (vi) Performance management.

Part 1: Demand management

10. System of demand management

- (1)** The accounting officer must establish and implement an appropriate demand management system in order to ensure that the resources required by the municipality supports its operational commitments and its strategic goals as outlined in the municipality's Integrated Development Plan.
- (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 procured at a fair cost;
 - (b)** take into account any benefits of economies of scale that may be derived in the case of acquisitions of a repetitive nature;
 - (c)** provide for the compilation of the required specifications to ensure that municipal needs are met
 - (d)** allow for the undertaking of appropriate industry analysis and research to ensure that innovations and technological benefits are maximized.
- (3)** The accounting officer must, prior to making an invitation for tenders-
 - (a)** properly plan for, and, as far as possible, accurately estimate the costs for the provision of services, works or goods for which an invitation to tenders is to be issued;
 - (b)** determine and stipulate, in such invitation, the appropriate preference point system to be utilized in the evaluation and adjudication of such tenders; and
 - (c)** determine whether the services, works or goods for which an invitation to tender is to be made has been designated for local production and content in terms of section 8 of the Preferential Procurement Regulations and paragraph 29(5) of this policy.
- (4)** The accounting officer must indicate in the invitation to submit a tender and in the tender specification -
 - (a)** that such tender will be evaluated on functionality and, in such event, the following shall be clearly stated:
 - (i)** the evaluation criteria for measuring functionality which criteria must be objective;
 - (ii)** the weight of each criterion which should not be generic but be determined separately for each bid on a case by case basis;
 - (iii)** the applicable values that will be utilized when scoring each criterion which values must be objective;
 - (iv)** the minimum qualifying score for functionality in order to enable the bid concerned to be further evaluated in terms of this policy provided that the aforesaid qualifying score:
 - (a)** should not be generic but be determined separately for each

bid on a case by case basis; and

- (b) should not be prescribed so low that it may jeopardize the quality of the service required nor so high that it may be restrictive to the extent that it jeopardizes the fairness of the supply chain management system;
 - (b) the fact that no tender will be regarded as an acceptable tender if it fails to achieve the minimum qualifying score for functionality as indicated in the invitation to tender and the relevant tender specification; and
 - (c) That tenders that have achieved the minimum qualification score for functionality will be evaluated further in terms of the preference point systems referred to in paragraphs 29(3) and 29(4) of this policy.
- (5) Any system designed in terms of this paragraph shall take cognizance of the provisions of this policy.

Part 2: Acquisition management

11. System of acquisition management

- (1) The accounting officer must implement an efficient system of acquisition management in order to ensure -
 - (a) that goods and services are procured by the municipality in accordance with authorized 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 the general conditions of a contract, are in accordance with any applicable legislation; and
 - (e) that any Treasury guidelines on acquisition management are properly taken into account.
- (2) When procuring goods or services from an organ of state as contemplated in section 110 (2) of the Act, the accounting officer must make public the fact that such goods or services are procured otherwise than through the municipality's supply chain management system, including -
 - (a) the kind of goods or services; and
 - (b) the name of the supplier.

12. Range of procurement processes

- (1) Goods and services may only be procured by way of -
 - (a) petty cash purchases up to a transaction value of R500 (VAT included) for items specified in the municipality's Petty Cash policy;
 - (b) one written price quotations for procurements of a transaction value up to R2,000 (VAT included);

- (c) three formal written price quotations for procurements of a transaction value over R2,001 up to R30,000 (VAT included);
 - (d) at least three written (formal) quotations in response to a published call for quotations for procurements of a transaction value over R30,000 up to R200,000 (VAT included);
 - (e) a competitive bidding process for -
 - (i) procurements above a transaction value of R200 000 (VAT included); and
 - (ii) the procurement of long term contracts.
- (2) The accounting officer may, in writing:
- (a) lower but not increase, the different threshold values specified in subparagraph (1) above; 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.
- (3) Calls for quotations and bids for the procurement of goods or services may not deliberately be split into parts or items of a lesser value than the threshold amounts referred to in subparagraph (1) merely to avoid complying with the requirements of this policy or any applicable legislation. 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.

12A. Special categories of bidders and suppliers

In order to promote B-BBEE and comply with applicable legislation including the Codes of Good Practice, this policy recognizes the following special categories of bidders and suppliers:

12. A Exempted Micro-Enterprise

- (a) An exempted Micro-Enterprise (EME) is an entity with an annual turnover of R10 million or less provided that this amount may be reduced in accordance with sector charter thresholds for specific sectors or industries.
- (b) The current thresholds for the Tourism and Construction Sector charters are R2.5 million and R1.5 million respectively.
- (c) Exempted Micro-Enterprises are deemed to possess a B-BBEE Status of "Level Four Contributor", having a B-BBEE procurement recognition of 100%.
- (d) An Exempted Micro-Enterprise qualifies for a promotion to a B-BBEE Status of "Level Three Contributor" having a B-BBEE procurement recognition of 110%

if it is more than 50% owned by black people or by black women.

- (e) Exempted Micro-Enterprises are allowed to be measured in terms of the QSE scorecard contained in the applicable code of good practice in the event of them wishing to maximize their points and move to the next procurement recognition level.
- (e) Sufficient evidence of qualification as an Exempted Micro-Enterprise is an affidavit signed by a Commissioner of Oath.

12.A Qualifying Small Enterprise

- (a) Any enterprise with an annual Total Revenue of between R10 million and R50 million qualifies as a Qualifying Small Enterprise (QSE).
- (b) Enterprises claiming qualifying small enterprise status must include in any bid submitted to the municipality, an original and valid B-BBEE status level affidavit /SANAS certificate if the black ownership is less than 51% substantiating their B-BBEE rating. The latter certificate must be issued by a verification agency accredited by SANAS.

12.A Start-up enterprises

- (a) Start-up enterprises must be measured as Exempted Micro-Enterprises for the first year following their formation or incorporation. This provision applies regardless of the expected total revenue of the start-up enterprise.
 - (b) Start-up Enterprises are deemed to have a "B-BBEE Status of Level Four Contributor".
 - (c) In order to qualify as a Start-up Enterprise, the enterprise must provide an independent confirmation of its status.
 - (d) Despite subparagraphs (a) and (b), Start-up Enterprises must submit a QSE Scorecard when tendering for any contract or seeking any other business with a value higher than R5 million but less than R35 million. For contracts above R35 million, they should submit the generic scorecard. The preparation of such scorecards must use annualized data.
 - (e) The accounting officer shall reserve the right to require a Start-up Enterprise referred to in subparagraph (d) to submit a verification certificate issued by a verification agency approved by SANAS.

13. General preconditions for consideration of written quotations or bids

- (1) A written quotation or bid may not be considered unless the provider who submitted the quotation or bid concerned -
 - (a) has furnished his -
 - (i) full name or names including trading name,
 - (ii) identification number or company or other registration number;
 - (iii) tax reference number and VAT registration number, if any;
 - (iv) address, date, validity period, description of goods, items or service
 - (b) has provided the municipality with:-
 - (i) an original valid tax clearance certificate from the South African

- Revenue Services; or
- (ii) the permission to verify the Tax Clearance status via SARS e-filing with the relevant tax clearance certificate number and the relevant pin;
in order for the municipality to verify that his tax matters are in order;
- (c) has, where applicable, provided the municipality with proof from the Construction Industry Development Board to the effect that he holds a valid registration certificate issued by the Board which may include their CIDB registration number which will be verified.
- (d) has provided the municipality with a “Certificate of Independent Bid Determination” on Form MBD 9.
- (e) has certified that he and, in the event of the bidder being a company, also any of its directors, is not indebted to the municipality or to any other municipality or municipal entity for rates, taxes and/or municipal service which are in arrear for a period of more than three months and that no dispute exists between such bidder and the relevant municipality or municipal entity in respect of any such arrear amounts as per MBD 8, or an arrangement is made with the Municipality to pay the outstanding debt, and kept in good order and paid up to date.
- (f) has submitted a “Declaration of interest” on Form MBD 4 certifying -
- (i) that he is not in the service of the state or has been in the service of the state in the previous twelve months;
 - (ii) that, in the event of the bidder not being a natural person, none of its directors, managers, principal shareholders or stakeholders are in the service of the state nor have they been in the service of the state in the previous twelve months; or
 - (iii) that if his spouse, child or parent is in the service of the state or has been in the service of the state in the previous twelve months that it be reported on the MBD 4.
 - (iv) that he is not an advisor or consultant contracted by the municipality to advise it on the procurement under consideration;
- (g) has submitted the prescribed B-BBEE status level affidavit/certificate, as the case may be.

(2) This paragraph must be read in conjunction with paragraph 22 of this policy.

14. Lists of accredited prospective providers

- (1) The accounting officer may-
- (a) ~~have a list of~~ select accredited prospective providers from the CSD website, or the Municipalities own data base of goods and services that must be used for the procurement requirements through written or verbal quotations and formal written price quotations; and
 - (b) at least once a year through newspapers commonly circulating locally, the municipal website and any other appropriate ways, invite prospective providers of goods or services to apply for evaluation and listing as accredited prospective providers;
 - (c) specify the listing criteria for accredited prospective providers; and

- (d) disallow the listing of any prospective provider whose name appears on the National Treasury's database as a person prohibited from doing business with the public sector.
- (2) The ~~listing~~ criteria for accredited prospective providers are as follows:
- (a) Registration on National Treasury's Central Supplier Database (CSD);
 - (b) Valid Tax Clearance Certificate (either original hard copy or verified via SARS e-filing);
 - (c) Declaration of interest;
 - (d) Valid Municipal Billing Clearance; or Lease Agreement with confirmation of rental paid up to date by Lessor.
- (e) Proof of Banking Detail; and
 - (f) Any other documents as required on the municipality's database registration form.
- (3) ~~The aforesaid list must be updated at least quarterly to include any additional prospective providers and any new commodities or types of services. Prospective providers must be allowed to submit applications for listing at any time.~~
- ~~(4) The aforesaid list must also be compiled per commodity and per type of service.~~
- (5) The municipality may use the National Treasury Central Supplier Database for its procurement requirements, and may obtain information from Services Providers that are not registered on CSD to use for unpractical purposes of procurement.

15. Petty cash purchases

- (a) Petty cash purchases may only be made in accordance with the Petty Cash policy of the municipality.
- (b) The accounting officer may delegate responsibility for the management of petty cash to an official directly or indirectly reporting to the chief financial officer.
- (c) The accounting officer must determine the maximum number of transactions or the maximum amount of the permissible petty cash expenditure per month;
- (d) A monthly reconciliation report must be provided to the chief financial officer within five days of the end of each month by the official authorized to make petty cash purchases and such report shall contain particulars of each final award made by such official during that month, including:
 - (i) the total amount of petty cash purchases for that month; and
 - (ii) receipts and supporting documents for each purchase.

16. Written or verbal price quotations

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 or of the CSD, provided that if quotations are obtained from providers who are not so listed, such providers must meet the ~~listing~~ criteria set out in paragraph 14(2) of this Policy;
- (b) Following are possible examples of not being in a position to obtain three written or verbal quotations namely:-

- i. Publication of official and legal notices as well as advertisements in the media
 - ii. Disciplinary hearings, training events, courses, seminars, membership fees, Doctor consultations, medical specialists, local travel agencies, accommodation, subscription, tow in services, services agents, franking machine postage, library books, books, monitoring of alarms, advertisements, motivational speakers, Artists, subscription fees, security services in case of emergency or as determined by the Manager: Expenditure & SCM.
 - iii. In the event of a strip and quote or adhoc repairs to plant, equipment and machinery where it is not possible to ascertain the nature or extent of the work required in order to call for quotations, authorised by the relevant Director.
- (c) To the extent feasible, providers must be requested to submit such quotations in writing;
- ((d) If it is not possible to obtain at least three quotations, the reasons for such inability must be recorded on the invitation to submit quotations and reported quarterly to the chief financial officer;
- (d) The designated officer must record the names of the potential providers requested to provide quotations with their quoted prices; and
- (f) If a quotation was submitted verbally, the order may be placed only against written confirmation of the price and conditions of supply by the selected provider within the period stipulated in the invitation to submit quotations.
- (g) Quotations can be sourced online from the internet, if the Supplier is registered on the Central Database of National Treasury, as long as the Supplier meets all the requirements.

17. Formal written price quotations

- (1) The conditions for the procurement of goods or services through formal written price quotations, are as follows:
- (a) Quotations must be obtained in writing from at least three different providers whose names appear on the list of accredited prospective providers of the municipality;
 - (b) In the event of it not being possible to obtain quotations from at least three different providers whose names appear on the list of accredited prospective providers of the municipality, quotations may be obtained from providers who are not so listed, provided that such providers meet the listing criteria set out in paragraph 15(2) of this policy;
 - (c) that if it is not possible to obtain at least three quotations, the reasons must be recorded and be approved by the chief financial officer or an official designated by the chief financial officer; and
 - (d) that the accounting officer must record the names of the potential providers and their written quotations; and
- (2) A designated official referred to in sub regulation (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 sub regulation.

18. Procedures for procuring goods or services through written or verbal quotations

and formal written price quotations

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 18, be advertised for at least seven days on the website of and on the 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;
- (c) Offers below R30 000 (all taxes included) must be awarded based on compliance with specifications, conditions of contract, ability, capacity and capability to deliver the required goods and/or services and lowest price; provided that the accounting officer may direct, in appropriate cases, that the formula referred to in subparagraph (e) be used to calculate points for price;
- (e) Offers above R30 000 (all applicable taxes included) must be awarded based on compliance with specifications, conditions of contract, ability, capacity and capability to deliver the required goods and/or services and lowest price provided that the accounting officer may direct, in appropriate cases, that the following formula be used to calculate points for price:

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

Where:

- Ps = Points scored for comparative price of tender or offer under consideration;
Pt = Comparative price of tender or offer under consideration; and
Pmin = Comparative price of lowest acceptable tender or offer.

- (g) Prior to the award of a contract with a price in excess of R30 000, the designated official must verify the status of recommended bidders (including their directors(s), owners(s) or trustee(s) by checking the Data Base of Restricted Suppliers maintained by National Treasury in order to ensure that no recommended bidder or any of its directors/owners/trustees are listed as companies or persons prohibited from doing business with the public sector;
- (h) A call for quotations in terms of preceding paragraphs must be in writing and contain a specification for the goods and/or services to be procured as well as details of the preference points system to be used in adjudicating quotations;
- (i) The designated official must, in writing, notify the chief financial officer within 3 days after the end of each month of all written, verbal and formal written price quotations accepted or approvals given in terms of the preceding subparagraphs;
- (j) The chief financial officer must ensure that adequate systems are in place to meet the requirements for proper record keeping;
- (k) Acceptable offers must be awarded to the bidder who scored the highest points in accordance with the stipulated preference points system.

19. Competitive bidding process

- (1) Subject to paragraph 11 (2) of this policy, 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.
- (2) No requirement for goods or services above an estimated transaction value of R200 000 (VAT included) may deliberately be split into parts or items of lesser value merely for the sake of procuring the goods or services otherwise than through a competitive bidding process.
- (3) The accounting officer may split unduly large quantities of work into smaller contracts (units) to promote manageability and provide opportunities for emerging entrepreneurs. This procedure may only be followed when technically, logistically and financially feasible

20. Process for competitive bidding

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

- (a) Compilation of bidding documentation as detailed in paragraph 22;
- (b) Public invitation of bids as detailed in paragraph 23;
- (c) Site meetings or briefing sessions as detailed in paragraph 23;
- (d) Handling of bids submitted in response to public invitation as detailed in paragraph 24;
- (e) Evaluation of bids as detailed in paragraph 32;

- (f) Award of contracts as detailed in paragraph 33;
- (g) Administration of contracts - after the award 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 and audit purposes.

21. Bid documentation for competitive bids

Bid documentation for a competitive bidding process must, in addition to the requirements of paragraph 14 -

- (a) Take into account -
 - (i) the general conditions of contract and any special conditions of contract, if specified;
 - (ii) any Treasury guidelines on bid documentation;
 - (iii) the requirements of the Construction Industry Development Board, in the case of a bid relating to construction works;
 - (iv) relevant B-BBEE verification and certification requirements;
 - (v) relevant local content or production requirements.
- (b) Include the preference points system to be used in adjudicating bids, namely 80/20 or 90/10 as prescribed in the Preferential Procurement Regulations;
- (c) Compel bidders to declare, by means of an affidavit, any conflict of interest they may have in the transaction for which the bid is submitted;
- (d) Compel bidders to submit a "Certificate of Independent Bid Determination" on form MBD 9 or similar document;
- (e) If the value of the transaction is expected to exceed R10 million (VAT included), require bidders to furnish on form MBD 5 or similar document -
 - (i) if the bidder is required by law to prepare annual financial statements for auditing, his audited annual financial statements -
 - (a) for the past three years; or
 - (b) since establishment, if established during the past three years;
 - (ii) a certificate signed by the bidder certifying that he 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 contracts;

- (iv) a statement indicating whether or not any portion of the goods or services required by the municipality are expected to be sourced from outside the Republic, and, if so, what portion and also whether or not any portion of the payment to be made by the municipality is expected to be transferred out of the Republic; and
- (f) 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

- (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 , the website of the municipality, notice boards and advertisement in the Government E-portal) ; and
 - (b) the information contained in a public advertisement, must include -
 - (i) subject to subparagraph 2, 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, reckoned from the date on which the advertisement was placed on the E-portal;
 - (ii) a statement that bids may only be submitted on the bid documentation provided by the municipality; and
 - (iii) the date, time and venue of any compulsory site meetings or briefing session;
 - (iv) a statement to the effect that a bid from a prospective bidder who did not attend a prescribed compulsory site meeting or briefing session referred to in subparagraph (iii) will not be considered.
- (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 in any exceptional case where it is impractical or impossible to follow the official procurement process and such fact shall, for auditing purposes, be recorded in the authority to invite bids.
- (3) Bids submitted must be sealed and marked in a manner stipulated in the invitation to bid.
- (4) Where bids are requested in electronic format, such bids must be supplemented by sealed hard copies which must reach the accounting officer before the closing time for the receipt of bids on the bid closing date as stipulated in the invitation to bid.
- (4) Where the municipality invites expressions of interest or bids for construction works with a value in excess of R200 000, it must publish such invitations on the website of the CIDB.

- (6) The municipality must also comply with the applicable provisions of the Standard for Uniformity in Construction Procurement contained in Board Notice No. 86 of 2010 issued by the Construction Industry Development Board insofar as such provisions relate to the invitation of bids.
- (7) Bidding documents will be available with prices ranging from R70 to R750 which will cover our expenses to compile them.

23. Procedure for handling, opening and recording of bids

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

- (a) Bids -
 - (i) must be opened only in public;
 - (ii) must be opened at the same time and as soon as possible after the published closing time or period for the submission of bids; and
 - (iii) received after the published closing time or period should not be considered and be returned to the bidder, after being opened by the Head: SCM & Assets to gain address, immediately.
- (b) Any bidder or member of the public has the right to request that the names of the bidders who submitted responsive bids before the closing time or period be read out and, if practical, also each bidder's total bidding price;
- (c) No information, except the information referred to in subparagraph (b), relating to a bid should be disclosed to bidders or other persons until the successful bidder is notified of the award of the relevant bid; and
- (d) The designated official opening received bids must -
 - (i) record in a register to be provided for this purposes, all bids received before the closing time or period for the submission of same;
 - (ii) make the aforesaid register available for public inspection during the normal office hours of the municipality; and
 - (iii) publish the entries in the aforesaid register and the bid results on the website of the municipality.
- (e) This SCM policy hereby allows SCM-Bergvriev officials to request any outstanding documents from the bidders if these documents were not included in the offer to maximise financial gain for the municipality.

24. Negotiations with preferred bidders

- (1) The accounting officer may negotiate the final terms of a contract with bidders identified through a competitive bidding process as preferred bidders, provided that such negotiation -
 - (a) does not allow any preferred bidder a second or unfair opportunity;
 - (b) is not to the detriment of any other bidder; and
 - (c) does not lead to a higher price than the bid as submitted;
 - (d) will not be contrary to any legal requirement or amount to a prohibited practice.

- (2) Minutes of such negotiations must be kept for record and audit purposes.

25. Two-stage bidding process

- (1) A two-stage bidding process is permissible 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.
- (2) In the first stage, technical proposals on conceptual design or performance specifications should be invited, subject to technical as well as commercial clarifications and adjustments.
- (3) In the second stage, final technical proposals and priced bids should be invited.

26. Committee system for competitive bids

- (1) A committee system for competitive bids shall be established, consisting of the following committees for procurement as the accounting officer may determine:
 - (a) a bid specification committee;
 - (b) a bid evaluation committee; and
 - (c) a bid adjudication committee;
- (2) The accounting officer shall, in writing, appoint the members of each committee in respect of each competitive bid invitation, taking into account the provisions of section 117 of the Act in terms of which no councillor may be a member of any such committee or attend any of its meetings as an observer.
- (3) A neutral or independent observer, appointed by the accounting officer, may attend or oversee a committee when this is appropriate for ensuring fairness and promoting transparency.
- (4) The committee system must be consistent with -
 - (a) paragraphs 28, 32 and 33 of this policy; and
 - (b) any other applicable legislation.
- (5) The accounting officer may, in appropriate cases and in his sole discretion, apply the committee system to formal written price quotations.

27. Bid specification committees

- (1) A bid specification committee must compile the specifications or, where applicable, the terms of reference for procurement of goods or services by the municipality.
- (2) A bid specification committee must be composed of one or more officials of the municipality preferably the line manager responsible for the function concerned, and may, when appropriate, include external specialist advisors.
- (3) 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.
- (5) Where a bid specification or terms of reference is compiled with due regard to the

findings and recommendations contained in a prior, associated feasibility study, the person, advisor or corporate entity who or which prepared the said feasibility study may be prohibited from bidding for the resulting contracts in circumstances where such person, advisor or corporate entity may obtain an unfair advantage or where a conflict of interest may arise.

- (5) A specification referred to in this paragraph must be approved by the accounting officer in writing prior to publication of the invitation for bids in terms of paragraph 23.

27A. Bid Specifications or Terms of Reference

27.A.1 General Requirements

Bid Specifications or Terms of Reference, as the case may be -

- (a) must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services to the municipality;
- (b) must take account of any accepted standards such as those issued by Standards South Africa, the International Standards Organization or an authority accredited or recognized by the South African National Accreditation System with which the equipment or material or workmanship should comply;
- (c) must, where possible, be described in terms of performance required rather than in terms of descriptive characteristics for design;
- (d) may not create trade barriers in contract requirements in the forms of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labelling of conformity certification;
- (e) may not 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”;

27.A.2 Functionality

Where functionality is utilized as an evaluation criterion, specifications must clearly specify in the tender documents:

- (i) the evaluation criteria for measuring functionality which criteria must be objective, the weight of each criterion, the applicable values and the minimum qualifying score for functionality; and
- (ii) the fact that no tender will be regarded as an acceptable tender if it fails to achieve the minimum qualifying score for functionality as indicated in the tender specification concerned; and
- (iii) that tenders that have achieved the minimum qualification score for functionality will be evaluated further in terms of the preference point systems referred to in subparagraphs (3) and (4) below.

27.A.3 80/20 Preference Points System for acquisition of goods or services for Rand value equal to or above R30 000 and up to R50 million

(3.1) Where applicable, specifications must include the following preference points evaluation system for the acquisition of services, works or goods up to a Rand value of R 50 000 000 (all applicable taxes included):

- (i)** the following formula will be used to calculate the points for price in respect of tenders (including price quotations) with a Rand value equal to, or above R 30 000 and up to a Rand value of R 50 000 000 (all applicable taxes included):

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

Where:

- Ps = Points scored for comparative price of tender or offer under consideration;
- Pt = Comparative price of tender or offer under consideration; and
- Pmin = Comparative price of lowest acceptable tender or offer.

- (ii) subject to subparagraph (iii), points must be awarded to a tenderer for attaining the B-BBEE status level of contributor in accordance with the following tables:

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

or

In respect of Exempted Micro Enterprises (EME's)

Black Ownership of EME	Deemed B-BBEE Status Level of Contributor	Number of Preference Points
More than 50%	2	18
Less than 50%	4	12

- (iii) a maximum of 20 points may be allocated under subparagraph (ii);
- (iv) the points scored by a tenderer in respect of B-BBEE contribution contemplated in subparagraph (ii) must be added to the points scored for price as calculated in accordance with subparagraph (i);

(3.2) The B-BBEE status level attained by a tenderer must be used to determine the number of points contemplated in subparagraph 3.1 (ii).

(3.3) Specifications must also provide, as a special condition of contract, that if it is unclear which preference point system will be applicable, that either the 80/20 or 90/10 preference point system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system.

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

(ii) A tenderer failing to submit proof of B-BBEE status level of contributor or is a non-compliant contributor to B-BBEE may not be disqualified, but-

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

- (3.5) A tenderer may not be awarded points for B-BBEE status level of contributor if the tender documents indicate that the tenderer intends subcontracting more than 25% of the value of the contract to any other person not qualifying for at least the points that the tenderer qualifies for, unless the intended subcontractor is an EME that has the capability to execute the subcontract.
- (3.6) The points scored must be rounded off to the nearest two decimal places.
- (3.7) Subject to subregulation (7)(9) and regulation 11 of the PPPFA Regulations of 2017 (paragraphs 29.3.8 and 29.7.3 respectively), the contract must be awarded to the tenderer scoring the highest points.
- (3.8)
 - (a) If the price offered by a tenderer scoring the highest points is not market-related, the municipality may not award the contract to that tenderer.
 - (b) The municipality may –
 - (i) negotiate a market-related price with the tenderer scoring the highest points or cancel the tender;
 - (ii) if the tenderer does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the second highest points or cancel the tender;
 - (iii) if the tenderer scoring the second highest points does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the third highest points or cancel the tender
 - (c) If a market-related price is not agreed as envisaged in paragraph (b)(iii), the municipality must cancel the tender

27.A.4 90/10 Preference Points System for acquisition of goods or services for Rand value above R50 million

- (4.1) Where applicable, specifications must include the following preference points evaluation system for the acquisition of services, works or goods with a Rand value above R 50 000 000 (all applicable taxes included):
 - (i) the following formula will be used to calculate the points for price in respect of tenders with a Rand value above R 50 000 000 (all applicable taxes included):

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

Where:

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

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

Pmin = Comparative price of lowest acceptable tender or offer.

- (ii) subject to subparagraph (iii), points must be awarded to a tenderer for attaining the B-BBEE status level of contributor in accordance with the following table:

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

Or

In respect of Exempted Micro Enterprises (EME's)

Black Ownership of EME	Deemed B-BBEE Status Level of Contributor	Number of Preference Points
More than 50%	2	9
Less than 50%	4	5

- (iii) a maximum of 10 points may be allocated under subparagraph (ii).

- (iv) the points scored by a tenderer in respect of the level of B-BBEE contribution contemplated in subparagraph (ii) must be added to the points scored for price as calculated in accordance with subparagraph (i);

(4.2) The B-BBEE status level attained by a tenderer must be used to determine the number of points contemplated in subparagraph 4.1 (ii).

(4.3) Specifications must also must provide as a special condition of contract, that, if it is unclear which preference point system will be applicable, that either the 80/20 or 90/10 preference point system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system.

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

(ii) A tenderer failing to submit proof of B-BBEE status level of contributor or is a non-compliant contributor to B-BBEE may not be disqualified, but-

- (a) may only score points out of 90 for price; and
- (b) scores 0 points out of 10 for B-BBEE

- (4.5) A tenderer may not be awarded points for B-BBEE status level of contributor if the tender documents indicate that the tenderer intends subcontracting more than 25% of the value of the contract to any other person not qualifying for at least the points that the tenderer qualifies for, unless the intended subcontractor is an EME that has the capability to execute the subcontract.
- (4.6) The points scored must be rounded off to the nearest two decimal places.
- (4.7) Subject to subregulation (7)(9) and regulation 11 of the PPPFA Regulations of 2017 (paragraphs 29.4.8 and 29.7.3 respectively), the contract must be awarded to the tenderer scoring the highest points.
- (4.8) (a) If the price offered by a tenderer scoring the highest points is not market-related, the municipality may not award the contract to that tenderer.
- (b) The municipality may –
- (i) negotiate a market-related price with the tenderer scoring the highest points or cancel the tender;
 - (ii) if the tenderer does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the second highest points or cancel the tender;
 - (iii) if the tenderer scoring the second highest points does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the third highest points or cancel the tender
- (c) If a market-related price is not agreed as envisaged in paragraph (b)(iii), the municipality must cancel the tender

27.A.5 Local Production

- (5.1) Where, in the case of tenders in designated sectors, local production and content is of critical importance, the tender specification must clearly state, as a condition of tender, that only locally produced goods, services or works or locally manufactured goods, with a stipulated minimum threshold for local production and content, will be considered.
- (5.2) The tender specification must also stipulate:
- (a) that the exchange rate to be used for the calculation of local content or local production will be the exchange rate published by the South African Reserve Bank at 12:00 on the date the tender was advertised;
 - (b) that only the South African Bureau of Standards (SABS) approved technical specification number SATS 1286:201x will be used to calculate local content in accordance with the following formula:

$$LC = 1 - \frac{X}{y} \times 100$$

Where

x imported content

y bid price excluding value added tax (VAT)

and that the prices referred to in the determination of x must be converted to Rand (ZAR) by using the exchange rate published by the

South African Reserve Bank at 12:00 on the date the tender was advertised;

- (c) that the Form MBD 6.2 (Declaration Certificate for Local Content) duly complete and signed must form part of the bid documentation;
- (d) that the municipality reserves the right to verify the accuracy of the rates of exchange quoted by the bidder in paragraph 4.1 of the aforesaid Certificate.

(5.3) The accounting officer may decide to include in any invitation to bid a specific bidding condition that only locally produced goods, services or works or locally manufactured goods with a stipulated minimum threshold for local production and content, will be considered on condition that such prescript and threshold(s) are in accordance with the specific directives issued for this purpose by National Treasury in consultation with the Department of Trade and Industry and, in such event, the requirements stipulated in subparagraph 5.2 shall be inserted in the tender specification.

(5.4) Where necessary, bid specifications for tenders referred to in subparagraph 5.1 may state that a two- stage tendering process will be followed, where the first stage will involve functionality and minimum threshold for local production and content and the second stage price and B-BBEE with the possibility of price negotiations only with the short listed tenderers with a view to effecting cost savings in circumstances where the tendered prices are obviously inflated or to ensure the award of the tender concerned within budgetary constraints provided that, where such negotiations take place, the principles contained in paragraph 25.1 of this policy shall be applied.

(5.5) Any tender specification issued in terms of this subparagraph must be capable of being measured and audited.

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

27.A.6 B-BBEE status level certificates and scorecards

Bid specifications must state that:

- (i) Those tenderers who qualify as Exempted Micro Enterprises (EME's) in terms of the Broad-Based Black Economic Empowerment Act, must submit, together with their tender, an affidavit confirming their B-BBEE status level.

An EME may alternatively submit a sworn affidavit confirming their annual total revenue of R 10 million or less and level of black ownership or the above-mentioned B-BBEE level verification certificate to claim points as prescribed by regulation 6 and 7 of the Preferential Procurement Regulations, 2017.

- (ii) Tenderers other than Exempted Micro-Enterprises (EME's) must submit, with their tender, their original and valid B-BBEE Status Level Verification Certificate complying at least with the provisions subparagraphs (v) and (vi), or a certified copy thereof, in support of their B-BBEE rating.
- (iii) A trust, consortium or joint venture will qualify for points for its B-BBEE status level as a legal entity, provided its submits its B-BBEE Status Level Verification Certificate with its tender.
- (iv) A trust, consortium or joint venture will qualify for points for its B-BBEE status level as an unincorporated entity, provided that it submits its consolidated B-BBEE scorecard as if were a group structure and, provided further, that such a consolidated B-BBEE scorecard is prepared for every separate tender.
- (v) As a minimum requirement, all valid B-BBEE Status Level Verification Certificates should have the following information detailed on the face of the certificate.
 - The name and physical location of the measured entity;
 - The registration number and, where applicable, the VAT number of the measured entity;
 - The date of issue and date of expiry;
 - The certificate number for identification and reference for large entities threshold > R50 000 000 ;
 - The scorecard that was used (for example EME, QSE or Generic);
 - The name and / or logo of the Verification Agency for for large entities threshold > R50 000 000 ;
 - The SANAS logo for large entities threshold > R50 000 000;
 - The signature of the authorized person from the Verification Agency concerned; and
 - The B-BBEE Status Level of Contribution obtained by the measured entity.

27.A.7 Additional Conditions

A bid specification must include a reference to the following additional conditions, where applicable:

27.A.7.1 Sub-contracting as a condition of tender

- (a) If feasible to subcontract for a contract above R30 million, the municipality must apply subcontracting to advance designated groups.
- (b) If an organ of state applies subcontracting as contemplated in paragraph (a), the municipality must advertise the tender with a specific tendering condition that the successful tenderer must subcontract a minimum of 30% of the value of the contract to-
 - (i) an EME or QSE;
 - (ii) an EME or QSE which is at least 51% owned by black people;
 - (iii) an EME or QSE which is at least 51% owned by black people who are youth;
 - (iv) an EME or QSE which is at least 51% owned by black people who are women;
 - (v) an EME or QSE which is at least 51% owned by black people with disabilities;
 - (vi) an EME or QSE which is 51% owned by black people living in rural or underdeveloped areas or townships;

- (vii) a cooperative which is at least 51% owned by black people;
- (viii) more than one of the categories referred to in subparagraphs (i) to (vii).

- (c) The municipality must make available the list of all suppliers registered on a database approved by the National Treasury to provide the required goods or services in respect of the applicable designated groups mentioned in paragraph (b) from which the tenderer must select a supplier
- (d) The municipality may apply similar subcontracting principles as outlined in paragraph (a) and (b) for tenders below R30 million with the minimum percentage of subcontracting determined per individual tender.

27.A.7.2 Sub-contracting after award of tender

- (a) A person awarded a contract may only enter into a subcontracting arrangement with the approval of the municipality.
- (b) A person awarded a contract may not sub-contract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level than the person concerned, unless the contract is sub-contracted to an exempted micro enterprise that has the capability and ability to execute the sub-contract.
- (c) A person awarded a contract in relation to a designated sector, may not sub-contract in such a manner that the local production and content of the overall value of the contract is reduced to below the stipulated minimum threshold.

27.A.7.3 Specific goals

- (a) In terms of section 7 of the Preferential Procurement Regulations, a contract may be awarded to a tenderer that did not score the highest total number of points, only in accordance with section 2 (1) (f) of the Preferential Procurement Policy Framework Act No. 5 of 2000.
- (b) In the application of section 2 (1)(f) of the aforesaid Act, the municipality must stipulate the objective criteria in the tender documents.

27.A.8 Miscellaneous Special Conditions of Contract

A bid specification must, inter alia, include the following conditions as Special Conditions of Contract:

27.A.8.1 General

- (a) Only a tenderer who has completed and signed the declaration part of the tender documentation may be considered;
- (b) When comparative prices must be calculated, any discounts which have been offered unconditionally will be taken into account;
- (c) A discount which has been offered conditionally will, despite not being taken into account for evaluation purposes, be implemented when payment to a tenderer in respect of an accepted tender is effected;
- (d) Points scored will be rounded off to the nearest 2 decimal places.

- (e) (i) In the event that two or more tenders score equal total points, the successful tender will be the one scoring the highest number of preference points for B-BBEE;
- (ii) However, when functionality is part of the evaluation process and two or more tenders have scored equal points including equal preference points for B-BBEE, the successful tender will be the one scoring the highest score for functionality.
- (iii) Should two or more tenders be equal in all respects, the award shall be made according to paragraph 38.
- (iv) Should two or more tenders still be equal in all respects after applying paragraph 38, then the award shall be decided by the drawing of lots.

27.A.8.2 Cancelling a tender

- (a) The accounting officer may, prior to the award of a tender, cancel such tender if:
 - (i) due to changed circumstances, there is no longer a need for the services, works or goods requested; or
 - (ii) funds are no longer available to cover the total envisaged expenditure; or
 - (iii) no acceptable tenders are received; or
 - (iv) there is a material irregularity in the tender process.
- (b) The decision to cancel a tender invitation in terms of paragraph (a) must be published in the same manner in which the original tender invitation was advertised.
- (c) The municipality may only with the prior approval of the relevant treasury cancel a tender invitation for the second time

27.A.8.3 Declarations

- (a) A tenderer must -
 - (i) declare that the information provided in a tender document is true and correct;
 - (ii) declare that the signatory to a tender document is duly authorised; and
 - (iii) undertake to submit documentary proof regarding any tendering issue when required to the satisfaction of the municipality.

27.A.8.4 Remedies

- (a) In addition to the action contemplated in paragraph 41 of this policy which shall be read in conjunction with this subparagraph:
 - (i) Upon detecting that a tenderer submitted false information regarding its BBBEE status level of contributor, local production and content, or any other matter required in terms of the PPPFA Regulations 2017 which will affect or has affected the evaluation of a tender, or where a tenderer has failed to declare any subcontracting arrangements, the municipality must-
 - (a) inform the tenderer accordingly;
 - (b) give the tenderer an opportunity to make representations within 14 calendar days as to why-
 - (i) the tender submitted should not be disqualified or, if the tender has already been awarded to the tenderer, the contract should not be terminated in whole or in part;
 - (ii) if the successful tenderer subcontracted a portion of the tender to another person without disclosing it, the tenderer should not be penalised up to 10 percent of the value of the contract; and
 - (iii) the tenderer should not be restricted by the National Treasury from

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

27.A.9 Pre-qualification criteria for preferential procurement

- (1)** If the municipality decides to apply pre-qualifying criteria to advance certain designated groups, they must advertise the tender with a specific tendering condition that only one or more of the following tenderers may respond-
- (a) a tenderer having a stipulated minimum B-BBEE status level of contributor;
 - (b) an EME or QSE;
 - (c) a tenderer subcontracting a minimum of 30% to-
 - (i) an EME or QSE which is at least 51% owned by black people;
 - (ii) an EME or QSE which is at least 51% owned by black people who are youth;
 - (iii) an EME or QSE which is at least 51% owned by black people who are women;
 - (iv) an EME or QSE which is at least 51% owned by black people with disabilities;
 - (v) an EME or QSE which is 51% owned by black people living in rural or Underdeveloped areas or townships;
 - (vi) a cooperative which is at least 51% owned by black people;
 - (vii) an EME or QSE which is at least 51% owned by black people who are military veterans;
 - (viii) an EME or QSE.
- (2)** A tender that fails to meet any pre-qualifying criteria stipulated in the tender documents is an unacceptable tender

27.B. Procurement from tertiary institutions

- (a)** Where the municipality is in need of a service provided by only tertiary institutions, such services must be procured through a tendering process with the identified tertiary institutions.

- (b) Tertiary institutions referred to in subparagraph (a) will be required to submit their B-BBEE status in terms of the specialized scorecard contained in the B-BBEE Codes of Good Practice.
- (c) Should the municipality require a service that can be provided by one or more tertiary institutions or public entities and enterprises from the private sector, the appointment of a contractor will be done by means of a tendering process.
- (d) Public entities must be required to submit their B-BBEE status in terms of the specialized scorecard contained in the B-BBEE Codes of Good Practice.
- (e) For purposes of this paragraph, a tendering process includes a written offer in a prescribed or stipulated form in response to an invitation by the municipality for the provision of services, works or goods, through price quotations, advertised competitive tendering processes or proposals.

27.C. Re-invitation of tenders

The accounting officer must re-invite tenders cancelled in terms of paragraphs 29(3.3) and 29(4.3) and must, in the new tender documents, stipulate the correct preference point system to be applied.

28. Bid evaluation committees

- (1) 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.
- (2) A bid evaluation committee must -
 - (a) evaluate bids in accordance with the relevant bid specification, inclusive of unconditional discounts, sub-contracting and this policy; and
 - (b) evaluate each bidder's ability to execute the contract provided that, where bids are invited on the basis of functionality as a criterion, they must be evaluated in the following two stages:
 - (i) **First stage - evaluation of functionality**
 - (a) bids must be evaluated in terms of the evaluation criteria embodied in the bid specification. The amendment of evaluation criteria, weights, applicable values and/or the minimum qualifying score for functionality after the closure of bids is not allowed as this may jeopardize the fairness of the process;
 - (b) a bid will be considered further if it achieves the prescribed minimum qualifying score for functionality;
 - (c) bids that fail to achieve the minimum qualifying score for functionality must be disqualified;
 - (d) score sheets should be prepared and provided to panel members to evaluate the bids;

- (e) a score sheet should contain all the criteria and the weight for each criterion as well as the values to be applied for evaluation as indicated in the bid specification or terms of reference;
- (f) each panel member should, after thorough evaluation, independently award his own value to each individual criterion;
- (g) score sheets should be signed by panel members and if necessary, a written motivation may be requested from panel members where vast discrepancies in the values awarded for each criterion exist -

provided that if the minimum qualifying score for functionality is indicated as a percentage in the bid specification, the percentage scored for functionality may be calculated as follows:

- (h) the value awarded for each criterion should be multiplied by the weight for the relevant criterion to obtain the score for the various criteria;
- (i) the scores for each criterion should be added to obtain the total score; and
- (j) the following formula should be used to convert the total score to percentage for functionality:

$$P_s = \frac{S_o}{M_s} \times 100$$

Where:

Ps = percentage scored for functionality by bid under consideration

So = total score of bid under consideration

Ms = maximum possible score

- (k) the percentage of each panel member should be added and divided by the number of panel members to establish the average percentage obtained by each bidder for functionality.

(ii) Second stage - Evaluation in terms of the 80/20 or 90/10 preference point systems

Only bids that achieve the minimum qualifying score / percentage for functionality must be evaluated further in accordance with the bid specification.

(c) evaluate bids based on a stipulated minimum threshold for local production and content as required in the relevant bid specification in the following two stages:

(i) First stage – Evaluation in terms of the stipulated minimum threshold for local production and content

(a) bids must be evaluated in terms of the evaluation criteria stipulated in the bid specification. The amendment of the stipulated minimum threshold for local production and content after the closure of bids is not allowed as this may jeopardize the fairness of the process;

(b) a bid must be disqualified if:

- the bidder fails to achieve the stipulated minimum threshold for local production and content; and
- the Declaration Certificate for Local Content (Form MBD 6.2) is not submitted as part of the bid;

(c) calculate the local content (LC) as a percentage of the bid price in accordance with the SABS approved technical specification number SATS 1286: 201x;

(d) verify the accuracy of the rates of exchange quoted by the bidder in paragraph 4.1 of the Declaration Certificate for Local Content (Form MBD 6.2)

(ii) Second stage - Evaluation in terms of the 80/20 or 90/10 preference point systems

(e) only bids that achieve the minimum stipulated threshold for local production and content must be evaluated further in accordance with the relevant preference point system referred to in the bid specification.

(f) where appropriate, prices may be negotiated only with short listed or preferred bidders. Such negotiations must, however, not prejudice any other bidders.

(d) check in respect of the recommended bidder and its directors' whether or not such bidder's and its directors' municipal rates and taxes and municipal service charges are not in arrears;

(e) verify the status of recommended bidders (including their directors(s), owners(s) or trustee(s)) by checking the Data Base of Restricted Suppliers maintained by National Treasury in order to ensure that no recommended bidder or any of its directors/owners/trustees are listed as companies or persons prohibited from doing business with the public sector.

- (f) submit to the adjudication committee a report and recommendations regarding the award of the bid or any other related matter provided that:
 - (i) a contract must be awarded to the bidder who scored the highest total number of points in terms of the preference points systems referred to in paragraphs 29(3.3) and 29(4.3) as may be applicable; and
 - (ii) in exceptional circumstances and as provided in paragraph 29(7.2) of this policy, a contract may be awarded to a bidder that did not score the highest number of points provided that the reasons for such a recommendation must be recorded for audit purposes and be defensible in a court of law.

29. Bid adjudication committees

- (1) 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 of the municipality if the municipality has such an expert;
 - (d) the accounting officer may second a person with same authority as a member of the committee, temporarily in the event of a member being sick or on leave;
 - (e) a Quorum for the bid adjudication committee shall be, half plus one (rounded up to nearest whole number) member of the total number of members with voting rights.
- (2) The accounting officer must appoint the chairperson of the committee who shall preferably be the chief financial officer. If the chairperson is absent from a meeting, the members of the committee who are present must elect one of them to preside at the meeting and such election must be recorded in the minutes of the meeting concerned.
- (3) Only with the consent of the accounting officer and upon request by the bid adjudication committee, a member of a bid specification, bid evaluation committee and/or an advisor or person assisting these committees may be a member of a bid adjudication committee for the purpose of providing clarity and an explanation of difficult technical aspects relating to the bid being adjudicated.
- (4) A bid adjudication committee must –
 - (a) consider the report and recommendations of the bid evaluation committee submitted in terms of paragraph 32; 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 on how to proceed with the relevant procurement.
- (5) 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.
- (6) 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 subparagraph 5(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.
- (7) 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.
- (8) If a tender other than the one recommended in the normal course of implementing this policy is approved, the accounting officer must, in writing and within 10 working days, notify the Auditor-General and the National and Provincial Treasuries of the reasons for deviating from such recommendation.
- (9) Subparagraph 8 does not apply if a different tender was approved in order to rectify an irregularity.

30. Procurement of banking services

- (1) A contract for banking services -
 - (a) must be procured through competitive bids;
 - (b) must be consistent with section 7 or 85 of the Act; and
 - (c) may not be for a period of more than five years at a time.
- (2) The process for procuring a contract for banking services must commence at least nine months before the end of an existing contract.
- (3) The closure date for the submission of bids may not be less than 60 days from the date on which the advertisement is placed in a newspaper in terms of paragraph 23 (1).
- (4) Bids must be restricted to banks registered in terms of the Banks Act, 1990 (Act No. 94 of 1990).

31. Procurement of IT related goods or services

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

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

- (1)** The accounting officer may procure goods or services under a contract secured by another organ of state, but only if -
 - (a)** the contract has been secured by that other organ of state by means of a competitive bidding process applicable to that organ of state;
 - (b)** there is no reason to believe that such contract was not validly procured;
 - (c)** there are demonstrable discounts or benefits to do so; and
 - (d)** that other organ of state and the provider have consented to such procurement in writing.
- (2)** Subparagraphs (1) (c) and (d) do not apply if -
 - (a)** a municipal entity procures goods or services through a contract secured by its parent municipality; or
 - (b)** a municipality procures goods or services through a contract secured by a municipal entity of which it is the parent municipality.

33. Procurement of goods necessitating special safety arrangements

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

34. Proudly SA Campaign

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

Firstly – suppliers and businesses within the Bergrivier municipal area;

Secondly – suppliers and businesses within the West Coast district municipal area and Western Cape provincial area;

Thirdly – suppliers and businesses within the rest of Republic of South Africa.

35. Appointment of consultants

- (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.
- (2)** Consultancy services must be procured through competitive bids if -
 - (a)** the value of the contract exceeds R200 000 (VAT included); or
 - (b)** the duration period of the contract exceeds one year.
- (3)** In addition to any requirements prescribed by this policy for competitive bids, bidders must furnish particulars of -
 - (a)** all consultancy services provided to 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.
- (4)** The accounting officer must ensure that copyright in any document produced, and the patent rights or ownership in any plant, machinery, thing, system or process designed or devised by a consultant in the course of the consultancy service is vested in the municipality.

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

- (1)** The accounting officer may -
 - (a)** dispense with the official procurement processes established by this policy and procure any required goods or services through any convenient process, which may include direct negotiations, 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.
- (2) The accounting officer must record the reasons for any deviations in terms of subparagraphs (1) (a) and (b) of this policy and report them to the next meeting or any other appropriate meeting of the council and also include such reasons as a note to the annual financial statements.
 - (3) Subparagraph (2) does not apply to the procurement of goods and services contemplated in paragraph 11(2) of this policy.

37. Unsolicited bids

- (1) An unsolicited bid is a bid that is submitted by a prospective supplier to the municipality without any procurement requirement first having been identified and advertised. This situation arises when a supplier identifies an opportunity to render services or supply products not ordinarily required by the municipality.
- (2) In accordance with section 113 of the Act, there is no obligation upon the municipality to consider unsolicited bids received outside a normal bidding process.
- (3) The accounting officer may decide in terms of section 113(2) of the Act to consider an unsolicited bid but 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 the municipality or have exceptional cost advantages;
 - (c) the person who made the bid is the sole provider of the product or service concerned; and
 - (d) the reasons for not going through the normal bidding processes are found to be sound by the accounting officer.
- (4) If the accounting officer decides to consider an unsolicited bid that complies with subparagraph (3), his 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 on the proposal within 30 days of the publication of the relevant notice.
- (5) The accounting officer must submit all written comments received pursuant to subparagraph (4), including any responses from the unsolicited bidder, to the National and Provincial Treasuries for comment.

- (6) Subject to subparagraphs (7) and (8) below, the adjudication committee must consider the unsolicited bid and may, depending on its delegations, award the bid or make a recommendation to the accounting officer.
- (7) A meeting of the adjudication committee to consider an unsolicited bid must be open to the public.
- (8) 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 and Provincial Treasuries.
- (9) If any recommendations of the National and Provincial Treasuries are rejected or not followed, the accounting officer must submit to the Auditor-General and the National and Provincial Treasuries the reasons for rejecting or not following those recommendations.
- (10) 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.
- (11) The processes to be followed by the municipality with regard to the acceptance or rejection of an unsolicited bid shall clearly be made known to the bidder who submits the unsolicited bid concerned.
- (12) The council shall exercise caution when interviewing a potential supplier or a person who may wish to offer services to the municipality in circumstance which may be tantamount to the submission of or negotiation with regard to an unsolicited bid and shall not do anything or cause anything to be done which may be contrary to this policy.

38. Combating of abuse of supply chain management system

- (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) such person committed any corrupt or fraudulent act during the bidding process or the execution of the contract; or
 - (ii) an official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of the contract that benefited that person; and
- (g) Reject the bid of any bidder if that bidder or any of its directors -
- (i) has abused the supply chain management system of the municipality or has committed any improper conduct in relation to such system;
 - (ii) has been convicted for fraud or corruption during the past five years;
 - (iii) has wilfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
 - (iv) has been listed in the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004).
- (2) The accounting officer must inform the National and Provincial Treasuries in writing of any actions taken in terms of subparagraphs (1)(b)(ii), (e) or (f) above.
- (3) If the accounting officer, on reasonable grounds, believes that a bidder or a contractor has engaged in bid rigging, he shall refer the matter to the Competition Tribunal for investigation and the taking of action against the bidder or contractor concerned in a manner contemplated in the Competition Act No. 89 of 1998.

Part 3: Logistics, Disposal, Risk and Performance Management

39. Logistics management

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

- (1)** In terms of section 14 of the Act, the municipality may not transfer ownership as a result of sale or other transaction or otherwise permanently dispose of a capital asset needed to provide the minimum level of basic municipal services.
- (2)** A municipality may transfer ownership or otherwise dispose of capital asset other than one contemplated in subsection (1), but only after the council, in a meeting open to the public-
 - (a)** has decided on reasonable grounds that the asset is not needed to provide the minimum level of basic municipal services; and
 - (b)** has considered the fair market value of the asset and the economic and community value to be received in exchange for the asset.

In consideration of (a) and (b) above it is necessary to understand the terminology and principles contained in the requirements as follows:

Minimum levels of basic service – Consideration must be given to current need for services as well as future needs, we can therefore not sell a property now and then need to buy a similar property later at a higher price to provide a municipal service.

Fair market value – The price that a willing buyer is willing to pay a willing seller in an arms-length transaction. Only a professional registered valuer can determine this valuation.

It also determines in Section 14(5) of the MFMA that any transfer of ownership of a capital asset must be fair equitable, transparent, competitive and consistent with the disposal management system, thus the supply chain management policy of the municipality.

The supply chain policy of the municipality requires the disposal of capital assets to be fair, equitable transparent and competitive.

WHEN AN APPLICATION IS RECEIVED, DO THE FOLLOWING:

1. Determine whether the property in question is an exempted or non-exempted capital asset in terms of the MFMA. Property is exempted if transferred to a municipality, municipal entity, provincial organ of state etc. **(See definitions in the Regulations and MFMA, Sect 14(6) to determine whether an asset is exempted or not)**
2. **All moveable assets will be sold by way of a public auction and immovable assets will be sold on a SCM process.**
3. If Non-exempted it may only be transferred after the following was done:

Council
MUST
consider
these 2
points at
start of
process

- a. Accounting officer has conducted a public participation process.
- b. Municipal council has made the following determinations in terms of Section 14(2) of the MFMA in a meeting open to the public
 - i. That the asset is not needed to provide the minimum level of basic municipal services
 - ii. Considered the fair market value and economic and community value to be received in exchange for the asset.
- c. Public participation process only needed to inform the determination by council in (i) and (ii) above if the asset is a high value capital asset (R10 Mil) or (exceeds 1% of total value of assets thus more than R3.8 Million)
- d. Only the council may authorise a public participation process referred to in (a) and a request to approve the process must be accompanied by the following:
 - i. Valuation
 - ii. Reasons for disposal
 - iii. Expected benefits to municipality
 - iv. Expected proceeds to be received
 - v. Any expected gain or loss
- e. If a public participation process is authorised the Accounting officer must:
 - i. At least 60 days prior to meeting make public i.t.o. Section 21A of the Municipal Systems Act (Advertisement in Local Media and on Web page) the proposal to transfer or dispose.
 - ii. Invite the local community to comment
 - iii. Solicit views from NT and PT

4. Consideration of proposals – Upon consideration of a proposal, a municipal council must take into account:

- The factors as set out in Regulation 7 (a) to (l) must be considered
 - (a) Whether it may be required for own use
 - (b) The expected loss or gain to result from the transaction
 - (c) The extent to which the compensation will result in a financial loss or gain to the municipality
 - (d) The risk and reward associated with the operation or control of the asset in relation to the municipality's interests
 - (e) The effect of the disposal/transfer on the credit rating ability to raise loans, cash flow position
 - (f) Any limitations or conditions attached to the asset
 - (g) Estimated cost of the proposed transfer
 - (h) Transfer of any liabilities and reserves associated with the asset
 - (i) Comments or representations received from the local community
 - (j) Written views from the NT and PT
 - (k) Interests of the state, municipality or community at stake

The report to council should contain these questions in a table format and the questions needs to be answered by the department submitting the report.

(l) Compliance with legislative regime

5. Conditional approval – Regulation 11 states that; Approval **in principle** may be given to transfer a non-exempted capital **asset subject to any conditions**, including
 - a. The way it is to be sold or disposed of
 - b. Floor price or minimum compensation
 - c. If price is less than fair market value consider the following: (Reg. 13(2))
 - i. Is it in the public interest
 - ii. Does it address the plight of the poor
 - iii. Take into account the interest of the local community and the state
 - iv. The strategic economic interest of the municipality including long term
 - v. Constitutional rights of all parties affected by the decision
 - vi. Whether the interest of the affected carries more weight than that of the local community (individual interest vs. collective interest)
 - vii. If local community would be served better if the asset is transferred at less than fair market value compared to fair market value.
 - d. A framework within which direct negotiations for the transfer or disposal of the capital asset must be conducted with another person if the proposal is subject to direct negotiations.
6. Regulation 12 determines that; Disposal of a non-exempted capital asset may take place only in accordance with Disposal Management Process (SCM process), irrespective of;
 - a. The value of the capital asset.
 - b. Whether the asset is to be transferred to a private sector party or an organ of state.

Thus after council decides upon the disposal method, whether sale or rental, an appropriate SCM process must be followed, the value of the property will determine the SCM process.

If an offer is received prior to council decision or as a triggering occurrence, it should still be subjected to an appropriate SCM process after the in-principle decision has been obtained from the council. An offer to purchase or rent is regarded as being an unsolicited bid and the process to be followed is long and arduous and requires National Treasury input and have prolonged timeframes, advertisement requirements, it is therefore not recommended.

7. Regulation 12(2) determines when the disposal management system (usually SCM system) does not apply and that is only:
 - a. If the municipality reviews its service delivery mechanism i.t.o. chapter 8 of the Munisipal Systems Act
 - b. If the municipality appoint a private sector party through a competitive process for the performance of a municipal service
 - c. If the capital asset is transferred as an integral component of the performance of that municipal service to the service provider

GRANTING OF RIGHTS TO USE CONTROL OR MANAGE CAPITAL ASSETS

8. The requirements of chapter 4 does not apply to:

- a. Right to use, control or manage i.t.o. PPP's
- b. Right on municipal to housing for the poor

Regulation

The granting of a right to use, manage and control a capital asset must be dealt with in accordance with Chapter 2 (Thus similar to disposal of capital assets) if:

- a. The right is granted for an undetermined period
 - b. The period exceeds the useful life or economic usefulness
 - c. Confers on the person to whom the right is granted;
 - i. The option to buy or acquire ownership
 - ii. The power to use, control or manage as if the person is the beneficial but not legal owner.
9. A municipality may grant the right to use, manage or control a capital asset (Reg. 34 (1)(b) but only after the accounting officer has conducted a public participation process in accordance with Reg. 35 and the council has given an in-principle approval. A request to authorise a public participation process must be accompanied by an information statement containing:

- i. Reasons for disposal
- ii. Expected benefits to municipality
- iii. Expected proceeds to be received
- iv. Any expected gain or loss

Public participation only necessary is Value in excess of R10 Million **and** a long-term right is proposed to be granted. (Long-term - a period of more than 3 years)

10. Regulation 35 determines that the accounting officer must at least 60 days before the meeting where the council considers the decision to grant a right to use, manage and control a high value capital asset (in excess of R10 Million) make public the proposal in accordance with Section 21A of the MSA inclusive of
- a. Information statement
 - b. Invite the local community for comment and representations
 - c. Solicit views from NT and PT
11. If the control of the property is relinquished by decision of council for a long term lease or other means of controlling the asset than that of an outright sale, the determinations in terms of Regulation 36 of the MAT regulations must also be taken into account being:
- a. Whether the capital asset may be required for the municipality's own use during the period for which the right is granted
 - b. The extent to which any compensation to be received for the right together with the estimated value of any improvements or enhancements to the capital asset that the private sector party or organ of state to whom the right is granted will be required to make, will result in a significant economic or financial benefit to the municipality.

- c. The risks and rewards associated with the use, control or management of the capital asset in relation to the municipality's interests;
 - d. Any comments representations on the proposed granting of the right received from the local community and other interested persons;
 - e. Any written views and recommendations on the proposed granting of the right by the National Treasury and relevant provincial treasury
 - f. The interests of any affected organ of state, the municipality's own strategic, legal and economic interests of the local community; and
 - g. Compliance with the legislative regime applicable to the proposed granting of the right.
12. Once the decision of the council has been taken in disposing the asset or to relinquish the control over the asset by means of a rental or a long-term rental, the SCM processes must be followed for the disposal of the property. (Regulation 41)
 13. When an item is taken to council for consideration, the council must be made aware of the valuation of the property as well as give consideration to the requirements in point 10 above.
 14. In-principle approval can be granted and conditions may also be attached to the in-principle approval as contained in Regulation 40 (a)(b) and(c).
 15. Delegations – The power to make a determination as prescribed in Section 14 (2)(a) and(b) of the MFMA in respect of the need for municipal services and valuation, in accordance with Regulation 5 as well as 34 and to then decide to either sell or relinquish control can be delegated to the Accounting officer below a prescribed value (The municipal council to determine the value)
- (3)** Assets may be disposed of by -
- (i)** transferring the asset to another organ of state in terms of a provision of the Act enabling the transfer of assets;
 - (ii)** transferring the asset to another organ of state at market related value or, when appropriate, free of charge;
 - (iii)** selling the asset; or
 - (iv)** destroying the asset.
- (4)** The accounting officer must ensure that -
- (a)** when immovable property is sold by means of a competitive bidding process, the highest price offered shall be accepted, provided such price is equal to or higher than the market related price for the relevant immovable property;
 - (b)** in other cases, only at a market related price except when the public interest or the plight of the poor demands otherwise in which event the sale price shall be determined in accordance with the applicable land disposal or indigent policy adopted by the council;
 - (c)** movable assets are sold either by way of by public auction at the highest offered price, provided such price is market related;
 - (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;

- (e) immovable property is let at market related rentals except when the public interest or the plight of the poor demands otherwise in which event the rental shall be determined in accordance with the applicable land disposal or indigent support policy adopted by the council;
 - (f) 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.
 - (h) The SCM unit will prepare a list for disposal and then the office of the Mayor can decide if assets must be removed from the list for the use by registered NGO,s that have a need, before the SCM process can start.
- (5) This paragraph must be read with and applied in conjunction with the Municipal Asset Transfer Regulations contained in Government Notice R. 878 of 22 August 2008 and the associated policies adopted by the council. In the event of conflict, the provisions of the aforesaid Regulations shall be applied.

41. Risk management

- (1) The accounting officer must establish and implement an effective system of risk management for the identification, consideration and avoidance of potential risks in the supply chain management system.
- (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

The accounting officer must establish and implement an internal monitoring system in order to determine, on the basis of a retrospective analysis, whether the authorized supply chain management processes were followed and whether the objectives of this policy were achieved.

Part 4: Other matters

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

- (1)** No award above R 15 000 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.
- (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.
- (3)** If SARS does not respond within 7 days of request for confirmation in terms of subparagraph (2), such person's tax matters may for purposes of subparagraph (1) be presumed to be in order.
- (4)** Allow service providers 7 days to rectify their online status with SARS if it shows non-compliant or in-active.

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

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

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

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

The accounting officer must ensure that the notes to the annual financial statements disclose particulars of any award of more than R2 000 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

- (1)** The code of ethical standards annexed to this policy as Annexure A shall apply to all officials and other role players in the supply chain management system of the municipality in order to promote -
 - (a)** mutual trust and respect; and
 - (b)** an environment where business can be conducted with integrity and in a fair and reasonable manner.
- (2)** A breach of the aforesaid code of ethics must be dealt with as follows -
 - (a)** in the case of an employee, in terms of the disciplinary procedures of the municipality envisaged in section 67(1)(h) of the Municipal Systems Act;
 - (b)** in the case a role player who is not an employee, through other appropriate

means with due regard to the severity of the breach;

- (c) in all cases, financial misconduct must be dealt with in terms of chapter 15 of the Act.

47. Inducements, rewards, gifts and favours to municipalities, officials and other role players

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

48. Sponsorships

The accounting officer must promptly disclose to the National and Western Cape 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 to the municipality; or
- (b) a recipient or prospective recipient of goods disposed of or to be disposed of by the municipality.

49. Objections and complaints

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

50. Resolution of disputes, objections, complaints and queries

- (1) The accounting officer may 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

(iii) delegate power to the SCM Manager to dismiss non-merit objections

- (b) to deal with objections, complaints or queries regarding any such decisions or actions or any matters arising from such contract.
- (2) The accounting officer or another official designated by the accounting officer is responsible for assisting the appointed person to perform his or her functions effectively.
- (3) The person appointed must -
- (a) strive to resolve promptly all disputes, objections, complaints or queries received; and
 - (b) submit monthly reports to the accounting officer on all disputes, objections, complaints or queries received, attended to or resolved.
- (4) A dispute, objection, complaint or query may be referred to the Western Cape Provincial Treasury if -
- (a) the dispute, objection, complaint or query is not resolved within 60 days of lodgement; or
 - (b) no response is forthcoming within 60 days of lodgement.
- (5) If the Western Cape Provincial Treasury does not or cannot resolve the matter, the dispute, objection, complaint or query concerned may be referred to the National Treasury for resolution.
- (6) This paragraph must not be read as affecting a person's rights to approach a competent court for such order as may be just and necessary in the circumstances at any time.

51. Contracts providing for compensation based on turnover

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

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

51.A. Contract Management – issue of variation orders

- (a) The accounting officer or nominee may, subject to subparagraphs (b) to (d) authorize the issue of variation orders in respect of contract specifications or conditions of contract in order to accommodate costs for additional work either unforeseen when contracts were awarded for infrastructure projects, essential or necessary additional work or in instances where factors beyond the control of an

appointed contractor has led to or will lead to a delay in a contract completion date.

- (b) A variation order may only be issued after –

- (ii) the need for such order has been fully motivated by the responsible project manager and supported by the head of department concerned; and
 - (iii) the chief financial officer has certified that funds are available to cover the cost the required additional work.
- (c) That it is noted that new guidelines in terms of SIPDM are being drafted. Bergrivier Municipality will adhere to it from inception date.
 - (d) A request for the issue of a variation order in an amount exceeding R200 000 shall first be referred to the Bid Adjudication Committee which considered the initial bid for approval provided that the accounting officer may constitute a new Bid Adjudication Committee for this purpose.
 - (e) No request for a variation order may be approved in circumstance where new bids may be invited for the additional work concerned.
 - (f) The line manager responsible for the implementation of a project undertaken either departmentally or through an appointed contractor must keep a proper record of all variation orders issued in respect of a project.
 - (g) The original copy of an issued variation order must be filed with the original bid and contract documents;
 - (h) The responsible line manager must, upon completion of additional work or the expiry of any extended contract period authorized by a variation order, certify that the terms and conditions of such variation order have been complied with.

51.B. Application of policy to municipal entities

- (a) The provisions of this policy generally do not apply to municipal entities.
- (b) The supply chain management system of a municipal entity shall be applied with due regard to the provisions of this policy and the Regulations and, in the event of conflict, the provisions of the Regulations shall enjoy preference.

51.C. Fronting

- (a) For purposes of this paragraph, “fronting” shall include the under-mentioned acts on the part of a tenderer or any person or party associated with a tenderer:
 - (i) **Window-dressing:** This includes cases in which black people are appointed or introduced to an enterprise on the basis of tokenism and may subsequently be discouraged or inhibited from substantially participating in the core activities of the enterprise concerned and/or be discouraged or inhibited from substantially participating in the declared areas and/or levels of their participation;
 - (ii) **Benefit Diversion:** This includes initiatives where the economic benefits received by an organization for having B-BBEE Status do not flow to black people in the ratio specified by law;

- (iii) **Opportunistic Intermediaries:** This includes enterprises that have concluded agreements with other enterprises in order to leverage the opportunistic intermediary's favourable B-BBEE status in circumstances where the agreement involves:
 - (a) Significant limitations or restrictions on the identity of the opportunistic intermediary's suppliers, service providers, clients or customers;
 - (b) The maintenance of their business operations in a context reasonably considered improbable having regard to resources; and
 - (c) Terms and conditions that are not negotiated at arms-length on a fair and reasonable basis.
- (b) Where the accounting office detects fronting, he must act against a tenderer concerned in terms of paragraph 29(8.4) and, in addition, report such fronting to the Department of Trade and Industry.

52. Infrastructure Procurement

52.1 Introduction

The framework for infrastructure procurement outlines the minimum infrastructure procurement policy requirements for municipal planning and implementation. The strategic direction set in the Integrated Development Plan (IDP) informs the framework for infrastructure procurement. For example, procurement strategies must be aligned to the municipality's developmental and internal transformation needs, as specified in the IDP.

52.2 MINIMUM REQUIREMENT FOR INFRASTRUCTURE PROCUREMENT

52.2.1 Infrastructure procurement must be undertaken in accordance with all applicable Infrastructure Procurement related legislation and this Framework.

52.2.2 Infrastructure procurement must be implemented in accordance with the institutional Supply Chain Management System, which promotes differentiated procurement for infrastructure.

52.2.3 Infrastructure procurement must be implemented in accordance with the procurement gates prescribed in clause 6.3 below.

52.2.4 The Accounting Officer must ensure that a budget is available for the duration of the project, in line with MFMA provisions for capital and operating budgets.

52.2.5 The Accounting Officer must ensure that cash flow management processes are in place to meet payment obligations within the time periods specified in the contract.

52.2.6 Procurement gates provided in 53.3 below must be used, as appropriate, to:

- a) Authorise commencement of activities that lead to the next control gate;
- b) Confirm conformity with requirements; and/or
- c) Provide information to eliminate any cause of non-conformity and to prevent reoccurrence.

52.2.7 The authorisation to proceed to the next procurement gate must be given by a delegated person or body. The delegated person or body must be able to apply relevant built environment knowledge and skill to achieve the intended results required at the relevant procurement gate. The level of detail contained in the documentation on which a decision to proceed to the next procurement gate is made, must be sufficient to enable an informed decision.

52.2.8 The Accounting Officer must develop and implement effective and efficient emergency procurement procedures, including relevant approval delegation, in compliance with relevant legislation.

52.2.9 The Accounting Officer must develop and implement an effective and efficient infrastructure disposal policy in line with the Municipal Asset Transfer Regulations. The institution may consider disposal strategies aligned to their internal disposal policy, prior to proceeding with the procurement strategy.

52.2.10 The Accounting Officer must keep records of Procurement Gate Approvals, in a manual or electronic format, with the following minimum requirements:

- a) Procurement gate;
- b) Delegated person/s or body;
- c) Date on which the approval request was received;
- d) Date on which the approval was actioned; and
- e) Signature of the delegated person or body.

52.2.11 All assets must be recorded in the municipal asset register as required by the GRAP standards.

53. Infrastructure Procurement Gates

53.1 Procurement Gate 1

- a) Initiate a procurement process;
- b) Minimum Requirement for Gate 1:
 - 1) Establish and clarify the procurement need, aligned to the municipality's development and transformation priorities specified in the IDP.
 - 2) Determine a suitable title for the procurement, to be applied as the project description.
 - 3) Prepare the broad scope of work for the procurement.
 - 4) Perform market analysis.
 - 5) Estimate the financial value of proposed procurement and contract for budgetary purposes, based on the broad scope of work.
 - 6) Confirm the budget.
 - 7) Compliance with section 33 of the MFMA with respect to community and stakeholder consultation.
- c) **Gate 1 is complete when a designated person or body makes the decision to proceed/not to proceed, with the procurement of the infrastructure.**

53.2 Procurement Gate 2

- a) Approve procurement strategy to be adopted.
- b) Minimum Requirement for Gate 2:
 - 1) Develop a procurement strategy aligned to the institutional procurement strategy:
 - a. Establish contracting and pricing strategy comprising of an appropriate allocation of responsibilities and risks; and the methodology for contractor payments.
 - b. Identify service required for works.
 - c. Decide on contracting strategy.
 - d. Decide on pricing strategy.
 - e. Decide on form of contract.
 - f. Establish opportunities for promoting preferential procurement in compliance with legislative provisions and the Construction Sector Code.
- c) **Gate 2 is complete when a delegated person or body approves the procurement strategy that is to be adopted.**

53.3 Procurement Gate 3

- a) Approve procurement documents.
- b) Minimum requirements for Gate 3:
 - 1) Prepare procurement documents that are compatible with:
 - (i) approved procurement strategies.
 - (ii) project management design documentation.
- c) **Gate 3 is complete when the Bid Specification Committee approves the procurement document. .**

53.4 Procurement **Gate 4**

- a) Confirm that cash flow processes are in place to meet projected contractual obligations.
- b) Minimum requirement for Gate 4
 - 1) Confirm that cash flow processes are in place to meet contractual obligations.
 - 2) Establish control measures for settlement of payments within the time period specified in the contract.
- c) **Gate 4 is complete when a delegated person or body confirms in writing that cash flow processes are in place; and control measures are established for the procurement to take place.**

53.5 Procurement **Gate 5**

- a) Solicit tender offers.
- b) Minimum requirements for Gate 5
 - 1) Invite contractors to submit tender offers.
 - 2) Receive tender offers.
 - 3) Record tender offers.
 - 4) Safeguard tender offers.
- c) **Gate 5 is complete when tender offers received are recorded and safeguarded by a delegated person from the SCM unit.**

53.6 Procurement **Gate 6**

- a) Evaluate tender offers premised on undertakings and parameters established in procurement documents.
- b) Minimum Requirement for gate 6:
 - 1) Determine whether tender offers are complete.
 - 2) Determine whether tender offers are responsive.
 - 3) Evaluate tender submissions.
 - 4) Review minimum compliance requirements for each tender.
 - 5) Perform a risk analysis.
 - 6) Prepare a report on tender offers received, and on their achievement of minimum compliance.
- c) **Gate 6 is complete when the chairperson of the Bid Evaluation Committee approves the BEC report.**

53.7 Procurement **Gate 7**

- a) Award the contract.
- b) Minimum Requirement for Gate 7:
 - 1) Bid adjudication committee review of the BEC evaluation report.
 - 2) Bid Adjudication Committee makes a recommendation of an award.
 - 3) Accounting Officer approval of the tender process.
 - 4) Notify successful tenderer and unsuccessful tenderers of the outcome.
 - 5) Sign contract document.
 - 6) Formally accept tender offer.
- c) **Gate 7 is complete when the Accounting Officer, or the Bid Adjudication Committee where delegated, confirms that the tenderer has provided evidence of complying with all requirements stated in the tender data and formally accepts the tender offer in writing, and issues the contractor with a signed copy of the contract.**

53.8 Procurement **Gate 8**

- a) Administer and monitor the contract.
- b) Minimum Requirements for Gate 8:

1) Finance department to:

- (i) Capture contract award data.
- (ii) Manage cash flow projection.

2) Delivery department to:

- (i) Ensure compliance with contractual requirements.
- (ii) Administer contract in accordance with the terms and provisions of the contract.

c) Gate 8 is complete when a delegated person captures the contract completion/termination data (close out reports and relevant documents), including payment certificates due.

ANNEXURE A

BERGRIVIER MUNICIPALITY

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

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

1. General Principles

The municipality commits itself to a policy of fair dealing and integrity in the conducting of its business. Officials and other role players involved in supply chain management (SCM) are in a position of trust which implies a duty to act in the public interest. Officials and other role players should not perform their duties to unlawfully gain any form of compensation, payment or gratuity from any person, or provider / contractor either for themselves, their family, their friends and business associates.

Officials and other role players involved in SCM should ensure that they perform their duties efficiently, effectively and with integrity, in accordance with the relevant legislation, policies and guidelines. They should ensure that public resources are administered responsibly.

Officials and other role players involved in SCM should be fair and impartial in the performance of their functions. They should, at no time, afford any undue preferential treatment to any group or individual or unfairly discriminate against any group or individual, they should also not abuse the power and authority vested in them.

2. Conflict of interest

An official or other role player involved with supply chain management -

- (a)** must treat all providers and potential providers equitably and fairly;
- (b)** may not use his or her position for private gain or to improperly benefit another person;
- (c)** may not accept any reward, gift, favour, hospitality or other benefit directly or indirectly, including to any close family member, partner or associate of that person, of a value more than R350;
- (d)** must declare to the accounting officer details of any reward, gift, favour, hospitality or other benefit promised, offered or granted to that person or to any close family member, partner or associate of that person;
- (e)** must declare to the accounting officer details of any private or business interest which that person, or any close family member, partner or associate, may have in any proposed procurement or disposal process, or in any award of a contract by the municipality;
- (f)** must immediately withdraw from participating in any manner whatsoever in a procurement or disposal process or in the award of a contract in which that person, or any close family member, partner or associate, has any private or business interest;

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

3. Accountability

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

4. Openness

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

5. Confidentiality

- 5.1 Any information that is the property of the municipality or its providers should be protected at all times. No information regarding any bid/contract/bidder/contractor may be revealed if such an action will infringe on the relevant bidder's/contractors personal rights.

5.2 Matters of confidential nature in the possession of officials and other role players involved in SCM should be kept confidential unless legislation, the performance of duty or the provisions of law requires otherwise. Such restrictions also apply to officials and other role players involved in SCM after separation from service.

6. Bid Specification / Evaluation / Adjudication Committees

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

6.2 Bid evaluation / adjudication committees should be familiar with and adhere to the prescribed legislation, directives and procedures in respect of supply chain management in order to perform effectively and efficiently.

6.3 All members of bid adjudication committees should be cleared by the accounting officer at the level of "CONFIDENTIAL" and should be required to declare their financial interest annually.

6.4 No person should-

6.4.1 interfere with the supply chain management system of the municipality; or

6.4.2 Amend or tamper with any price quotation / bid after its submission.

7. Combative Practices

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

(i) suggestions to fictitious lower quotations;

(ii) reference to non-existent competition;

(iii) exploiting errors in price quotations / bids;

(iv) soliciting price quotations / bids from bidders / contractors whose names appear on the Register for Tender Defaulters.

ANNEXURE B

SCHEDULE TO SMALL BUSINESSES ACT NO. 102 OF 1996

Column 1	Column 2	Column 3	Column 4	Column 5
Sector or sub-sector in accordance with the Standard Industrial Classification	Size of class	The total full-time equivalent of paid employees	Total turnover	Total gross asset value (fixed property excluded)
Agriculture	Medium	100	R 5 m	R 5 m
	Small	50	R 3 m	R 3 m
	Very small	10	R 0.50 m	R 0.50 m
	Micro	5	R 0.20 m	R 0.10 m
Mining and Quarrying	Medium	200	R 39 m	R 23 m
	Small	50	R 10 m	R 6 m
	Very small	20	R 4 m	R 2 m
	Micro	5	R 0.20 m	R 0.10 m
Manufacturing	Medium	200	R 51 m	R 19 m
	Small	50	R 13 m	R 5 m
	Very small	20	R 5 m	R 2 m
	Micro	5	R 0.20 m	R 0.10 m
Electricity, Gas and Water	Medium	200	R 51 m	R 19 m
	Small	50	R 13 m	R 5 m
	Very small	20	R 5.10 m	R 1.90 m
	Micro	5	R 0.20 m	R 0.10 m
Construction	Medium	200	R 26 m	R 5 m
	Small	50	R 6 m	R 1 m
	Very small	20	R 3 m	R 0.50 m
	Micro	5	R 0.20 m	R 0.10 m
Retail and Motor Trade and Repair Services	Medium	200	R 39 m	R 6 m
	Small	50	R 19 m	R 3 m
	Very small	20	R 4 m	R 0.60 m
	Micro	5	R 0.20 m	R 0.10 m
Wholesale Trade, Commercial Agents and Allied Services	Medium	200	R 64 m	R 10 m
	Small	50	R 32 m	R 5 m
	Very small	20	R 6 m	R 0.60 m
	Micro	5	R 0.20 m	R 0.10 m
Catering, Accommodation and other Trade	Medium	200	R 13 m	R 3 m
	Small	50	R 6 m	R 1 m
	Very small	20	R 5.10 m	R 1.90 m
	Micro	5	R 0.20 m	R 0.10 m
Transport, Storage and Communications	Medium	200	R 26 m	R 6 m
	Small	50	R 13 m	R 3 m
	Very small	20	R 3 m	R 0.60 m
	Micro	5	R 0.20 m	R 0.10 m
Finance and Business Services	Medium	200	R 26 m	R 5 m
	Small	50	R 13 m	R 3 m
	Very small	20	R 3 m	R 0.50 m
	Micro	5	R 0.20 m	R 0.10 m
Community, Social and Personal Services	Medium	200		
	Small	50		
	Very small	20		
	Micro	5		

Examples of the documents to be used for the Infrastructure gates implementation.

Activity	Sub-Activity	
1 (Applies only to goods and services not addressed in a procurement strategy developed in terms of 4.1)	1.1	Prepare broad scope of work for procurement
	1.2	Estimate financial value of proposed procurement
	1.3 PG1	Obtain permission to start with the procurement process

Permission is only required for procurements which are not included in an approved procurement strategy developed in accordance with the provisions of 4.1.4 (Stage 2: Strategic resourcing) of the National Treasury Standard for Infrastructure Procurement and Delivery Management

Proposed procurement

Project no: _____ **Project description:** _____

Reference No: _____ **Title:** _____

Activity 1 of Table 3 of the National Treasury Standard for Infrastructure Procurement and Delivery Management states the following:

Activity	Sub-Activity	
1 (Applies only to goods and services not addressed in a procurement strategy developed in terms of 4.1)	1.1	Prepare broad scope of work for procurement
	1.2	Estimate financial value of proposed procurement
	1.3 PG1	Obtain permission to start with the procurement process

Permission is only required for procurements which are not included in an approved procurement strategy developed in accordance with the provisions of 4.1.4 (Stage 2: Strategic resourcing) of the National Treasury Standard for Infrastructure Procurement and Delivery Management

Broad scope of work

The need and motivation for the procurement

Estimated financial value of procurement including VAT

R _____

Permission to start procurement process prepared by:

Name: _____

Designation: _____ Tel: _____

Date: _____ email: _____

Permission to procedure with the procurement process recommended by:

[name of person]

[Designation] **Signature:** _____ **Date:** _____

Permission granted to procedure with the procurement process

[name of designated person – see SCM policy]

[Designation] **Signature:** _____ **Date:** _____



Bergrivier Local Municipality

A2: Approval to apply the procurement strategy

(GATE 2)

Proposed procurement

Project no: **Project description:**

Reference No: **Title:**

Type of contract: *(check appropriate box)*

Professional service

Engineering and construction works

Service

Supply

Subclause 14.2.1 of the National Treasury Standard for Infrastructure Procurement and Delivery Management (SIPDM) requires that goods or services or a combination thereof should generally be procured from the open market. Tenders may, however, be solicited from a confined market where:

- a) it is established with reasonable certainty that only a sole contractor is able to provide the goods or services or any combination thereof or only a very limited number of contractors are able to provide goods, services or works which are not freely available in the market, or which are provided solely for the organ of state in accordance with unique requirements;
- b) there is justification for standardising goods or making use of manufacturer-accredited service providers;
- c) a change in product or manufacturer requires modifications to related equipment and fixtures, e.g. a replacement pump requires costly changes to mountings, pipework or electrical connections or the replacement of circuit breakers requires costly changes to mounting frames, face panels, busbars, wiring and the like; or
- d) a replacement model requires the holding of additional spares or maintenance personnel.

Subclause 14.2.3 of the SIPDM requires that prior approval be obtained for the confined market procedure, unless such a procedure is already provided for in the approved procurement strategy, except where a rapid response is required in the presence of, or the imminent risk of, an extreme or emergency situation arising from the conditions (presence of, or the imminent risk of, an extreme or emergency situation arising from human injury or death, human suffering or deprivation of human rights, serious damage to property or financial loss, livestock or animal injury, suffering or death, serious environmental damage or degradation or interruption of essential services) and which can be dealt with, or the risks relating thereto arrested, within 48 hours.

Broad scope of work

Estimated financial value of procurement including VAT

R

Confined market to be approached

(tick one box)

The list of tenderers to be invited to submit tender offers is as follows:

The basis for determining the list of tenderers to be invited to submit tender offers:

Motivation

Recommended for approval by:

[name of person]

[Designation]

Signature:

Date:

Approval to use the confined market procedure:

[name of designated person – see SCM policy]

[Designation]

Signature:

Date:



BERGRIVIER MUNICIPALITY

PG3: Approval of the procurement document

Gate 3

Proposed contract

Project no: _____ **Project description:** _____

Tender No: _____ **Title:** _____

Brief description of work associated with the contract:

Framework contract: yes no

Estimated total of the prices for the proposed contract including VAT and price adjustment for inflation:

(if a framework agreement – state not applicable)

Time (no of weeks from start of the contract to completion/ delivery / end of service):

Procurement procedure: (check appropriate box)

Negotiation Confined market Competitive selection Competitive negotiation

Type of procurement document (check appropriate box):

expression of interest tender contract

Procurement Gate 3 of the control framework for infrastructure procurement contained in the National Treasury Standard for Infrastructure Procurement and Delivery Management (SIPDM) requires that approval of the procurement documents be obtained. The clauses in the SIPDM relating to this activity are as follows:

4.2.2.1 The approval of procurement documents at Procurement Gate 3 or Framework Agreement Gate 2 shall be based on the contents of a procurement documentation review report. Where the procurement relates to the provision of new infrastructure or the rehabilitation, refurbishment or alteration of existing infrastructure, such a report shall be prepared by one or more persons who participated in the review and who are registered as:

- a) a professional architect or professional senior architectural technologist in terms of the Architectural Profession Act or a professional landscape architect or a professional landscape technologist in terms of the Landscape Architectural Profession;
- b) a professional engineer or professional engineering technologist in terms of the Engineering Profession Act; or a professional quantity surveyor in terms of the Quantity Surveying Professions Act.

4.2.2.2 The review of procurement documents associated with the negotiation, competitive selection or competitive negotiation procedure shall confirm that:

- a) the procurement documents have been formatted and compiled in accordance with the requirements of SANS 10845-2, this standard and, where applicable, the CIDB Standard for Uniformity in Construction Procurement, and are aligned with the approved procurement strategy;
- b) appropriate prompts for judgement are included in procurement documents in accordance with the requirements of SANS 10845-1 whenever quality is evaluated and scored in the evaluation of calls for expressions of interest or tender offers;
- c) the selected form of contract in the case of a tender that is solicited is in accordance with the requirements of 14.5.3 and any standard templates required by the organ of state have been correctly applied;
- d) the necessary approval has been obtained for additional clauses or variations to the standard clauses in the conditions of contract, conditions of tender or conditions for the calling for expressions of interest, as relevant, not provided for in the organ of state's approved templates;
- e) the selected submission data in the case of a call for an expression of interest, or tender data and contract data options in the case of a tender, are likely to yield best value outcomes;
- f) the scope of work adequately establishes what is required and the constraints to the manner in which the contract work is to be provided, and satisfies the drafting requirements of SANS 10845-1;
- g) the submission or returnable documents are necessary and will enable submissions to be evaluated fairly and efficiently; and
- h) the risk allocations in the contract and pricing data are appropriate.

4.2.2.3 The review conducted to confirm the provisions of 4.2.2.2 and 4.2.2.3 shall identify sections, if any, which require amendments or improvements.

4.2.2.4 The documentation review report shall:

- a) list the names and qualifications of the team members;
- b) confirm that the documents are in accordance with the requirements of this standard;
- c) capture any comments or opinions which the team may wish to express; and
- d) recommend that the procurement documents be accepted with or without modifications.

Clause 4.2.2.1 requires that the review report be prepared by one or more persons who are registered as a professional architect, professional senior architectural technologist, professional landscape architect, professional landscape technologist, professional engineer, professional engineering technologist or professional quantity surveyor where the procurement relates to the provision of new infrastructure or the rehabilitation, refurbishment or alteration of existing infrastructure.

Procurement documentation reviewers

Name	Qualifications (professional registration and number, if applicable)

Attach copy of procurement documentation review report (see Annexure A)

Members of the procurement documentation committee

Name	Designation / qualifications

Procurement document approved by:

Chairperson of the Procurement Documentation Committee

Signature:

Date:



Bergrivier local Municipality

Confirmation of the budget

Gate 4

Proposed contract

Project no: _____ **Project description:** _____

Tender No: _____ **Title:** _____

Estimated total of the prices for the contract: _____

Brief description of work associated with the contract: _____

Time (no of weeks from start of the contract to completion/ delivery / end of service): _____

Estimated starting date: _____

Procurement Gate 4 of the control framework for infrastructure procurement contained in the National Treasury Standard for Infrastructure Procurement and Delivery Management (SIPDM) requires confirmation that budgets are in place before proceeding with the tender process.

Infrastructure is delivered in terms of a multiyear budget. Budget provisions accordingly need to be considered in the first instance over the financial years that payment for the order needs to be made.

Expending budget on a contract frequently has an impact on a programme of projects. The appropriateness of the allocation of budget to the proposed contract in question in relation to the prioritisation and remaining budget for other projects within a programme also needs to be considered. Clause 6.1 of the SIPDM states the following:

6.1 The demand management system shall be aimed at ensuring that goods and services, and any combination thereof required to support strategic and operational commitments, are delivered at the right price, time and place, and that the quality and quantity of such goods or services satisfy needs.

Demand management considerations dictate that this confirmation is not simply a check to confirm that there is sufficient budget available for the work covered by the order. Value for money and impact on other projects in the issuing of the order may also need to be considered.

Risk provisions and price adjustment for inflation

Is the contract subject to price adjustment for inflation? (*check appropriate box*):

No Yes If yes, what is the estimated value, including VAT - R

What contingency amount should be made for risk events expressed as a percentage of the estimated value:
%

NOTE A contingency amount is a provision for a future event or circumstance which is possible but cannot be predicted with certainty.

Budgetary provision for the order

Component	Rand	Total
Estimated total of the prices for the contract	R	
Estimated price adjustment for inflation	R	
Contingency provision	R	
Subtotal		R
Vat		R
Total		R

Recommendation for confirmation of budget made by:

[name of person]

[Designation]

Signature:

Date:

Budget confirmed by:

[name of designated person – see SCM policy]

[Designation]

Signature:

Date:



BERGRIVIER MUNICIPALITY

PG5: Authorisation to proceed to the next phase of the procurement process

(qualified, nominated, proposal or open / restricted competitive negotiations procedure only)

Gate 5

Proposed contract

Project no: Project description:

Tender No: Title:

Framework contract: yes no (tick appropriate box)

Estimated total of the prices for the contract including VAT and price adjustment for inflation: (if a framework agreement – state not applicable)

Time (no of weeks from start of contract to completion/ delivery / end of service):

Brief description of work associated with the contract:

Authorisation required: (tick appropriate box)

Procedure	Authorisation sought
Competitive selection procedure	
<input type="checkbox"/> nominated	admit to an electronic data base
<input type="checkbox"/> proposal using two envelope system	open financial proposals
<input type="checkbox"/> proposal procedure using a two stage system	proceed with the next round
<input type="checkbox"/> qualified	invite respondents to submit tender offers
Competitive negotiation procedure	
<input type="checkbox"/> restricted	invite respondents to submit tender offers
<input type="checkbox"/> restricted / open	Invite tenderers to make next round submissions/ best and final offers

other (specify):

Procurement Gate 5 of the control framework for infrastructure procurement contained in the National Treasury Standard for Infrastructure Procurement and Delivery Management (SIPDM) requires that authorisation is required to proceed to the next phase of the tender process where the qualified, proposal or competitive procurement procedure is pursued. Such authorisation is based on the acceptability of an evaluation report.

The clause in the SIPDM relating to this activity are as follows:

4.2.4 The person authorised to enable a procurement process to progress to the next phase of the process shall review the evaluation report and either refer the report back to those responsible for such a report or authorise the procurement process to proceed to the next phase after:

- a) confirming that the report is complete and addresses all considerations necessary to make a decision;
- b) confirming the validity and reasonableness of reasons provided for the elimination of tenderers or respondents; and
- c) considering commercial risks and identifying any risks that have been overlooked which warrant investigation prior to taking a final decision.

Attach duly completed evaluation report

The conditions or constraints contained in the evaluation report relating to the next stage are as follows:

Recommendation for approval to proceed to the next phase of the procurement process made by:

[name of person]

[Designation]

Signature:

Date:

Approval to proceed to the next phase of the procurement process

[name of designated person – see SCM policy]

[Designation]

Signature:

Date:



PG6: Approval of tender evaluation committee recommendations

GATE 6

Proposed contract

Project no: _____ **Project description:** _____

Contract No: _____ **Title:** _____

Framework contract: yes no (tick appropriate box)

Estimated total of the prices for the contract including VAT and price adjustment for inflation:
(if a framework agreement – state not applicable)

Time (no of weeks from start of contract to completion/ delivery / end of service):

Brief description of work associated with the contract:

Procurement Gate 6 of the control framework for infrastructure procurement contained in the National Treasury Standard for Infrastructure Procurement and Delivery Management (SIPDM) requires that the tender evaluation recommendations be approved.

Attach duly completed evaluation report(s) and if relevant, authorisations to proceed to the next phase

Recommendation for approval of tender evaluation recommendations made by:

[name of person]

[Designation]

Signature:

Date:

Outcome of submission

- The recommendations of the tender evaluation report are approved.
- The recommendations of the tender evaluation report are approved are confirmed subject to the following being effected:
- The tender evaluation report is hereby returned to the evaluation committee for the following reasons:

Name:

Signature:

Date:

Chairperson of the Tender Committee

The members of the Tender Committee participating in this decision were as follows:

Name	Designation

BERGRIVIER LOCAL MUNICIPALITY

PG7: Acceptance of a tender offer

Gate 7

Proposed contract

Project no: **Project description:**

Contract No: **Title:**

Name of contractor:

Time (no of weeks from start of contract to completion/ delivery / end of service):

Framework contract: yes no (*tick appropriate box*)

Estimated total of the prices for the contract including VAT and price adjustment for inflation:
(if a framework agreement – state not applicable)

Time (no of weeks from start of contract to completion/ delivery / end of service):

Brief description of work associated with the contract:

Procurement Gate 7 of the control framework for infrastructure procurement contained in the National Treasury Standard for Infrastructure Procurement and Delivery Management (SIPDM) requires that the tender offer be accepted.

The clause in the SIPDM relating to this activity are as follows:

14.5.1.2 The Form of Offer and Acceptance contained in Annex B of SANS 10845-2 shall be used, with minimal contract-specific amendments, to form the basis of agreement arising from the solicitation of tender offers

Clause 4.4.1.1 of SANS 10845-1 states that "A tenderer's covering letter shall not be included in the final contract document. Should any matter in such letter, which constitutes a deviation as aforesaid, become the subject of agreements reached during the process of offer and acceptance, the outcome of such agreement shall be recorded in the schedule of deviations."

Attach a duly completed copy of Gate6: Approval of tender evaluation recommendations together the evaluation report(s)

Attached the proposed contract

Recommendation for the acceptance of the tender offer:

[name of person]

[Designation]

Signature:

Date:

Acceptance of tender offer made by:

[name of designated person – see SCM policy]

[Designation]

Signature:

Date:

(sign the acceptance portion of the forms of offer and acceptance and initial the pages to the contract)



BERGRIVIER LOCAL MUNICIPALITY

PG8A: Approval for waiving of penalties / damages

GATE 8

Project no: _____ **Project description:** _____

Contract No: _____ **Title:** _____

Name of Contractor: _____

Framework contract: **yes** **no** (check appropriate box(es))

If yes, **Order no:** _____ **Title:** _____

Estimated final total of the prices for the contract including VAT and price adjustment for inflation: _____

Time (no of weeks from start of contract to completion/ delivery / end of service): _____

Contract type and option:
(check appropriate box) and insert main Option e.g. F)

CIDB	<input type="checkbox"/> Standard professional service contract <input type="checkbox"/> General conditions of service	<input type="checkbox"/> Contract for the supply and delivery of goods <input type="checkbox"/> General conditions of purchase
FIDIC	<input type="checkbox"/> Green Book <input type="checkbox"/> Red Book <input type="checkbox"/> Yellow Book	<input type="checkbox"/> Silver Book <input type="checkbox"/> Gold Book
JBCC	<input type="checkbox"/> Principal Building Agreement	<input type="checkbox"/> Minor works agreement
NEC3	<input type="checkbox"/> NEC3 ECC main Option: <input type="checkbox"/> NEC3 ECSC <input type="checkbox"/> NEC3 TSC main Option: <input type="checkbox"/> NEC3 TSSC	<input type="checkbox"/> NEC3 SC <input type="checkbox"/> NEC3 SSC <input type="checkbox"/> NEC3 PSC main Option: <input type="checkbox"/> NEC3 PSSC
SAICE	<input type="checkbox"/> GCC	

NOTE See Table 10 of the National Treasury Standard for infrastructure Procurement and Delivery Management for full titles of standard contracts

Procurement Gate 8A of the control framework for infrastructure procurement contained in the National Treasury Standard for Infrastructure Procurement and Delivery Management (SIPDM) requires prior approval for the waiving of penalties and / or low performance damages from the person authorised to do so in terms of the employer's SCM policy.

Clause 8.1a) of the SIPDM requires that the person responsible for the administration of the contract or an order on behalf of the employer acts as stated in the contract that is entered into, subject to any constraints that may be imposed by the employer or the employer's supply chain management policy for infrastructure procurement and delivery management. Prior approval is required before any penalties / damages are waived.

NOTE: Penalties (any sum of money for the payment of which or anything for the delivery or performance of which a person may so become liable) are governed by the Conventional Penalties Act of 1962 (Act 15 of 1962). This Act permits a court to reduce the penalty if the penalty is out of proportion to the prejudice suffered to the extent that the court considers equitable in the circumstances.

Brief description of work associated with the contract:

Approval sought for: (check appropriate box)

waiving of delay damages / penalty for delay

specify particulars and quantum of such damages / penalties

waiving of low performance damages

specify particulars and quantum of such damages

waiving of other penalties / damages

describe and specify particulars and quantum of such damages

Motivation to waive penalties / damages

Recommendation for the approval for waiving of penalties / damages made by:

[name of person]

[Designation]

Signature:

Date:

Approval for waiving of penalties / damages made by:

[name of designated person – see SCM policy]

[Designation]

Signature:

Date: