

SUPPLY CHAIN MANAGEMENT POLICY

REVISED 1 JULY 2013



**STEVE TSHWETE
LOCAL MUNICIPALITY
MP313**

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

The Council of the Steve Tshwete Municipality resolves in terms of section 111 of the Local Government : Municipal Finance Management Act (No. 56 of 2003) to adopt the following as the supply chain management policy of the municipality:

TABLE OF CONTENTS

1. Definitions

CHAPTER 1

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

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

CHAPTER 2

FRAMEWORK FOR SUPPLY CHAIN MANAGEMENT

9. Format of supply chain management

***Part 1
Demand Management***

10. System of demand management

***Part 2
Acquisition Management***

11. System of acquisition management
12. Range of procurement processes
13. General preconditions for consideration of written quotations or bids
14. Lists of accredited prospective providers

15. Petty cash purchases
16. Written quotations
17. Formal written price quotations
18. Procedures for procuring goods or services through written quotations and formal written price quotations
19. Competitive bidding process
20. Process for competitive bidding
21. Bid documentation for competitive bids
22. Public invitation for competitive bids
23. Procedure for handling, opening and recording of bids
24. Negotiations with preferred bidders
25. Two-stage bidding process
26. Two-envelope system
27. Validity periods
28. Samples
29. Submission of bids
30. Opening of bids
31. Committee system for competitive bids
32. Bid specification committees
33. Bid evaluation committees
34. Bid adjudication committees
35. Extension / expansion of contracts
36. Procurement of banking services
37. Procurement of IT related goods or services
38. Procurement of goods and services under contracts secured by other organs of state
39. Procurement of goods necessitating special safety arrangements
40. Proudly SA campaign
41. Appointment of consultants
42. Deviation from, and ratification of minor breaches of, procurement processes

43. Emergency dispensation
44. Unsolicited bids
45. Combating of abuse of supply chain management system

Part 3

Logistics, Disposal, Risk and Performance Management

46. Logistics management
47. Disposal management
48. Risk management
49. Performance management

Part 4

Other Matters

50. Prohibition on awards to persons whose tax matters are not in order
51. Prohibition on awards to persons in the service of the state
52. Awards to close family members of persons in the service of the state
53. Ethical standards
54. Inducements, rewards, gifts and favours
55. Sponsorships
56. Objections and complaints
57. Resolution of disputes, objections, complaints and queries
58. Contracts providing for compensation based on turnover
59. Cancellations of contracts
60. Short title and commencement

1. **DEFINITIONS**

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

“*accounting officer*” means the Municipal Manager, or acting Municipal Manager, of Steve Tshwete Local Municipality.

“*competitive bidding process*” means a competitive bidding process referred to in paragraph 12(1)(d) of this policy.

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

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

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

“*historically disadvantaged individual (HDI)*” means a South African citizen:

- i) who, due to the apartheid policy that had been in place, had to franchise in national elections prior to the introduction of the Constitution of the Republic of South Africa, 1983 (Act No. 110 of 1983) or the Constitution of Republic of SA, 1993 (Act 200/93) (the Interim Constitution); and/or
- ii) who is a female; and/or
- iii) who has a disability.

“*in the service of the state*” means to be:

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

“long term contract” means a contract with a duration period exceeding one (1) year.

“list of accredited prospective providers” means the list of accredited prospective providers which a municipality or municipal entity must keep in terms of paragraph 14 of this policy.

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

- (a) the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000);
- (b) the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- (c) the Construction Industry Development Board Act, 2000 (Act No. 38 of 2000); and
- (d) the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004).

“principle shareholder” means a person possessing such an interest or number of shares in an organisation that he can influence decisions taken.

“Regulation” means the Local Government : Municipal Finance Management Act, 2003, Municipal Supply Chain Management Regulations.

“responsible person” means a director or manager who is responsible for the procurement of goods and services in his/her department.

“stakeholder” means any person with a vested interest in a particular organization.

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

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

“written quotations” means quotations referred to in paragraph 12(1)(b) of this policy.

CHAPTER 1
ESTABLISHMENT AND IMPLEMENTATION OF
SUPPLY CHAIN MANAGEMENT POLICY

2. **SUPPLY CHAIN MANAGEMENT POLICY**

2.1 The principles of this policy are that it:

- (a) Gives effect to:
 - (i) section 217 of the Constitution; and
 - (ii) part 1 of chapter 11 and other applicable provisions of the Act.
- (b) Is fair, equitable, transparent, competitive and cost effective;
- (c) Complies with:
 - (i) the regulatory framework prescribed in chapter 2 of the Regulations; and
 - (ii) any minimum norms and standards that may be prescribed in terms of section 168 of the Act.
- (d) Is consistent with other applicable legislation;
- (e) Does not undermine the objective for uniformity in supply chain management systems between organs of state in all spheres; and
- (f) Is consistent with national economic policy concerning the promotion of investments and doing business with the public sector.

2.2 The municipality may not act otherwise than in accordance with this supply chain management policy when:

- (a) Procuring goods or services;
- (b) Disposing of goods no longer needed;
- (c) Selecting contractors to provide assistance in the provision of municipal services otherwise than in circumstances where chapter 8 of the Municipal Systems Act applies; or

(d) In the case of a municipality, selecting external mechanisms referred to in section 80 (1)(b) of the Municipal Systems Act for the provision of municipal services in circumstances contemplated in section 83 of that Act.

2.3 Sub-paragraphs (1) and (2) of this policy do not apply in the circumstances described in section 110(2) of the Act except where specifically provided otherwise in this policy.

3. **ADOPTION AND AMENDMENT OF THE SUPPLY CHAIN MANAGEMENT POLICY**

3.1 The accounting officer must:

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

3.2 If the accounting officer submits a draft policy to the Council that differs from the model policy, the accounting officer must ensure that such draft policy complies with the regulations. The accounting officer must report any deviation from the model policy to the National Treasury and the relevant provincial treasury.

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

3.4 The accounting officer of the municipality must in terms of section 62(1)(f)(iv) of the Act, take all reasonable steps to ensure that the municipality has and implements this supply chain management policy.

4. **DELEGATION OF SUPPLY CHAIN MANAGEMENT POWERS AND DUTIES**

4.1 The Council is hereby required to delegate such additional powers and duties to the accounting officer so as to enable the accounting officer:

- (a) To discharge the supply chain management responsibilities conferred on accounting officers in terms of:

- (i) chapter 8 or 10 of the Act; and
 - (ii) the supply chain management policy.
 - (b) To maximize administrative and operational efficiency in the implementation of the supply chain management policy;
 - (c) To enforce reasonable cost-effective measures for the prevention of fraud, corruption, favouritism and unfair and irregular practices in the implementation of the supply chain management policy; and
 - (d) To comply with his or her responsibilities in terms of section 115 and other applicable provisions of the Act.
- 4.2 Section 79 of the Act applies to the sub-delegation of powers and duties delegated to the accounting officer in terms of sub-paragraph (1) of this policy.
- 4.3 The Council or accounting officer may not delegate or 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;
- 4.4 This paragraph may not be read as permitting an official to whom the power to make final awards has been delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in paragraph 26 of this policy.
- 4.5 The accounting officer may not delegate or sub-delegate the authority to enter into negotiations in terms of paragraph 24 of this policy.

5. **SUB-DELEGATIONS**

- 5.1 The accounting officer may in terms of section 79 of the Act sub-delegate any supply chain management powers and duties, including those delegated to the accounting officer in terms of this policy, but any such sub-delegation must be consistent with sub-paragraph (2) and paragraph 4 of this policy.
- 5.2 The power to make a final award:
- (a) Above R10-million (VAT included) may not be sub-delegated by the accounting officer;

- (b) Above R2-million (VAT included), but not exceeding R10-million (VAT included), may be sub-delegated but only to:
 - (i) the chief financial officer;
 - (ii) a director; or
 - (iii) a bid adjudication committee of which the chief financial officer or a director is a member; or
- (c) Not exceeding R2-million (VAT included) may be sub-delegated but only to:
 - (i) the chief financial officer;
 - (ii) a director;
 - (iii) an assistant director directly accountable to the chief financial officer or a director; or
 - (iv) a bid adjudication committee.

5.3 An official or bid adjudication committee to which the power to make final awards has been sub-delegated in accordance with sub-paragraph (2) of this policy must within ten (10) working days of the end of each month submit to the official referred to in sub-paragraph (4) of this policy a written report containing particulars of each final award made by such official or committee during that month, including:

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

5.4 A written report referred to in sub-paragraph (3) of this policy must be submitted:

- (a) To the accounting officer, in the case of an award by:
 - (i) the chief financial officer;
 - (ii) a director; or
 - (iii) a bid adjudication committee of which the chief financial officer or a director is a member; or
- (b) To the chief financial officer or the director responsible for the relevant bid, in the case of an award by:
 - (i) a director referred to in sub-paragraph (2)(c)(iii) of this policy; or

- (ii) a bid adjudication committee of which the chief financial officer or a director is not a member.

- 5.5 Sub-paragraphs (3) and (4) of this policy do not apply to procurements out of petty cash.
- 5.6 This paragraph may not be interpreted as permitting an official to whom the power to make final awards has been sub-delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in paragraph 26 of this policy.
- 5.7 No supply chain management decision-making powers may be delegated to an advisor or consultant.

6. **OVERSIGHT ROLE OF COUNCIL**

- 6.1 The Council must maintain oversight over the implementation of this supply chain management policy.
- 6.2 For the purposes of such oversight the accounting officer must:
 - (i) within thirty (30) days of the end of each financial year, submit a report on the implementation of the supply chain management policy of the municipality and of any municipal entity under its sole or shared control, to the Council of the municipality;
 - (ii) whenever there are serious and material problems in the implementation of the supply chain management policy, immediately submit a report to the Council.
- 6.3 The accounting officer must, within twenty (20) days of the end of each quarter, submit a report on the implementation of the supply chain management policy to the Executive Mayor.
- 6.4 The reports must be made public in accordance with section 21A of the Municipal Systems Act.

7. **SUPPLY CHAIN MANAGEMENT UNIT**

- 7.1 A supply chain management unit is hereby established to implement this supply chain management policy.

7.2 The supply chain management unit must, where possible, operate under the direct supervision of the chief financial officer or an official to whom this duty has been delegated in terms of section 82 of the Act.

8. **TRAINING OF SUPPLY CHAIN MANAGEMENT OFFICIALS**

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

CHAPTER 2

FRAMEWORK FOR SUPPLY CHAIN MANAGEMENT

9. **FORMAT OF SUPPLY CHAIN MANAGEMENT**

This supply chain management 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**

In order to ensure that the resources required to support the strategic and operational commitments are delivered at the correct time, at the right price and at the right location, and that the quantity and quality satisfy needs, an effective system of demand management must include the following:

- (a) Planning for future requirements. Acquisition and disposals of all goods required to meet the strategic goals outlined in the integrated development plan must be quantified, budgeted and planned to ensure timely and effective delivery, appropriate quality at a fair cost to meet the needs of the municipality and community. Critical delivery dates must be determined and adhered to.

- (b) If the requirement is of a repetitive nature and there are benefits of economies of scale a contract for a specific commodity should be arranged.
- (c) In order to compile the correct specifications an industry analysis/ research should be undertaken to ensure future needs and technology benefits are maximised.

PART 2
ACQUISITION MANAGEMENT

11. SYSTEM OF ACQUISITION MANAGEMENT

11.1 Through operational procedures, an effective system of acquisition management is established in part 2 of this policy 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 general conditions of a contract, are in accordance with any applicable legislation; and
- (e) That any Treasury guidelines on acquisition management are properly taken into account.

11.2. This supply chain management policy, except where provided otherwise in the policy, does not apply in respect of the procurement of goods and services contemplated in section 110(2) of the Act, including:

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

11.3 The following information must be made public wherever goods or services contemplated in section 110(2) of the Act are procured other than through the supply chain management system:

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

12. **RANGE OF PROCUREMENT PROCESSES**

12.1 The procurement of goods and services through this policy is provided by way of:

- (a) Petty cash purchases, up to a transaction value of R500,00 (VAT included);
- (b) Verbal quotations confirmed in writing by the proposed supplier for procurements of a transaction value over R500,00 up to R10 000,00 (VAT included);
- (c) Formal written price quotations for procurements of a transaction value over R10 000,00 up to R200 000,00 (VAT included); and
- (d) A competitive bidding process for:
 - (i) procurements above a transaction value of R200 000,00 (VAT included); and
 - (ii) the procurement of long term contracts.

12.2 The accounting officer may, in writing:

lower, but not increase, the different threshold values specified in sub-paragraph (1); or

- (a) Direct that:
 - (i) written or verbal quotations be obtained for any specific procurement of a transaction value lower than R2 000,00;
 - (ii) formal written price quotations be obtained for any specific procurement of a transaction value lower than R10 000,00; or
 - (iii) a competitive bidding process be followed for any specific procurement of a transaction value lower than R200 000,00.

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

13. **GENERAL PRECONDITIONS FOR CONSIDERATION OF WRITTEN QUOTATIONS OR BIDS**

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

- (a) Has furnished that provider's:
 - (i) full name;
 - (ii) identification number or company or other registration number;
 - (iii) tax reference number and VAT registration number, if any; and
 - (iv) tax clearance from the South African Revenue Services that the provider's tax matters are in order; and

- (b) Has indicated:
 - (i) whether he or she is in the service of the state, or has been in the service of the state in the previous twelve (12) months;
 - (ii) if the provider is not a natural person, whether any of its directors, managers, principal shareholders or stakeholder is in the service of the state, or has been in the service of the state in the previous twelve (12) months; or
 - (iii) whether a spouse, child or parent of the provider or of a director, manager, shareholder or stakeholder referred to in sub-paragraph (ii) is in the service of the state, or has been in the service of the state in the previous twelve (12) months.
 - (iv) before making an award the supply chain management must check with SARS, if the person's tax matters are in order, if SARS does not respond within seven days such persons tax matters may, for the purpose of clause 13(a)(iv) to be in order.
 - (v) before making an award the supply chain management must check with National Treasury database to confirm whether the bidder or any of its directors are not listed as a person prohibited from doing business with the public sector.

14. **LISTS OF ACCREDITED PROSPECTIVE PROVIDERS**

14.1 The accounting officer must:

- (a) Keep a list of accredited prospective providers of goods and services that must be used for the procurement requirements through written or verbal quotations and formal written price quotations;
- (b) At least once a year through newspapers commonly circulating locally, the website and any other appropriate ways, invite prospective providers of goods or services to 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.

14.2 The 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.

14.3 The list must be compiled per commodity and per type of service.

14.4 Bidders who are not registered on the supplier database are not precluded for submitting bids. Contracts, however, may not be concluded with bidders who are not registered and verified on the supplier database.

14.5. Where bids exceed R200 000,00 (VAT inclusive) the chairperson of the bid evaluation committee may give any bidder seven (7) days written notice to produce proof of registration on the supplier database. Failure to produce proof of such registration will result in the tender being made non-responsive.

15. **PETTY CASH PURCHASES**

15.1 The conditions for the procurement of goods by means of petty cash purchases referred to in paragraph 12(1)(a) of this policy, are that minor items are purchased for up to R500,00 (VAT included) where it is impractical, impossible or not cost-effective to follow the official procurement process.

- 15.2 The chief financial officer will authorize officials from his department to keep petty cash registers and to grant refunds for cash purposes or allow cash advances.
- 15.3 Cash advances can only be granted for out-of-pocket expenses for delegated representatives of the municipality or upon a written quotation but in all instances should a petty cash voucher be approved by the related departmental head.
- 15.4 Officially delegated persons will agree to the deduction from his next remuneration any cash advances of which no proof of expenditure is presented on return from the attended event.
- 15.5 A monthly reconciliation report from holder of a petty cash must be provided to the chief financial officer, including:
- (i) the total amount of petty cash purchases for that month; and
 - (ii) receipts and appropriate documents for each purchase.
- 15.6 The practice of breaking up purchases in order to circumvent the formal written price quotation and written price quotation processes is not permissible.

16. **WRITTEN QUOTATIONS**

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

- (a) Quotations must be obtained from at least three (3) different providers preferably from, but not limited to, providers whose names appear on the list of accredited prospective providers of the municipality, provided that if quotations are obtained from providers who are not listed, such providers must meet the listing criteria in the supply chain management policy required by 14(1)(b) and (c) of this policy;
- (b) To the extent feasible, providers must be requested to submit such quotations in writing;
- (c) If it is not possible to obtain at least three (3) quotations, the reasons must be recorded and reported quarterly to the accounting officer or another official designated by the accounting officer; and
- (d) The accounting officer must record the names of the potential providers requested to provide such quotations with their quoted prices.

17. **FORMAL WRITTEN PRICE QUOTATIONS**

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

- (a) Quotations must be obtained in writing from at least three (3) different providers whose names appear on the list of accredited prospective providers of the municipality;
- (b) Quotations may be obtained from providers who are not listed, provided that such providers meet the listing criteria in the supply chain management policy required by paragraph 14(1)(b) and (c);
- (c) If it is not possible to obtain at least three (3) quotations, the reasons must be recorded and approved by the chief financial officer or an official designated by the chief financial officer; and
- (d) The accounting officer must record the names of the potential providers and their written quotations.

17.2 A designated official referred to in sub-paragraph (1)(c) must within five (5) working 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-paragraph.

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

18.1 The operational procedure for the procurement of goods or services through written quotations or formal written price quotations, are as follows:

- (a) All requirements in excess of R30 000,00 (VAT included) that are to be procured by means of formal written price quotations must, in addition to the requirements of paragraph 17, be advertised for at least seven days on the website and all official notice boards of the municipality;
- (b) All bids received above R30 000,00 (VAT included) are to be placed in the official quotation boxes as designated for each department from time to time;

- (c) All acceptable orders above R30 000,00 (VAT included) are subjected to preference points system and must be awarded to the highest points;
- (d) When using the list of accredited prospective providers the accounting officer must promote ongoing competition amongst providers, including by inviting providers to submit quotations on a rotation basis;
- (e) The accounting officer must take all reasonable steps to ensure that the procurement of goods and services through written quotations or formal written price quotations is not abused;
- (f) The accounting officer or chief financial officer must on a monthly basis be notified in writing of all written quotations and formal written price quotations accepted by an official acting in terms of a sub-delegation; and
- (g) The chief financial officer must set procedures for the procuring of goods and services through written quotations and formal written price quotations and the proper recordkeeping thereof.

19. **COMPETITIVE BIDS**

- 19.1 Goods or services above a transaction value of R200 000,00 (VAT included) and long term contracts (contracts exceeding one (1) year) may only be procured through a competitive bidding process, subject to paragraphs 11(2) and 36 of this policy; and
- 19.2 No requirement for goods or services above an estimated transaction value of R200 000,00 (VAT included), may deliberately be split into parts or items of lesser value merely for the sake of procuring the goods or services otherwise than through a competitive bidding process.

20. **PROCESS FOR COMPETITIVE BIDDING**

The procedures for a competitive bidding process are established in part 2 of this policy for each of the following stages:

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

21. **BID DOCUMENTATION FOR COMPETITIVE BIDS**

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

- (a) Take into account:
 - (i) the general conditions of contract;
 - (ii) any Treasury guidelines on bid documentation; and
 - (iii) the requirements of the Construction Industry Development Board (CIDB), in the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure;
- (b) Include evaluation and adjudication criteria, including any criteria required by the applicable legislation;
- (c) Compel bidders to declare any conflict of interest they may have in the transaction for which the bid is submitted;
- (d) If the value of the transaction is expected to exceed R10-million (VAT included), require bidders to furnish:
 - (i) if the bidder is required by law to prepare annual financial statements for auditing, their audited annual financial statements;

- (aa) for the past three years; or
 - (bb) since their establishment if established during the past three years.
 - (ii) a certificate signed by the bidder certifying that the bidder has no undisputed commitments for municipal services towards a municipality or other service provider in respect of which payment is overdue for more than thirty (30) days;
 - (iii) particulars of any contracts awarded to the bidder by an organ of state during the past five (5) years, including particulars of any material non-compliance or dispute concerning the execution of such contract;
 - (iv) a statement indicating whether any portion of the goods or services are expected to be sourced from outside the Republic, and, if so, what portion and whether any portion of payment from the municipality or municipal entity is expected to be transferred out of the Republic;
- (e) Stipulate that disputes must be settled by means of mutual consultation, mediation (with or without legal representation), or, when unsuccessful, in a South African court of law; and
- (f) Stipulates that bidders are compelled not to sub-contractor more than 25% of the contract price to non-targeted enterprises.

22. **PUBLIC INVITATION FOR COMPETITIVE BIDS**

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

- (a) Any invitation to prospective providers to submit bids must be by means of a public advertisement in newspapers commonly circulating locally, the website of the municipality or any other appropriate ways (which may include an advertisement in the Government Tender Bulletin); and
- (b) The information contained in a public advertisement, must include:
 - (i) the closure date for the submission of bids, which may not be less than thirty (30) days in the case of transactions over R10-million (VAT included), or which are of a long term nature, or fourteen (14) days in any other case, from the date on which the advertisement is placed in a newspaper, subject to sub-paragraph (2);
 - (ii) a statement that bids may only be submitted on the bid documentation provided by the municipality; and

- (iii) date, time and venue of any proposed site meetings or mandatory briefing sessions.

22.2 The accounting officer may determine a closure date for the submission of bids which is less than the thirty (30) or fourteen (14) days requirement, but only if such shorter period can be justified on the grounds of urgency or emergency or any exceptional case where it is impractical or impossible to follow the official procurement process.

22.3 Bids submitted must be sealed.

22.4 All CIBD bids above R200 000,00 must be advertised on the CIBD website (I-Tender).

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; and
 - (ii) must be opened at the same time and as soon as possible after the period for the submission of bids has expired.
- (b) Any bidder or member of the public has the right to request that the names of the bidders who submitted bids in time must be read out and, if practical, also each bidder's total bidding price;
- (c) The accounting officer must:
 - (i) record in a register all bids received in time;
 - (ii) make the register available for public inspection;
 - (iii) publish the entries in the register and the bid results on the website; and
- (d) No information, relating to the bid other than that in sub-paragraph (b) may be disclosed to bidders or other persons until an official award is made.

24. **NEGOTIATIONS WITH PREFERRED BIDDERS**

24.1 The accounting officer may, subject to paragraph 4(5) of this policy, negotiate the final terms of a contract with bidders identified through a competitive bidding process as preferred bidders, provided that such negotiation:

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

24.2 Minutes of such negotiations must be kept for record purposes.

24.3 Where bids and/or quotations have been submitted to the municipality, a bidder may not communicate with any councillor or official on any matter regarding his/her bid, quotation or offer other than a notice of withdrawal.

24.4 No municipal employee may communicate with a bidder or any other party who has an interest in a bid or quotation during the period between the closing date for the receipt of the bid and the date of notification to successful bidder of acceptance of his/her bid, quotation or offer except as provided for in paragraph 24.5 below.

24.5 The accounting officer may authorize an employee, in writing, to communicate with a bidder during the period mentioned in subsection 24.4 above for the purpose of:

- (a) Explaining and verification of declaration made in the bid response.
- (b) Confirming technical particulars and the compliance thereof with specifications.
- (c) Clarifying delivery times/quantities.
- (d) Extending the validity period of a bid.
- (e) Clarifying any other commercial aspect.

24.6 Where authority has been granted to communicate with bidders in terms of paragraph 24.5 it should be clearly stated in the submission to the bid adjudication committee the nature of the communication as well as by whom such authority to communicate has been granted.

25. **TWO-STAGE BIDDING PROCESS**

25.1 A two-stage bidding process is allowed for:

- (a) Large complex projects;
- (b) Projects where it may be undesirable to prepare complete detailed technical specifications; or
- (c) Long term projects with a duration period exceeding three (3) years.

25.2 In a two-stage (prequalification) bidding process, bidders are first invited to pre-qualify in terms of predetermined criteria, without being required to submit detailed technical proposals (where applicable) or a financial offer.

25.3 In the second stage, all bidders that qualify in terms of the predetermined criteria will be shortlisted and invited to submit final technical proposals (where applicable) and/or a financial offer.

25.4 This process may be applied to bids for large complex projects of a specialist or long term nature or where there are legislative, design, technological and/or safety reasons to restrict bidding to firms who have proven their capability and qualification to meet the specific requirements of the bid, including projects where it may be undesirable to prepare complete detailed technical specifications or long term projects with a duration exceeding three (3) years.

25.5 The notice inviting bidders to pre-qualify must comply with the provisions of public invitation for competitive bids.

25.6 Once bidders have pre-qualified for a particular project, they shall be given not less than seven (7) days to submit a final technical proposal where applicable and/or a financial offer.

26. **TWO-ENVELOPE SYSTEM**

A two-envelope system differs from a two-stage (prequalification) bidding process in that a technical proposal and the financial offer are submitted in separate envelopes at the same place and time. The financial offers will only be opened once the technical proposals have been evaluated.

27. **EXTENSION OF VALIDITY PERIODS**

27.1 The period for which bids are to remain valid and binding must be indicated in the bid documents.

27.2 The validity period is calculated from the bid closure date and bids shall remain in force and binding until the end of the final day of that period.

27.3 The responsible official for the bid must take all possible steps to ensure the bids are evaluated and adjudicated within the validity period.

27.4 This period of validity may be extended, provided that the original validity period has not expired. The period of extension must be agreed to by both the municipality and the bidder within a reasonable period, but may not exceed a further period of ninety (90) days.

27.5 The responsible official must ensure that all bidders (responsive or non-responsive) are given an opportunity to extend the validity period to ensure that bids are valid throughout the evaluation period or until the award is finalized.

27.6 All bidders (responsive and non-responsive) must inform the municipality in writing whether they agree to extend the validity period or not before expiry date of the original validity period.

27.7 The responsible official must ensure that it is clearly indicated in the letter to request extension of the validity period that failure by the bidder to respond would lead thereto that the bidder refuses to extend the validity period and be deemed to have withdrawn the tender from the evaluation process.

27.8 A tenderer must indicate in the extension document whether he/she is willing to proceed with tender at submitted prices, or any conditions as set out in the offer, after the validity period has expired.

28. **SAMPLES**

- 28.1 Where samples are called for in the bid documents, samples (marked with the bid and item number as well as the bidder's name and address) shall be delivered separately (to the bid) to the addressee mentioned in the bid documents by no later than the closing time of the bid.
- 28.2 Bids may not be included in parcels containing samples.
- 28.3 If samples are not submitted as required in the bid documents, then the bid concerned may be declared invalid.
- 28.4 Samples shall be supplied by a bidder at his/her own expense and risk. The municipality shall not be obliged to pay for such samples or compensate for the loss thereof, unless otherwise specified in the bid documents, and shall reserve the right not to return such samples and to dispose of them at its own discretion.
- 28.5 If a bid is accepted for the supply of goods according to a sample submitted by the bidder, that sample will become the contract sample. All goods/materials supplied shall comply in all respects to that contract sample.

29. **SUBMISSION OF BIDS**

- 29.1. Bids must be submitted before the closing time, at the address and in accordance with the directives in the bid documents.
- 29.2 Each bid must be in writing using non-erasable ink and must be submitted on the official Form of Bid/Offer issued with the bid documents. Only one (1) tender offer from a bidding entity will be accepted.
- 29.3 The bid must be submitted in a separate sealed envelope with the name and address of the bidder, the bid number and title, the bid box number (where applicable), and the closing date indicated on the envelope. The envelope may not contain documents relating to any bid other than that shown on the envelope. Only sealed bids will be accepted.
The municipality may accept tenders where envelopes have been inadvertently marked with the name of the bidder.

- 29.4. The onus shall be on the bidder to place the sealed envelope in the official, marked and locked bid box provided for this purpose, at the designated venue, not later than the closing date and time specified in the bid notice.
- 29.5 Postal bids will not be accepted for consideration, nor shall proof of posting or proof of delivery be accepted as proof that bids were delivered if received after the closing date of bid.
- 29.6 No bids forwarded by telegram, facsimile or similar apparatus shall be considered unless stated otherwise in tender document.
- 29.7 Electronic bids will not be accepted.
- 29.8 The bidder shall choose a *domicilium citandi et executandi* in the Republic and unless notice of the change thereof has duly been given in writing, it shall be the address stated in the bid.
- 29.9 No person may amend or tamper with any bids or quotations after their submission.
30. **OPENING OF BIDS**
- 30.1 At the specified closing time on the closing date the applicable bid box shall be closed.
- 30.2 The bid box shall be opened in public as soon as practical after the closing time.
- 30.3 Bids found to be inadvertently placed in the incorrect bid box will be redirected provided that the applicable bids either closed on the same day at the same time, or are still open (in which case the municipality disclaims any responsibility for seeing that the bids are in fact lodged in the correct bid box). A record of all bids placed in an incorrect box shall be kept.
- 30.4 Bids received in sealed envelopes in the bid box without a bid number or title on the envelope will be opened at the bid opening and the bid number and title ascertained. If the bid was in the correct bid box it will be read out. If the bid is found to be in the incorrect bid box, it will be redirected provided that the applicable bids either closed on the same day at the same time, or are still open.

If the bid closes at a later date, the bid will be placed in a sealed envelope with the bid number and title endorsed on the outside, prior to being lodged in the applicable box. The municipality however disclaims any responsibility for seeing that the bid is in fact lodged in the correct box.

- 30.5 Immediately after the opening of the bid box, all bids shall be opened in public and checked for compliance.
- 30.6 The official opening the bids shall in all cases read out the name of the bidder and, if practical, the amount of the bid.
- 30.7 As soon as a bid or technical proposal has been opened:
 - (a) The bid/proposal shall be stamped with the official stamps, and endorsed with the opening official's signature;
 - (b) The name of the bidder, and where possible, the bid sum shall be recorded in a bid opening record kept for that purpose; and
 - (c) The responsible official who opened the bid shall forthwith place his/her signature on the bid opening record and shall ensure that the bid opening record and the bid prices, where applicable, are made available for public inspection and are published on the municipality's official website.

31. **COMMITTEE SYSTEM FOR COMPETITIVE BIDS**

- 31.1 The following committees are hereby established:
 - (a) A bid specification committee;
 - (b) A bid evaluation committee; and
 - (c) A bid adjudication committee;
- 31.2 The accounting officer is required to appoint the members of each committee, taking into account section 117 of the Act; and
- 31.3 The accounting officer is required to provide for an attendance or oversight process by a neutral or independent observer, appointed by the accounting officer, when this is appropriate for ensuring fairness and promoting transparency.
- 31.4 The committee system must be consistent with:

- (a) Paragraph 32, 33 and 34 of this policy; and
- (b) Any other applicable legislation.

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

32. **BID SPECIFICATION COMMITTEES**

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

32.2 Specifications:

- (a) Must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services;
- (b) Must take account of any accepted standards such as those issued by Standards South Africa, the International Standards Organization, or an authority accredited or recognized by the South African National Accreditation System with which the equipment or material or workmanship should comply;
- (c) Where possible, be described in terms of performance required rather than in terms of descriptive characteristics for design
- (d) May not create trade barriers in contract requirements in the forms of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labeling of conformity certification;
- (e) May not make reference to any particular trade mark, name, patent, design, type, specific origin or producer unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the word "*equivalent*";
- (f) Must indicate each specific goal for which points may be awarded in terms of the points system set out in the Preferential Procurement Regulations 2001; and
- (g) Must be approved by the accounting officer prior to publication of the invitation for bids in terms of paragraph 22 of this policy.

- 32.3. The bid specification committee must be composed of at least five (5) officials of the municipality, consisting of an appointed chairperson, the project manager, responsible official and at least one supply chain management practitioner -
- (a) Where appropriate a representative of internal audit and/or legal services and/or external specialist advisor may form part of this committee.
- 32.4 No person, advisor or corporate entity involved with the bid specification committee, or director of such a corporate entity, may bid for any resulting contracts.
- 32.5 Bid specification committee meetings must be conducted in accordance with the applicable rules in order regulating the conduct of meetings.

33. **BID EVALUATION COMMITTEES**

- 33.1 The bid evaluation committee must:
- (a) Evaluate bids in accordance with:
- (i) the specifications for a specific procurement; and
- (ii) the points system set out in terms of paragraph 21(b).
- (b) Evaluate each bidder's ability to execute the contract;
- (c) Check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not in arrears; and
- (d) Submit to the adjudication committee a report and recommendations regarding the award of the bid or any other related matter.
- 33.2 An ad-hoc bid evaluation committee shall be constituted for each project or procurement activity to evaluate bids received.
- 33.3 The bid evaluation committee shall be comprised of at least four (4) municipal officials, comprising of an appointed chairperson (who may be the same person as the chairperson of the bid specification committee), the project manager/responsible official and at least one supply chain management practitioner.

- 33.4. Where appropriate, a representative of internal audit and/or legal services may form part of this committee, which may also include an internal or external specialist/expert as necessary.
- 33.5 The Municipal Manager, or his delegated authority, shall, taking into account Section 117 of the MFMA, appoint the members of the bid evaluation committee.
- 33.6 Bid evaluation committee meetings must be conducted in accordance with the applicable rules of order regulating the conduct of meetings.
- 33.7 Where consultants or agents were tasked with the invitation of bids the responsible consultant or agent shall carry out a preliminary evaluation of all valid bids received and shall submit a draft bid evaluation report to the bid evaluation committee for consideration.
- 33.8 Any evaluation of a bid shall consider the bids received and shall note for inclusion in the evaluation report, a bidder:
- (a) Whose bid was endorsed as being invalid by the responsible official at the bid opening;
 - (b) Bid does not comply with the provisions for combating abuse of this policy;
 - (c) Whose bid does not comply with the general conditions applicable to bids and quotations of this policy;
 - (d) Whose bid is not in compliance with the specification;
 - (e) Whose bid is not in compliance with the terms and conditions of the bid documentation;
 - (f) Whose bid does not comply with any minimum goals stipulated in terms of the preferential procurement section of this policy;
 - (g) Who is not registered and verified on the municipality's supplier database. In this regard bid documentation shall state that the responsibility for registration and verification rests solely with the bidder;

- (h) Who, in the case of construction works acquisitions, does not comply with the requirements of the Construction Industry Development Board Act regarding registration of contractors;
- (i) Who has failed to submit an original and valid tax clearance certificate from the South African Revenue Services (SARS) certifying that the taxes of the bidder are in order or that suitable arrangements have been made with SARS; and
- (j) Who fails to comply with any applicable Bargaining Council agreements.

33.9 Bids shall be evaluated according to the following as applicable:

- (a) Bid price (corrected if applicable and brought to a comparative level where necessary);
- (b) The unit rates and prices;
- (c) The bidder's ability to fulfill its obligations in terms of the bid documents, any qualifications to the bid;
- (d) The bid ranking obtained in respect of preferential procurement as required by this policy;
- (e) The financial standing of the bidder, including its ability to furnish the required institutional guarantee, where applicable; and
- (f) Any other criteria specified in the bid documents.

33.10 No bidder may be recommended for an award unless the bidder has demonstrated that it has the resources and skills required to fulfill its obligations in terms of the bid document.

33.11 The bid evaluation committee shall check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not in arrears.

33.12 Additional information or clarification of bids may be called for if required but only in writing.

33.13 The municipality shall not be bound to consider alternative bids.

- 33.14 If a bidder requests in writing, after the closing of bids, that his/her bid be withdrawn, then such a request may be considered and reported in the bid evaluation report.
- 33.15 The bidder obtaining the highest number of points should be recommended for acceptance unless there are reasonable and justifiable grounds to recommend another bidder.
- 33.16 If, after bids have been brought to a comparative level, two or more score equal total adjudication points, the recommended bidder shall be the one scoring the highest preference points.
- 33.17 If two or more bids are equal in all respects, the bid evaluation committee shall draw lots to decide on the recommendation for award, or may, in the case of goods and services, recommend splitting the award proportionately, where applicable.
- 33.18 All disclosures of a conflict of interest shall be considered by the bid evaluation committee shall be reported to the bid adjudication committee.
- 33.19 The bid evaluation committee shall, having considered the responsible agent's draft report, submit a report, including recommendations regarding the award of the bid or any other related matter, to the bid adjudication committee for award.

34. **BID ADJUDICATION COMMITTEES**

- 34.1 The bid adjudication committee must:
- (a) Consider the report and recommendations of the bid evaluation committee; and
 - (b) Either:
 - (i) depending on its delegations, make a final award or a recommendation to the accounting officer to make the final award; or
 - (ii) make another recommendation to the accounting officer how to proceed with the relevant procurement.
- 34.2 The bid adjudication committee must consist of at least four directors of the municipality which must include:

- (i) the chief financial officer or, if the chief financial officer is not available, another senior finance official heading either of the budget or treasury offices, reporting directly to the chief financial officer and designated by the chief financial officer;
- (ii) at least one senior supply chain management practitioner who is an official of the municipality; and
- (iii) a technical expert in the relevant field who is an official, if such an expert exists.

34.3 The accounting officer must appoint the chairperson of the committee. If the chairperson is absent from a meeting, the members of the committee who are present must elect one of them to preside at the meeting.

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

34.5 (a) 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:

- (i) check in respect of the preferred bidder whether that bidder's municipal rates and taxes and municipal service charges are not in arrears; and
- (ii) notify the accounting officer.

(b) The accounting officer may:

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

34.6 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.

34.7 The accounting officer must comply with section 114 of the Act within ten (10) working days.

35. **EXTENSION OR EXPANSION OF CONTRACTS**

- 35.1 Any increase in the approved contract sum or contract period (in respect of annual bids) that may become necessary as a result of exceptional circumstances during the contract period, must be approved by the bid adjudication committee.
- 35.2 Where community participation has been a part of the project, the community must be advised of the proposed increase and be invited to provide written comment.
- 35.3 Any unapproved increase in the contract sum or contract period as a result of exceptional circumstances must be explained in a report to the bid adjudication committee requesting condonation for such unapproved increase.
- 35.4 The period of extension of contract may not exceed a period of more than six (6) months.

36. **PROCUREMENT OF BANKING SERVICES**

- 36.1 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.
- 36.2 The process for procuring a contract for banking services must commence at least nine months before the end of an existing contract.
- 36.3 The closure date for the submission of bids may not be less than sixty (60) days from the date on which the advertisement is placed in a newspaper in terms of paragraph 22(1). Bids must be restricted to banks registered in terms of the Banks Act, 1990 (Act No. 94 of 1990).

37. **PROCUREMENT OF IT RELATED GOODS OR SERVICES**

- 37.1 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.

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

37.3 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).

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

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

38.1 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.

38.2 Sub-paragraphs (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.

39. **PROCUREMENT OF GOODS NECESSITATING SPECIAL SAFETY ARRANGEMENTS**

39.1 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.

39.2 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.

40. **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:

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

41. **APPOINTMENT OF CONSULTANTS**

41.1 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.

41.2 Consultancy services must be procured through competitive bids if:

- (a) The value of the contract exceeds R200 000,00 (VAT included); or
- (b) The duration period of the contract exceeds one (1) year.

41.3 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 (5) years; and

- (b) Any similar consultancy services provided to an organ of state in the last five (5) years.

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

42. **DEVIATION FROM, AND RATIFICATION OF MINOR BREACHES OF, PROCUREMENT PROCESSES**

42.1 The accounting officer may:

- (a) Dispense with the official procurement processes established by this policy and to procure any required goods or services through any convenient process, which may include direct negotiations, but only:
 - (i) in an emergency;
 - (ii) if such goods or services are produced or available from a single provider only;
 - (iii) for the acquisition of special works of art or historical objects where specifications are difficult to compile;
 - (iv) acquisition of animals for zoos and/or nature and game reserves; or
 - (v) in any other exceptional case where it is impractical or impossible to follow the official procurement processes including.
- (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.

42.2 The accounting officer must record the reasons for any deviations in terms of sub-paragraphs (1)(a) and (b) of this policy and report them to the next meeting of the council and include as a note to the annual financial statements.

42.3 Sub-paragraph (2) does not apply to the procurement of goods and services contemplated in paragraph 11(2) of this policy.

43. **EMERGENCY DISPENSATION**

43.1 The conditions warranting emergency dispensation should include the existence of one or more of the following:

- (a) The possibility of human injury or death;
- (b) The prevalence of human suffering or deprivation of rights;
- (c) The possibility of damage to property, or suffering and death of livestock and animals;
- (d) The interruption of essential services, including transportation and communication facilities or support services critical to the effective functioning of the municipality as a whole;
- (e) The possibility of serious damage occurring to the natural environment;
- (f) The possibility that failure to take necessary action may result in the municipality not being able to render an essential community service; and
- (g) The possibility that the security of the state could be compromised.

43.2 The prevailing situation, or imminent danger, should be of such a scale and nature that it could not readily be alleviated by interim measures, in order to allow time for the formal procurement process. Emergency dispensation shall not be granted in respect of circumstances other than those contemplated above.

43.3 Where possible, in an emergency situation, three quotes in accordance with general acquisition management principles should be obtained and a report submitted to the city manager for approval. However, where time is of the essence, the emergency shall be immediately addressed, and the process formalised in a report to the Municipal Manager as soon as possible thereafter.

44. **UNSOLICITED BIDS**

44.1 In accordance with section 113 of the Act there is no obligation to consider unsolicited bids received outside a normal bidding process.

44.2 The accounting officer may decide in terms of section 113(2) of the Act to consider an unsolicited bid:

- (a) For the provision of goods and services, only if:

- (i) the product or service offered in terms of the bid is a demonstrably or proven unique innovative concept;
 - (ii) the product or service will be exceptionally beneficial to, or have exceptional cost advantages;
 - (iii) the person who made the bid is the sole provider of the product or service; and
 - (iv) the reasons for not going through the normal bidding processes are found to be sound by the accounting officer.
- (b) For the disposal of immovable assets only if:
- (i) the proposed development offered in terms of the bid is a demonstrably or proven unique innovative concept;
 - (ii) the proposed development will be exceptionally beneficial to the council, or have exceptional local economic advantages;
 - (iii) the person who made the bid is the innovative designer of the proposed development;
 - (iv) the reasons for not going through the normal bidding processes are found to be sound by the accounting officer;
 - (v) only if also the selling price is not less than market related except when the plight of the poor or public interest demand otherwise;
 - (vi) that the person who made the proposal will be prejudiced if a competitive bidding process is followed.

44.3 If the accounting officer decides to consider an unsolicited bid that complies with sub-paragraph (2) of this policy, the decision must be made public in accordance with section 21A of the Municipal Systems Act, together with:

- (a) Reasons as to why the bid should not be open to other competitors;
- (b) An explanation of the potential benefits if the unsolicited bid were accepted; and
- (c) An invitation to the public or other potential suppliers to submit their comments within thirty (30) days of the notice.

- 44.4 All written comments received pursuant to sub-paragraph (3), including any responses from the unsolicited bidder, must be submitted to the National Treasury and the relevant provincial treasury for comment.
- 44.5 The adjudication committee must consider the unsolicited bid and may award the bid or make a recommendation to the accounting officer, depending on its delegations.
- 44.6 A meeting of the adjudication committee to consider an unsolicited bid must be open to the public.
- 44.7 When considering the matter, the adjudication committee must take into account:
- (a) Any comments submitted by the public; and
 - (b) Any written comments and recommendations of the National Treasury or the relevant provincial treasury.
- 44.8 If any recommendations of the National Treasury or provincial treasury are rejected or not followed, the accounting officer must submit to the Auditor-General, the relevant provincial treasury and the National Treasury the reasons for rejecting or not following those recommendations.
- 44.9 Such submission must be made within seven days after the decision on the award of the unsolicited bid is taken, but no contract committing the municipality to the bid may be entered into or signed within thirty (30) days of the submission.

45. **COMBATING OF ABUSE OF SUPPLY CHAIN MANAGEMENT SYSTEM**

The following measures are established to combat the abuse of the supply chain management system:

- 45.1 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 supply chain management 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 (5) years has failed to perform satisfactorily on a previous contract with the municipality or any other organ of state after written notice was given to that bidder that performance was unsatisfactory;
- (e) Reject a recommendation for the award of a contract if the recommended bidder, or any of its directors, has committed a corrupt or fraudulent act in competing for the particular contract;
- (f) Cancel a contract awarded to a person if:
 - (i) the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract; or
 - (ii) an official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of the contract that benefited that person.
- (g) Reject the bid of any bidder if that bidder or any of its directors:
 - (i) has abused the supply chain management system of the municipality or has committed any improper conduct in relation to such system;
 - (ii) has been convicted for fraud or corruption during the past five (5) years;

- (iii) has willfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five (5) years; or
- (iv) has been listed in the Register for Tender Defaulters In terms section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004).

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

PART 3

LOGISTICS, DISPOSAL, RISK AND PERFORMANCE MANAGEMENT

46. LOGISTICS MANAGEMENT

An effective system of logistics management must include the following:

- (a) Monitoring of spending patterns on types or classes of goods and services which should where practical incorporate the coding of items to ensure that each item has a unique number for the purposes of monitoring;
- (b) Setting of inventory levels that includes minimum and maximum levels and lead times wherever goods are placed in stock;
- (c) Placing of manual or electronic orders for all acquisitions other than petty cash;
- (d) Before payment is approved , a certification from 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 goods placed in stores are secure and only used for the purpose 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 a particular good or service.

47. **DISPOSAL MANAGEMENT**

47.1 The criteria for the disposal or letting of assets, including unserviceable, redundant or obsolete assets must be done according to the procedure as prescribed in the asset management policy of Steve Tshwete Local Municipality, subject to section 14 of the Act, which are as follows:

(a) Movable assets:

- (i) the asset is uneconomical to repair;
- (ii) the asset is irreparable;
- (iii) the relevant department has no further use for the asset; and
- (iv) no other department requires the asset.

(b) Immovable assets:

- (i) the relevant department has no further use for the asset;
- (ii) no other department requires the asset;
- (iii) a member of the public wishing to acquire the asset can utilize the asset to the advantage of the community; and
- (iv) where created specifically for sale or rental to public.

47.2 The disposal of assets must:

(a) Be by one of the following methods:

- (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 for a lesser amount or free of charge;
- (iii) selling the asset; or
- (iv) destroying the asset.

(b) Provided that:

- (i) immovable assets may be sold at not less than market related prices except when the public interest or the plight of the poor demands otherwise, by means of public tenders, public auction or over the counter on a first come first serve basis;

- (ii) movable assets may be sold either by way of written price quotations, public tenders, public auction whichever is the most advantageous;
 - (iii) in the case of the free disposal of computer equipment, the provincial department of education must first be approached to indicate within thirty (30) days whether any of the local schools are interested in the equipment; and
 - (iv) in the case of the disposal of firearms, the National Conventional Arms Control Committee has approved any sale or donation of firearms to any person or institution within or outside the Republic;
- (c) Furthermore ensure that:
- (i) immovable property is let at market related rates except when the public interest or the plight of the poor demands otherwise; and
 - (ii) all fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property are annually reviewed.
- (d) Ensure that where assets are traded in for other assets, the highest possible trade-in price is negotiated.

47.3 The alienation of immovable assets are subject to the following principles:

- (a) Payment of the purchase price and costs:
 - (i) the purchaser of immovable property can elect the following two methods of payment:
 - (aa) Cash payment of the full purchase price and all estimated costs pertaining to the transaction upon signature of the deed of sale, of which 10% of the purchase will be retained as "rauwnkoop" should the property not be transferred to the purchasers name within a period of hundred and eighty (180). Failure to register, the deed of sale be cancelled.

- (bb) An acceptable bank guarantee for the purchase price upon signature of the Deed of Sale of which 10% of the purchase will be retained as “rauwkoop” should the property not be transferred to the purchasers name within a period of hundred and fifty (150) days. Failure to register, the purchaser be granted another thirty (30) days to pay the full purchase price in cash, otherwise the deed of sale will be cancelled.
 - (ii) all costs (advertising, rezoning, obtaining of a valuation, etc.) pertaining to the transaction shall be borne by the purchaser. The purchaser will deposit an amount equal to an estimate of the total cost to secure his obligations in this regard and undertake to pay any unforeseen excess costs. The municipality will be liable to refund the balance of the unexpended costs, should the alienation not be finalized within a reasonable time or within the time limit referred to in the bidder document or deed of sale, or should the actual deposit be less than the expenditure occurred, the purchaser shall pay the outstanding costs;
- (b) Standard conditions pertaining to serviced stands within proclaimed townships:
- (i) the purchaser shall commence with the development of the property within thirty six (36) months after the date of transfer and shall complete the development within eighteen (18) months thereafter.
 - (ii) should the purchaser fail to commence with or complete the development as stipulated in (ii) above the deed of sale shall be cancelled the property revert to the municipality and be transferred back to the municipality.
 - (iii) should the property revert to the municipality, the municipality shall refund to the purchaser an amount equal to the amount paid by the purchaser in respect of the purchase price, less the rawkoop amount and all costs attached to the retransfer of the property into the name of the municipality, which costs shall be for the account of the purchaser.

- The municipality will only compensate the purchaser for any improvements erected on the property after the property has been resold to another purchaser and the purchase price and evaluated value of the improvements have been paid by the new purchaser.
- (iv) in order to comply with the requirements of the Deeds Office as set out in Circular No. 152 dated 3 July 1997 by the Registrar of Deeds, the above conditions imposed shall not be embodied in the title deed to be issued to the purchaser, but instead the following conditions shall be inserted in such deed "*The property shall not be transferred without the written approval of the Steve Tshwete Municipality*".

These conditions shall be removed from the title deed upon transfer from the original purchaser to a subsequent owner upon proof that all the conditions in terms of the contract have been complied with.

48. **RISK MANAGEMENT**

48.1 The criteria for the identification, consideration and avoidance of potential risks in the supply chain management system, are as follows:

- (a) Non-compliance by the supplier to deliver within the agreed timeframes;
- (b) Supply of inferior goods or services by the supplier;
- (c) Inability of the supplier to provide goods or services as ordered;
- (d) Non-adherence to the municipality policy with regards to utilization of preferred suppliers; and
- (e) Procurement of goods or services at prices or of a quality not in the best interest of the municipality.

48.2 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.

49. **PERFORMANCE MANAGEMENT**

The accounting officer must ensure that an effective internal monitoring system is implemented in order to determine, on the basis of a retrospective analysis, whether the authorized supply chain management processes were followed and whether the measurable performance objectives linked to and approved with the budget and the service delivery and budget implementation plan, were achieved.

PART 4
OTHER MATTERS

50. **PROHIBITION ON AWARDS TO PERSONS WHOSE TAX MATTERS ARE NOT IN ORDER**

50.1 The accounting officer must ensure that, irrespective of the procurement process followed, no award above R30 000,00 is given to a person whose tax matters have not been declared by the South African Revenue Service to be in order.

50.2 Before making an award to a provider or bidder, a tax clearance certificate from SARS must first be provided as contemplated in paragraph 13(a)(iv).

51. **PROHIBITION ON AWARDS TO PERSONS IN THE SERVICE OF THE STATE**

The accounting officer must ensure that irrespective of the procurement process followed, no award may be given to a person:

- (a) Who is in the service of the state; or
- (b) If that person is not a natural person, of which any director, manager, principal shareholder or stakeholder is a person in the service of the state; or

- (c) A person who is an advisor or consultant contracted with the municipality.

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

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

53. **ETHICAL STANDARDS**

53.1 A code of ethical standards is hereby established, in accordance with subparagraph (2), for officials and other role players in the supply chain management system 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.

53.2 An official or other role player involved in the implementation of the supply chain management policy:

- (a) Must treat all providers and potential providers equitably;
- (b) May not use his or her position for private gain or to improperly benefit another person;
- (c) May not accept any reward, gift, favour, hospitality or other benefit directly or indirectly, including to any close family member, partner or associate of that person, of a value more than R350,00;
- (d) Notwithstanding subparagraph (2)(c), must declare to the accounting officer details of any reward, gift, favour, hospitality or other benefit promised, offered or granted to that person or to any close family member, partner or associate of that person;

- (e) Must declare to the accounting officer details of any private or business interest which that person, or any close family member, partner or associate, may have in any proposed procurement or disposal process of, or in any award of a contract by, the municipality;
- (f) Must immediately withdraw from participating in any manner whatsoever in a procurement or disposal process or in the award of a contract in which that person, or any close family member, partner or associate, has any private or business interest;
- (g) Must be scrupulous in his or her use of property belonging to the municipality;
- (h) Must assist the accounting officer in combating fraud, corruption, favouritism and unfair and irregular practices in the supply chain management system; and
- (i) Must report to the accounting officer any alleged irregular conduct in the supply chain management system which that person may become aware of, including:
 - (i) any alleged fraud, corruption, favouritism or unfair conduct;
 - (ii) any alleged contravention of paragraph 54(1) of this policy; or
 - (iii) any alleged breach of this code of ethical standards.

53.3 Declarations in terms of subparagraphs (2)(d) and (e):

- (a) Must be recorded in a register which the accounting officer must keep for this purpose;
- (b) By the accounting officer must be made to the mayor of the municipality who must ensure that such declarations are recorded in the register.

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

53.5. A breach of the code of conduct adopted by the municipality must be dealt with in accordance with schedule 2 of the Local Government: Municipal Systems Act, 2000.

54. **INDUCEMENTS, REWARDS, GIFTS AND FAVOURS TO MUNICIPALITIES, OFFICIALS AND OTHER ROLE PLAYERS**

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

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

54.2 The accounting officer must promptly report any alleged contravention of sub-paragraph (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.

54.3 Sub-paragraph (1) does not apply to gifts less than R350,00 in value.

55. **SPONSORSHIPS**

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

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

56. **OBJECTIONS AND COMPLAINTS**

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

57. **RESOLUTION OF DISPUTES, OBJECTIONS, COMPLAINTS AND QUERIES**

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

- (a) To assist in the resolution of disputes between the municipality and other persons regarding -
 - (i) any decisions or actions taken in the implementation of the supply chain management system; or
 - (ii) any matter arising from a contract awarded in the course of the supply chain management system; or
- (b) To deal with objections, complaints or queries regarding any such decisions or actions or any matters arising from such contract.

57.2 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.

57.3 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.

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

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

57.5 If the provincial treasury does not or cannot resolve the matter, the dispute, objection, complaint or query may be referred to the National Treasury for resolution.

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

58. **CONTRACTS PROVIDING FOR COMPENSATION BASED ON TURNOVER**

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

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

59. **CANCELLATION OF CONTRACTS**

Contracts may only be terminated in accordance with the termination provisions set out in the contract. Legal advice may be sought as appropriate.

60. **CANCELLATION OF TENDERS**

60.1 The municipality may accept or reject any variation, deviation, tender offer, or alternative tender offer, and may cancel the tender process and reject all tender offers at any time before the formation of a contract. The municipality shall not accept or incur any liability to a tenderer for such cancellation and rejection, but will give written reasons for such action upon written request to do so.

60.2 The municipality may, prior to the award of a tender, cancel a tender if –

- (a) Due to changed circumstances there is no longer a need for the services, works or goods requested;
- (b) The funds are no longer available to cover the total envisaged expenditure;
- (c) No acceptable tenders are received; or
- (d) The incorrect application of the preference point system applied.

60.3 In the event of an incorrect preference point system the following will applied:

- (a) In the application of the 80/20 preference point system as stipulated in the tender documents, all tenders received exceed the estimated Rand value of R1-million, the tender invitation must be cancelled.
- (b) If one or more of the acceptable tenders received are within the prescribed threshold of R1-million, all tenders received must be evaluated on the 80/20 preference point system.
- (c) In the event of the application of the 90/10 preference point system as stipulated in the tender documents, all tenders received are equal to or below the estimated Rand value of R1-million, the tender invitation must be cancelled.
- (d) If one or more of the acceptable tenders received are above the prescribed threshold of R1-million, all tenders received must be evaluated on the 90/10 preference point system.
- (e) A cancellation of a tender invitation as contemplated in sub-regulation (3)(a) and (3)(c), must re-invite tenders and must, in the tender documents, stipulate the correct preference point system to be applied.

60.4 The decision to cancel a tender in terms of sub-regulation 60(2) must be published in the government tender bulletin for the media in which the original tender invitation was advertised.

60.5 The municipality may not, subsequent to the cancellation or abandonment of the tender process, or the rejection of all responsive tender offers, re-issue a tender covering substantially the same scope of work within a period of six (6) months unless only one tender was received and such tender was returned unopened to the tenderer.

60.6 The period of six (6) months "*cooling off period*" commence from the official cancelation or abandonment date.

61. **BLACKLISTING**

Tenderers and service providers can be blacklisted/prohibited from doing business with the municipality for a prescribed period due to an improper practice or non-performance as defined in the blacklisting policy.

A tenderer who is blacklisted or included on the National Treasury register of tender defaulters, shall not be allowed to participate in any procurement processes for work offered by the municipality during the period of disqualification.

The blacklisting of tenderers, service providers, persons and/or business will be conducted according to the procedures as stipulated in the blacklisting policy.

62. **REVIEW**

This policy will be reviewed annually to be in line with municipal practices, legislation and regulations.

63. **SHORT TITLE**

This policy shall be called the Steve Tshwete Municipality Supply Chain Management Policy.