

**SUPPLY CHAIN MANAGEMENT POLICY****AS AMENDED**

<b>Item A-F (2-2006) CM 26/01/2006</b>	<b>FINANCE DEPARTMENT: ADOPTION OF THE SUPPLY CHAIN MANAGEMENT POLICY WITH EFFECT FROM 1 MARCH 2006</b>
(FIN EXPENDITURE) (X 2006/01/004) (8/1/R)	

**RESOLVED:**

1. **That** the report to seek approval for the adoption of a Supply Chain Management Policy with effect from 1 March 2006 **BE NOTED**.

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| <ol style="list-style-type: none"> <li>2. <b>That</b> the Supply Chain Management Policy attached to the report as <b>Annexure "C"</b> <b>BE ADOPTED</b> with effect from <b>1 March 2006</b>.</li> </ol> |
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3. **That** the amendments to the Municipal Supply Chain Management Model Policy as reflected in **Annexure "B"** attached to the report **BE REPORTED** to the National Treasury and to the Gauteng Provincial Treasury.

4. **That** all Municipal entities of Council **BE REQUESTED** to adopt Supply Chain Management Policies which are consistent with the Supply Chain Management Policy of Council.

<b>Item A-F (36-2006) CM 30/11/2006</b>	<b>FINANCE DEPARTMENT: PROPOSED AMENDMENTS TO THE COUNCIL'S SUPPLY CHAIN MANAGEMENT POLICY</b>
(FIN EXPENDITURE)(X 2006/10/020)(8/1/R)	

**RESOLVED:**

1. **That** the contents of the report regarding the proposed amendments to the Supply Chain Management Policy and Preferential Procurement Policy **BE NOTED**.

2. **That** paragraph 6.1 of Part B of the Supply Chain Management Policy **BE AMENDED** to read as follows:

**"6.1 TECHNICAL ADJUDICATION**

Bids are adjudicated in terms of:

- Compliance with bid conditions
- Meeting of technical specifications

If the bid does not comply with the bid conditions, the bid may be rejected depending on the extent and the seriousness of the non-compliance. If technical specifications are not met, the bid may also be rejected.

- 6.1.1 **Bids containing any one or more of the following errors or omissions will be rejected:**

- Pages to be completed removed from the document (therefore not submitted)
- Failure to complete the schedule of quantities as required – only lump sums provided
- Scratching out / writing over rates / painting over rates / use of correcting fluid
- Failure to attend compulsory site inspections / compulsory briefing sessions
- Bid form not signed
- No authority for signatory submitted
- Enterprise particulars not provided
- A tax clearance certificate or copy thereof not attached, provided that no award will be made unless a valid original tax clearance certificate is submitted before the date of the final award
- The bid has been submitted after the closing date and time

**6.1.2 Bids containing any one or more of the following errors or omissions will not be rejected, provided that when the bid is awarded to such a bidder, the error or omission is corrected:**

1. Failure to initial each page of the bid document”

**3. That paragraph 6.2.6 of Part B of the Supply Chain Management Policy BE AMENDED to read as follows:**

**“6.2.6 Good standing with South African Revenue Services**

Establish whether a tax clearance certificate has been submitted with the Bid documents on closing of the bid. If no such certificate or copy thereof has been submitted, the bid must be rejected. If a valid original tax clearance certificate has not been submitted, the bidder must be requested in writing and in the standard format approved by the Executive Director: Legal & Administration to submit a valid original tax clearance certificate by a specific date and at a specified venue.”

**4. That paragraph 21(1)(f) of the Supply Chain Management Policy BE AMENDED to read as follows:**

- “(f) Where surety is required, it shall be in the form of cash, a certified cheque or a bank guarantee from a banking institution registered in terms of the Banks Act, 1990 (Act No. 94 of 1990) or from an insurer registered in terms of the Short-term Insurance Act, 1998 (Act No. 53 of 1998).”

**ANNEXURE C**



**SUPPLY CHAIN  
MANAGEMENT POLICY  
and**

# PREFERENTIAL PROCUREMENT POLICY

**This Policy consists of two parts:**

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

and

- **Part B** is the **Preferential Procurement Policy**, adopted in terms of section 2 of the Preferential Procurement Policy Framework Act, No. 5 of 2000 and the Preferential Procurement Regulations R725 of 10 August 2001.

## **Part A**

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

The Council of the Ekurhuleni Metropolitan 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:

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## **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 –

**“competitive bidding process”** means a competitive bidding process referred to in paragraph 12 (1) (c) 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 a bid or quote to accept;

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

**“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 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 Constitution of the Republic of South Africa Act, 1996 [Act 108 of 1996];
- (b) the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000);
- (c) the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- (d) the Construction Industry Development Board Act, 2000 (Act No.38 of 2000); and
- (e) the Prevention and Combating of Corrupt Activities Act, 2004 [Act No. 12 of 2004].

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

**“senior manager”** means:

- (a) in relation to a municipality, means a manager referred to in section 56 of the Municipal Systems Act; or
- (b) in relation to a municipal entity, means a manager directly accountable to the chief executive officer of the entity;

**“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); and

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

## CHAPTER 1

### ESTABLISHMENT AND IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY

#### **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;
  - (f) is consistent with national economic policy concerning the promotion of investments and doing business with the public sector;
  - (g) the Municipality supports effective and efficient service delivery by acquiring goods and services of optimum value through best purchasing practices. In addition to the above, this policy features four main aims:
    - (i) promotion of the Interdivisional Support Policy;
    - (ii) the promotion, development and support of business from previously disadvantaged communities;
    - (iii) the promotion of local, provincial and national suppliers and agents before considering international suppliers; and
    - (iv) the development, promotion and support of moral values that underpin the above in terms of the Municipality's Ethical Code;
  - (h) the municipality further supports the creation and maintenance of good, sound business relationship with the bidding public in general, as well as

- with its valued supplier base, without which it cannot survive in a competitive market; and
- (i) the municipality also seeks to develop and maintain positive, long term relationships based on mutual trust and respect with those suppliers who demonstrate their commitment to the municipality's shared goals. The municipality also commits itself to clarity in its communication of requirements, and to be professional, courteous, fair, factual and responsive in its business dealings.
  - (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.
  - (3) Subparagraphs (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.

### **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.
- (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) When amending this supply chain management policy the need for uniformity in supply chain practices, procedures and forms between organs of state in all spheres, particularly to promote accessibility of supply chain management systems for small businesses must be taken into account.
- (4) The accounting officer of a 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.

#### **Delegation of supply chain management powers and duties**

4. (1) The council hereby delegates and is required to further 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 maximise 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.
- (2) Sections 79 and 106 of the Act apply to the subdelegation of powers and duties delegated to an accounting officer in terms of subparagraph (1) of this policy.

- (3) The council or accounting officer may not delegate or subdelegate 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 26 of this policy.

### **Subdelegations**

- 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 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 –
      - (i) the chief financial officer;
      - (ii) a senior manager;
      - (iii) 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;
      - (iii) a manager directly accountable to the chief financial officer or a senior manager;
      - (iv) a bid adjudication committee.

- (3) An official or bid adjudication committee to which the power to make final awards has been sub-delegated in accordance with subparagraph (2) of this policy must within ten (10) working days of the end of each month submit to the official referred to in subparagraph (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.
- (4) A written report referred to in subparagraph (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 senior manager; or
    - (iii) a bid adjudication committee of which the chief financial officer or a senior manager is a member; or
  - (b) to the chief financial officer or the senior manager responsible for the relevant bid, in the case of an award by —
    - (i) a manager referred to in subparagraph (2)(c)(iii) of this policy; or
    - (ii) a bid adjudication committee of which the chief financial officer or a senior manager is not a member.
- (5) Subparagraphs (3) and (4) of this policy 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 26 of this policy.
- (7) No supply chain management decision-making powers may be delegated to an advisor or consultant.

### **Oversight role of council**

6. (1) The council must maintain oversight over the implementation of this supply chain management policy.
- (2) For the purposes of such oversight the accounting officer must –
  - (a) (i) within 30 days of the end of each financial year, submit a report on the implementation of the supply chain management policy of the municipality and of any municipal entity under its sole or shared control, to the council of the municipality,
  - (ii) whenever there are serious and material problems in the implementation of the supply chain management policy, immediately submit a report to the council.
- (3) The accounting officer must, within twenty [20] working days of the end of each quarter, submit a report on the implementation of the supply chain management policy to the Finance Portfolio Committee and the Mayoral Committee.
- (4) The reports must be made public in accordance with section 21A of the Municipal Systems Act.

### **Supply chain management unit**

7. (1) The accounting officer or his nominee must establish a supply chain management unit to implement this supply chain management policy for the municipality and the various policies for the municipal entities of which the municipality is a parent municipality.
- (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.

### **Training of supply chain management officials**

8. 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**

#### **Format of supply chain management**

9. 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***

#### **System of demand management**

10. 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 as set out in the service delivery and budget implementation plan.
  - (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***

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

**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 R1 000 (VAT included);
  - (b) written quotations for procurements of a transaction value over R1 000 (VAT included) up to R30 000 (VAT included);
  - (c) formal written price quotations for procurements of a transaction value over R30 000 (VAT included) up to R 200 000, 00 [VAT included]; and
  - (d) a competitive bidding process for–
    - (i) procurements above a transaction value of R200 000 (VAT included); and
    - (ii) the procurement of long term contracts.
- (2) The accounting officer may, in writing:-  
lower, but not increase, the different threshold values specified in subparagraph (1); or
- (a) direct that –
    - (i) formal written price quotations be obtained for any specific procurement of a transaction value lower than R1000; or
    - (ii) a competitive bidding process be followed for any specific procurement of a transaction value above R30 000 (VAT included) and lower than R200 000 (VAT included).
- (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.
- (4) The range of procurement processes set out in paragraph 12(1) above can graphically be set out as follows:

PROCESS	VALUE	ADVERTISEMENT
Petty Cash Purchases	Up to R 1 000 [VAT included]	No
Written Quotations	Over R1 000 [VAT included] up to	No

	R 30 000 [VAT included]	
Formal Written Price Quotations	Over R 30 000 [VAT included] up to R 200 000 [VAT included]	Yes
Competitive Bidding	Over R 200 000 [VAT included] or Long Term Contracts exceeding one [1] year	Yes

### **General preconditions for consideration of formal written price quotations or bids**

**13.** A formal written price quotation or bid may not be considered unless the provider who submitted the quotation or bid –

- (a) has furnished that provider's –
  - (i) full name;
  - (ii) identification number or company or other registration number; and
  - (iii) tax reference number and VAT registration number, if any;
  - (iv) 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 months;
  - (ii) if the provider is not a natural person, whether any of its directors, managers, principal shareholders or stakeholder is in the service of the state, or has been in the service of the state in the previous twelve months; or
  - (iii) whether a spouse, child or parent of the provider or of a director, manager, shareholder or stakeholder referred to in subparagraph (ii) is in the service of the state, or has been in the service of the state in the previous twelve months.

### **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 formal written price quotations; and
  - (b) at least once a year through newspapers commonly circulating locally, the website and any other appropriate ways, invite prospective providers of

- goods or services to apply for evaluation and listing as accredited prospective providers;
- (c) specify the listing criteria for accredited prospective providers which must include at least the requirement to submit proof of compliance with:
    - (i) SARS tax clearance and municipal rates and tax payments; and
    - (ii) the Occupational Health and Safety Act, 1993 [Act No. 85 of 1993];
  - (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 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.
- (3) The list must be compiled per commodity and per type of service.

### **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 R1 000, 00 (VAT included) where it is impractical, impossible or not cost-effective to follow the official procurement process and is strictly of a reimbursive nature and not for advances.
- (2) A monthly reconciliation report from each manager 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.

### **Verbal quotations prohibited**

16. No orders may be placed based on verbal price quotations.

### **Written Quotations**

17. (1) The conditions for the procurement of goods or services through written quotations, are as follows-
- (a) quotations must be obtained in writing from at least three different providers whose names appear on the list of accredited prospective providers of the municipality;
  - (b) quotations may be obtained from providers who are not listed, provided that such providers meet the listing criteria 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 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 or his nominee must record the names of the potential providers and their written quotations.
- (2) A designated official referred to in subparagraph (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 subparagraph.

### **Formal written price quotations**

18. The operational procedure for the procurement of goods or services through formal written price quotations, are as follows –
- (a) all requirements in excess of R30 000 (VAT included) that are to be procured by means of formal written price quotations must be advertised for at least seven calendar days on the website and an official notice board of the municipality;
  - (b) the accounting officer must take all reasonable steps to ensure that the procurement of goods and services through formal written price quotations is not abused;
  - (c) the accounting officer or chief financial officer must on a monthly basis be notified in writing of all formal written price quotations accepted by an official acting in terms of a sub-delegation; and

- (d) the Chief Financial Officer must set requirements for proper record keeping of all formal written price quotations accepted on behalf of the municipality.

### **Competitive bids**

- 19. (1) Goods or services above a transaction value of R200 000 (VAT included) and long term contracts may only be procured through a competitive bidding process, subject to paragraphs 11(2) and 36 of this policy; and
- (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.

### **Process for competitive bidding**

- 20. 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.

### **Bid documentation for competitive bids**

- 21. (1) The criteria to which bid documentation for a competitive bidding process must comply, must –
  - (a) take into account –
    - (i) the general conditions of contract;

- (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, upgrading or refurbishment of buildings or infrastructure; and
  - (iv) the Guidelines on Specifications for Procurement of Private Valuers issued by the Department of Provincial and Local Government for the procurement of the services of private valuers to make valuations as contemplated in the Local Government: Municipal Property Rates Act, No. 6 of 2004;
- (b) include evaluation and adjudication criteria, including any criteria required by other applicable legislation;
- (c) compel bidders to declare any conflict of interest they may have in the transaction for which the bid is submitted;
- (d) if the value of the transaction is expected to exceed R10 million (VAT included), require bidders to furnish—
- (i) if the bidder is required by law to prepare annual financial statements for auditing, their audited annual financial statements –
    - (aa) for the past three years; or
    - (bb) since their establishment if established during the past three years;
  - (ii) a certificate signed by the bidder certifying that the bidder has no undisputed commitments for municipal services towards a municipality or other service provider in respect of which payment is overdue for more than 30 days;
  - (iii) particulars of any contracts awarded to the bidder by an organ of state during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract;
  - (iv) a statement indicating whether any portion of the goods or services are expected to be sourced from outside the Republic, and, if so, what portion and whether any portion of payment from the municipality or municipal entity is expected to be transferred out of the Republic;

- (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;
- <sup>1</sup>(f) Where surety is required, it shall be in the form of cash, a certified cheque or a bank guarantee from a banking institution registered in terms of the Banks Act, 1990 (Act No. 94 of 1990) or from an insurer registered in terms of the Short-term Insurance Act, 1998 (Act No. 53 of 1998);

Guarantees will be required as follows:

CATEGORY	PROJECT VALUE	GUARANTEE
A	< R500 000	2,5%
B	R500 001 – R1 000 000	5%
C	R1 000 001 – R2 000 000	7,5%
D	>R2 000 000	10%

- (g) indicate the value or extent to which the execution of the contract should or should not be subcontracted; and
- (h) submit a certificate from the Department of Labour indicating compliance with the Occupational Health & Safety Act, 1993 [Act No. 85 of 1993].
- (2) A non-refundable charge shall be raised for bid forms, plans, specifications, samples and any other bid documentation, depending on the nature, magnitude and value of technical information or samples provided by the municipality.
- (3) Bid documents may allow for bidders to bid for one or more items or for a part of one or more items but the municipality reserves the right to accept part of a bid or a complete bid or quotation even if it is not the lowest, provided the interests of the municipality are best served thereby. Bid documents must be specific as certain contracts, e.g. the construction of a bridge, may require that the whole contract is to be completed by the same contractor.

<sup>1</sup> Amended by Council Resolution A-F (36-2006) dated 30 November 2006



- (4) Where bidders insert prices on price lists supplied by the municipality they shall delete items for which they do not bid or if the price has been included elsewhere in the price list. After bid/quotations have been opened bidders may not supplement their original offer if the original offer was incomplete.

### **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 Bid Bulletin); and
  - (b) the information contained in a public advertisement, must include –
    - (i) the closure date for the submission of bids, which may not be less than 30 days in the case of transactions over R10 million (VAT included), or which are of a long term nature, or may not be less than 14 days in any other case, from the date on which the advertisement is placed in a newspaper, subject to subparagraph (2) of this policy;
    - (ii) a statement that bids may only be submitted on the bid documentation provided by the municipality; and
    - (iii) date, time and venue of any proposed site meetings or briefing sessions.
- (2) The accounting officer may determine a closure date for the submission of bids which is less than the 30 or 14 days requirement, but only if such shorter period can be justified on the grounds of urgency or emergency or any exceptional case where it is impractical or impossible to follow the official procurement process.
- (3) Bids submitted must be sealed.
- (4) Where bids are requested in electronic format, such bids must be supplemented by sealed hard copies.

### **Procedure for handling, opening and recording of bids**

23. (1) The procedures for the handling, opening and recording of bids, are as follows:

- (a) Bids—
  - (i) must be opened only in public; 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; and
- (c) The accounting officer must —
  - (i) record in a register all bids received in time;
  - (ii) make the register available for public inspection; and
  - (iii) publish the entries in the register and the bid results on the website.

#### **(2) Opening of bids and quotations**

- (a) All competitive bids shall be opened in public by the Supply Chain Management Unit as soon as possible after the expiry of the advertised closing date and time. At such public bid openings the names of the bidders and the prices are read out. All quotations i.e. responses received in terms of procurement mechanisms below the value of R200 000, 00 (VAT included), with the exclusion of competitive bids below R 200 000, 00 are excluded from public bid openings. When such quotations are opened, the names of contenders who responded are therefore not read out.
- (b) All bids and quotations, addressed to the Municipality, shall be opened by a senior employee in the presence of the delegated official of the Manager of the Supply Chain Management Unit, or a nominee.
- (c) Bids and quotations, which fall within the jurisdiction of Managers, shall be opened in the presence of at least two employees, one of which should be a

senior employee and neither of them shall have a personal interest in the bid or quotation or be involved in the adjudication thereof.

**(3) Stamping of bids and reading out of names**

(a) As each bid is opened the name of the bidder and the amount shall be read out. An employee shall date-stamp the bid or quotation and all enclosures related to prices, delivery periods and special conditions. Bids and quotations shall be numbered in the sequence in which they have been opened and the words “and last” shall be endorsed on the last bid or quotation. In instances where only one bid has been received the words “and only” shall be endorsed on such bid.

(b) Where prices have not been inserted in all relevant spaces on the form and such items have not been deleted by bidders, such spaces shall be stamped “no price” by the employee who opens the bids or quotations.

Note: It is the policy of the Municipality to disclose bid prices. With regard to quotations of a value below R200 000 (VAT included), names of bidders and prices will not be read out, but will be registered in a register and available for inspection at the Supply Chain Management Unit.

(c) Details on how bidders responded to the relevant evaluation criteria e.g. SMME contribution, community benefits, job creation, environmental impact, etc. should not be disclosed.

(d) Bids opened in public should be registered in the Bidding Register.

**(4) Late Bids**

(a) Bids or quotations arriving after the specified closing time shall not be considered and where practicable and cost effective shall be returned to the bidder unopened with a letter explaining the circumstances.

(b) Bid documents must clearly state the venue where the bidding box is situated for each bid. Any bid delivered to the wrong bid box will not be considered, even if it was delivered on time.

(c) Where it's necessary to open a late bid or quotation to obtain the name and address of the sender, each page of the document shall be stamped "late bid" before the bid is returned to the bidder. The envelope must be stamped and initialed in like manner and must be retained for record purposes.

**(5) Amendments before the closing date**

The Municipality is entitled to amend any bid condition, validity period, specification or plan, or extend the closing date of such a bid or quotation before the closing date, provided that such amendments or extensions are advertised and/or that all bidders to whom bid documents have been issued, are advised in writing per registered post or by fax of such amendments or of the extension clearly reflecting the new closing date and time. For this reason employees issuing bids shall keep a record of the names, addresses and contact numbers of the persons or enterprises to whom bid documents have been issued.

**(6) Dealing with bids and quotations if the closing date thereof has been extended**

Where the closing date of a bid or quotation is extended, the notice which makes known such extensions shall also mention the bids or quotations already received, will be retained unopened in the bidding box and be duly considered after the expiry of the extended period, unless the bidder requests that such bid or quotation to be returned to the bidder or unless the bidder cancels it by submitting a later dated bid or quotation before the extended closing date.

**(7) No amendments after the closing date allowed**

The municipality is not entitled to amend any bid condition, validity period, specification or plan after the closing date of the bid and before the acceptance of a bid or quotation has been notified.

### **Negotiations with preferred bidders and communication with prospective providers and bidders**

- 24.** (1) The accounting officer may negotiate the final terms of a contract with bidders identified through a competitive bidding process as preferred bidders, provided that such negotiation –
- (a) does not allow any preferred bidder a second or unfair opportunity;
  - (b) is not to the detriment of any other bidder; and
  - (c) does not lead to a higher price than the bid as submitted.
- (2) Minutes of such negotiations must be kept for record purposes and as far as practical be made part of the final contract.
- (3) **No communication with bidders and prospective providers**
- (a) Where bids and quotations have been submitted to the municipality, a bidder may not communicate with any councillor or official on any matter regarding his bid, quotation or offer other than a notice of withdrawal.
  - (b) No municipal personnel may communicate with a bidder or any other party who has an interest in a bid, during the period between the closing date for the receipt of the bid or quotation (or date of receipt of an offer), and the date of notification of the successful bidder of acceptance of his bid, quotation or offer, except as provided for in paragraph (c) below. Every such case of unauthorised communication shall forthwith be reported to the Supply Chain Management Unit as well as the relevant chairperson of the Bid Adjudication Committee. A bid or quotation in respect of which unauthorised communication has occurred may be disqualified.

- (c) The chairperson of the Bid Adjudication Committee, may authorise an employee, in writing, to communicate with a bidder during the period mentioned in subsection (b) above for the purpose of:-
- (i) explaining and verification of declarations made in the bid response;
  - (ii) confirming technical particulars and the compliance thereof with specifications;
  - (iii) clarifying delivery times/quantities;
  - (iv) extending the validity period of a bid;
  - (v) clarifying any other commercial aspect.
- (d) In all cases where authority has been granted to communicate with bidders in terms of paragraph (c) above, it should be clearly stated in the submission to the Bid Adjudication Committee the nature of the communication as well as by whom such authority to communicate has been granted.

### **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 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.

### **Committee system for competitive bids**

- 26.** (1) The following committees are hereby established -
- (a) bid specification committees;
  - (b) a bid evaluation committee; and
  - (c) a bid adjudication committee;
- (2) The accounting officer is required to appoint the members of each committee, taking into account section 117 of the Act; and
- (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.
- (4) The committee system must be consistent with –
- (a) paragraph 27, 28 and 29 of this policy; and
  - (b) any other applicable legislation.
- (5) The accounting officer may apply the committee system to formal written price quotations.

### **Bid specification committees**

- 27.** (1) The appropriate bid specification committee must compile the specifications for the procurement of goods or services by the municipality, depending on the department involved.
- (2) Specifications –
- (a) must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services;
  - (b) must take account of any accepted standards such as those issued by Standards South Africa, the International Standards Organisation, or an authority accredited or recognised by the South African National Accreditation System with which the equipment or material or workmanship should comply;

- (c) 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.
- (3) A bid specification committee must be composed of two or more officials of the municipality, preferably including the manager responsible for the function involved, and may, when appropriate, include external specialist advisors.
- (4) No person, advisor or corporate entity involved with the bid specification committee, or director of such a corporate entity, may bid for any resulting contracts.

### **Bid evaluation committees**

- 28.** (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 27(2)(f).
  - (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.
- (2) The 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.

### **Bid adjudication committees**

- 29.** (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.
- (2) The bid adjudication committee must consist of at least four senior managers of the municipality which must include –
- (i) 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
  - (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.
- (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.

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

### **Procurement of banking services**

- 30.** (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.
- (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 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).

### **Procurement of IT related goods or services**

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

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

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

- (d) that other organ of state and the provider have consented to such procurement in writing.
- (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.

### **Procurement of goods necessitating special safety arrangements**

- 33.** (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.

### **Proudly SA Campaign**

- 34.** (1) 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;
  - (b) Secondly – suppliers and businesses within the relevant province; and
  - (c) Thirdly – suppliers and businesses within the Republic of South Africa.
- (2) These principles are to be embodied in the points allocated in terms of the preferential procurement policy of the municipality.

### **Appointment of consultants**

35. (1) The accounting officer may procure consulting services provided that any Treasury guidelines and CIDB requirements 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.

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

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

- (b) ratify any minor breaches of the procurement processes by an official or committee acting in terms of delegated powers or duties which are purely of a technical nature.
- (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 of the council and include 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.

### **Unsolicited bids**

- 37. (1)** In accordance with section 113 of the Act there is no obligation to consider unsolicited bids received outside a normal bidding process.
- (2) The accounting officer may decide in terms of section 113(2) of the Act to consider an unsolicited bid, only if –
    - (a) the product or service offered in terms of the bid is a demonstrably or proven unique innovative concept;
    - (b) the product or service will be exceptionally beneficial to, or have exceptional cost advantages;
    - (c) the person who made the bid is the sole provider of the product or service;  
and
    - (d) the reasons for not going through the normal bidding processes are found to be sound by the accounting officer.
  - (3) If the accounting officer decides to consider an unsolicited bid that complies with subparagraph (2) of this policy, the decision must be made public in accordance with section 21A of the Municipal Systems Act, together with –
    - (a) reasons as to why the bid should not be open to other competitors;
    - (b) an explanation of the potential benefits if the unsolicited bid were accepted;  
and

- (c) an invitation to the public or other potential suppliers to submit their comments within 30 days of the notice.
- (4) All written comments received pursuant to subparagraph (3), including any responses from the unsolicited bidder, must be submitted to the National Treasury and the relevant provincial treasury for comment.
- (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.
- (6) A meeting of the adjudication committee to consider an unsolicited bid must be open to the public.
- (7) When considering the matter, the adjudication committee must 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.
- (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.
- (9) Such submission must be made within seven days after the decision on the award of the unsolicited bid is taken, but no contract committing the municipality to the bid may be entered into or signed within 30 days of the submission.

### **Combating of abuse of supply chain management system**

**38.** The following measures are established to combat the abuse of the 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 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 years has failed to perform satisfactorily on a previous contract with the municipality or any other organ of state after written notice was given to that bidder that performance was unsatisfactory;
- (e) reject a recommendation for the award of a contract if the recommended bidder, or any of its directors, has committed a corrupt or fraudulent act in competing for the particular contract;
- (f) cancel a contract awarded to a person if –
  - (i) the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract; or
  - (ii) an official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of the contract that benefited that person; and
- (g) reject the bid of any bidder if that bidder or any of its directors –
  - (i) has abused the supply chain management system of the municipality or has committed any improper conduct in relation to such system;



- (ii) has been convicted for fraud or corruption during the past five years;
  - (iii) has willfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
  - (iv) has been listed in the Register for Bid Defaulters In terms section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004).
- (2) The accounting officer must inform the National Treasury and relevant provincial treasury in writing of any actions taken in terms of subparagraphs (1)(b)(ii), (e) or (f) of this policy.

### ***Part 3: Logistics, Disposal, Risk and Performance Management***

#### **Logistics management**

**39.** 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.

### **Disposal management**

40. (1) The criteria for the disposal or letting of assets, including unserviceable, redundant or obsolete assets, subject to section 14 of the Act 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.

(2) Immovable assets:

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

(3) 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, free of charge;
- (iii) selling the asset; or
- (iv) destroying the asset;

(b) provided that —

- (i) immovable property may be sold only at market related prices except when the public interest or the plight of the poor demands otherwise;
  - (iii) movable assets may be sold either by way of written price quotations, a competitive bidding process, auction or at market related prices, whichever is the most advantageous;
  - (iv) in the case of the free disposal of computer equipment, the provincial department of education must first be approached to indicate within 30 days whether any of the local schools are interested in the equipment; and
  - (v) 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; and
- (d) ensure that where assets are traded in for other assets, the highest possible trade-in price is negotiated.
- (4) The disposal of immovable assets is subject to the following principles:
- (a) Payment of the purchase price and costs:
    - (i) A 20% deposit shall be payable upon the date of signature of the proposed Deed of Sale, which deposit shall not be refundable should the purchaser decide not to proceed with the registration of the transfer for whatsoever reason, unless adverse soil conditions can be proven.
    - (ii) A bank guarantee for the outstanding balance of the purchase price shall be submitted to the Corporate and Legal Services Department within 30 (thirty) days of the date of signing the Deed

of Sale, which shall be payable upon registration of transfer of the property.

- (iii) All costs (advertising, rezoning, obtaining of a valuation, etc.) pertaining to the transaction shall be borne by the applicant/successful bidder. The applicant/successful bidder 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 applicant/successful bidder shall pay the outstanding costs;

(b) Standard Conditions

- (i) The purchaser shall commence with the development of the property within 6 (six) months after the date of transfer and shall complete the development within 18 (eighteen) months thereafter.
- (ii) Should the purchaser fail to commence with or complete the development as stipulated in (ii) above, the property shall revert to the municipality and be transferred back to the municipality at the discretion of the accounting officer.
- (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 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 has been paid by said purchaser.

- (iv) In order to comply with the requirements of the Deeds Office as set out in Circular No. 152 dated 1997.07.03 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 Ekurhuleni Metropolitan Municipality".
- (v) The use of all immovable assets disposed of in terms of this Policy shall be in accordance with the requirements of the Spatial Development Framework as adopted by Council by ensuring that the conditions of sale include compliance by purchasers within the principles of the said Framework.
- (vi) All immovable assets sales will be done subject to the necessary environmental legislation being complied with by the purchaser in respect of the intended use of the property.
- (vii) Any sale of immovable assets by the municipality which is to be utilised for purposes of housing to be funded and/or subsidised from National and/or Provincial Housing funds shall be done in compliance with the principles, policies and procedures as contained in National and Provincial Housing legislation and any Housing code and/or Land Procurement Procedures prescribed under such legislation.
- (viii) The extent to which the intended disposal of the immovable property will promote the principles of integration, densification, regeneration and compact development, shall be considered in deciding whether to dispose of the property.

## **Risk management**

- 41.** (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.
- (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.

### **Performance management**

**42.** 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 authorised 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***

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

- 43.** (1) The accounting officer must ensure that, irrespective of the procurement process followed, no award above R 30 000 (VAT included) is given 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 provider or bidder, a tax clearance certificate from SARS must first be provided as contemplated in paragraph 13[a][iv].

### **Prohibition on awards to persons in the service of the state**

- 44.** 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) who is an advisor or consultant contracted with the municipality in respect of a contract that would cause a conflict of interest.

### **Awards to close family members of persons in the service of the state**

- 45.** The notes to the annual financial statements must disclose particulars of any award of more than R 2 000 (VAT included) 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.

### **Ethical standards**

- 46.** (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.
- (2) An official or other role player involved in the implementation of the supply chain management policy –
- (a) must treat all providers and potential providers equitably;
  - (b) may not use his or her position for private gain or to improperly benefit another person;

- (c) may not accept any reward, gift, favour, hospitality or other benefit directly or indirectly, including to any close family member, partner or associate of that person, of a value more than R350;
  - (d) notwithstanding 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 47(1) of this policy; or
    - (iii) any alleged breach of this code of ethical standards.
- (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.



- (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.
- (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.

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

- 47.** (1) No person who is a provider or prospective provider of goods or services, or a recipient or prospective recipient of goods disposed or to be disposed of may either directly or through a representative or intermediary promise, offer or grant –
- (a) any inducement or reward to the municipality for or in connection with the award of a contract; or
  - (b) any reward, gift, favour or hospitality to –
    - (i) any official; or
    - (ii) any other role player involved in the implementation of the supply chain management 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.

## **Sponsorships**

- 48.** 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.

## **Objections and complaints**

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

## **Resolution of disputes, objections, complaints and queries**

- 50.** (1) The accounting officer must appoint an independent and impartial person, not directly involved in the supply chain management processes –
- (a) to assist in the resolution of disputes between the municipality and other persons regarding -
    - (i) any decisions or actions taken in the implementation of the supply chain management system; or
    - (ii) any matter arising from a contract awarded in the course of the supply chain management system; or
  - (b) to deal with objections, complaints or queries regarding any such decisions or actions or any matters arising from such contract.
- (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 relevant provincial treasury if –
  - (a) the dispute, objection, complaint or query is not resolved within 60 days; or
  - (b) no response is forthcoming within 60 days.
- (5) If the provincial treasury does not or cannot resolve the matter, the dispute, objection, complaint or query may be referred to the National Treasury for resolution.
- (6) This paragraph must not be read as affecting a person's rights to approach a court at any time.

#### **Contracts providing for compensation based on turnover**

- 51.** 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.

#### **Payment of sub-contractors or joint venture partners**

- 52.** The chief financial officer or an official designated by the chief financial officer may consent to the direct payment of sub-contractors or joint venture partners by way of:
- (a) an approved cession; or
  - (b) an agreement for direct payment.

#### **Extending or varying a contract**

- 53.** (1) Subject to subsection (2), the municipality on its own initiative or upon receipt of an application from the person, body, organisation or corporation supplying goods

or services to the municipality in terms of this policy, may resolve to extend or vary a contract if:-

- (a) the circumstances as contemplated in paragraph 36[1][a] prevail; or
  - (b) with due regard to administrative efficiency and effectiveness, the accounting officer deems it appropriate.
- (2) The municipality may not extend or vary a contract:-
- (a) more than once;
  - (b) for a period exceeding the duration of the original agreement; or
  - (c) for an amount exceeding twenty [20] percent of the original bid value.
- (3) Within one [1] month of the decision referred to in sub-paragraph (1), the matters specified in sub-paragraph (4) must be:-
- (a) published by the municipality at least in an appropriate newspaper circulating within the boundaries of the municipality; and
  - (b) displayed at a prominent place that is designed for that purpose by the municipality.
- (4) The matters to be published or displayed are:-
- (a) the reasons for dispensing with the prescribed procedure;
  - (b) a summary of the requirements of the goods or services; and
  - (c) the details of the person, body, organisation or corporation supplying the goods or services.
- (5) The functions of the accounting officer in terms of this section may not be assigned nor delegated.

### **Short title and commencement**

**54.** This part of the policy is called the Ekurhuleni Metropolitan Municipality Supply Chain Management Policy and takes effect on 01 March 2006.

## Part B

### **PREFERENTIAL PROCUREMENT POLICY adopted in terms of section 2 of the Preferential Procurement Policy Framework Act, No. 5 of 2000 and the Preferential Procurement Regulations R728 of 10 August 2001**

#### **PREAMBLE**

**WHEREAS** the EMM aims to improve the quality of life of all citizens and to free the potential of each person within a framework of facilitating service delivery, through effective governance; the Council undertakes to take into account the need for transparent procedures that give the effect to the principle of preferential procurement;

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

**NOW THEREFOR** the Council of the Ekurhuleni Metropolitan Municipality resolves in terms of section 2 of the Preferential Procurement Policy Framework Act, No. 5 of 2000 to adopt the following preferential procurement policy for the municipality:

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## **1. SCOPE**

This policy applies to all contracts for the provision of goods and services to be awarded by the municipality.

## **2. PURPOSE**

The purpose of the policy is to provide a framework within which effect can be given to the principle of preferential procurement, while ensuring that fair, equitable, transparent, competitive and cost effective procurement practices are adhered to.

## **3. OBJECTIVES**

The objectives of the Councils' policy are to:

- (a) Provide clarity on the municipality's approach to procurement, particularly with regards to requirements of preferential procurement;
- (b) Provide access to contracts for historical disadvantaged individuals;
- (c) Promote SMME participation;
- (d) Promote capacity development and skills transfer;
- (e) Promote job creation; and
- (f) Create an enabling contractual environment.

## **4. PREFERENCE POINT SYSTEM**

4.1 The Ekurhuleni Metropolitan Municipality's (EMM) procurement policy is constructed around the Preferential Procurement Policy Framework Act,

No. 5 of 2000 and the Regulations issued in terms thereof. This Act and Regulations R726 of 10/08/2001 requires that:

- (a) A preference point system must be used.
- (b) A number of points must be awarded for price.
- (c) A number of points must be awarded for achieving specific goals.

4.2 The preference point system awards points as follows:

**Figure 1 – Preference Point System**

	Bids < R 500 000-00	Bids > R 500 000-00
Points for price	80	90
Points for specific goals	20	10
<b>Total</b>	<b>100</b>	<b>100</b>

4.3 The specific goals may include:

- (a) Contracting with persons historically disadvantaged by unfair discrimination on the basis of:
  - Race
  - Gender
  - Disability
- (b) Implementing the programmes of the RDP such as:
  - Meeting basic needs
  - Development of Human Resources
  - Building the Economy
  - Democratising the State and Society

4.4 Specific goals to be used must be clearly specified in the invitation to submit a bid. These goals must be measurable and quantifiable, and must be monitored for compliance.

## **5. SPECIFIC GOALS OF PREFERENTIAL PROCUREMENT FOR EMM**

### **5.1 General requirements**

- (a) Any specific goal required for consideration in the bidding process must be clearly determined by the Bid Specification Committee and

be defined in the bid documentation, taking into account prescriptions of the Construction Industry Development Board [CIDB] in respect of construction contracts.

- (b) A bidder must meet the requirements of all specific goals in order to qualify for the maximum amount of points allocated for specific goals.
- (c) Outputs required to meet the specific goals will be quantified and will form part of the contractual arrangement upon awarding of the contract.

## **5.2 HDI Ownership**

- (a) Bidders reflecting an ownership by historically disadvantaged individuals will be given preference points.
- (b) Benefits associated to HDI equity ownership may only be claimed in respect of individuals who are actively involved in the management and daily business of the enterprise, share in the profits of the enterprise, and exercise control over the enterprise, commensurate with their degree of ownership. Where individuals are not actively involved in the management and daily business operations and do not share in the profits and exercise control over the enterprise commensurate with their degree of ownership, benefits associated with equity ownership may not be claimed.
- (c) Should it become evident with the evaluation and monitoring of HDI equity ownership refer to in 5.2[a] above, that it is not being applied or HDI companies have been used as “Fronts”, those companies will be disqualified and other penalties may be imposed in terms of Regulation 15 of the PPP Regulations.

### **SMME status**



5.3 Bidders that reflect SMME status, according to the criteria outlined for each sector and sub-sector of the economy will be given preference.

#### **Use of sub-contractors**

5.4 Preference will be given to bidders that sub-contract work with enterprises that has HDI equity ownership.

#### **Job creation**

5.5 Bidders that are able to employ labour intensive work methods (where appropriate) will be given preference.

#### **Local content**

5.6 Bidders that provide products developed, manufactured, assembled and/or distributed in South Africa will be given preference where applicable, as contemplated in paragraph 34 of the Supply Chain Management Policy.

Local content is divided into two components: Local content of product, staff, material and management and then also Ekurhuleni based companies.

#### **Capacity development**

5.7 Where practically possible, bid documents must be prepared in such a way as to reflect a commitment to capacity development and skills transfers.

The municipality may develop a holistic framework for addressing capacity development and skills transfer and review it on an annual basis. The following should be included in the framework:

##### **(a) Municipal Officials**

- Assessment mechanisms to be used to identify the needs.

- Approach to address needs (of-site training, on-the-job training, mentor ships etc.).
- Assessments mechanisms to address progress.

**(b) Affected Community**

- Assessment mechanisms to be used to identify the needs.
- Approach to address needs (consultative workshops etc.).
- Assessments mechanisms to address progress.

**(c) HDI Partner**

- Assessment mechanisms to be used to identify the needs.
- Approach to address needs (of-site training, on-the-job training, mentor ships etc.).
- Assessments mechanisms to address progress.

Particular specifications included in the bid document will make provision for capacity development and skill transfer in terms of the procurement process.

## **Community empowerment**

5.8 Bid documents should be prepared in such a way, as to reflect a commitment to community empowerment. The municipality's policy and strategy in this regard must be adhered to.

- (a) The municipality may define its objectives, in relation to community empowerment, in the procurement process.
- (b) The municipality may define its understanding of the community, including the following aspects:
  - Geographical community: (for example)
    - Residents of the Ekurhuleni Metropolitan Municipality (EMM)
    - Residents of specific areas within the EMM

- Ethnic/cultural/religious community
  - Community of interest (for example)
    - Women
    - Small business owners
    - Industry sector representatives etc.
- (c) With regards to each contract, the municipality may define the community in its targeting and the empowerment objectives that it wishes to achieve.
- (d) Particular specifications included in the bid document will make provision for community empowerment in terms of the procurement process.

The following points are allocated for specific goals approved by the EMM:

**Figure 2 –Points allocated for specific procurement goals**

Specific goals proposed		Points allocated	
1	Contracting enterprises wholly or partially owned by previous disadvantaged people. (People disadvantaged by the previous dispensation due to race or other discriminatory factors)	8	4
2	Contracting with enterprises wholly or partially owned by female (disadvantaged by the previous dispensation due to gender)	2	1
3	Contracting with enterprises wholly or partially owned by disabled people	1	1
4	Job creation	3	1
5	Support for small enterprises	2	1
6	Local RSA Content	1	1
7	Promoting enterprises located within Ekurhuleni Metropolitan Area	3	1
<b>Total Points</b>		<b>20</b>	<b>10</b>

## 5.9 MINIMUM PARTICIPATION REQUIREMENTS

It is noted that Regulation 8[5] of the Preferential Procurement Regulations provides:

*“(5) The conditions of bid may stipulate that a bidder must score a specific minimum number of points for functionality to qualify for further adjudication”.*

## **5.10 GENERAL PRINCIPLES GOVERNING THE MUNICIPALITY IN ITS INTERACTION WITH BIDDERS**

In dealing with bidders bidding for municipal work, the municipality will adhere to the basic principles of:

### **5.10.1 Efficiency**

- (a) The Council undertake to administer the procurement process in the most efficient manner possible, avoiding time delays and duplication of activities.
- (b) Where such delays are unavoidable, the Council undertakes to inform all bidders of the nature of the delay and the revised time frames.

### **5.10.2 Courtesy**

All staff members of the municipality will deal with bidders in a courteous and respectful manner.

### **5.10.3 Transparency**

- (a) All bid process will be open to the scrutiny of the public and interested parties.
- (b) The municipality will take all reasonable steps to ensure that the processes are clearly defined and understandable to all interested parties.

### **5.10.4 Access to information**

The municipality will take reasonable steps to ensure that all bidders have equal access to information on the goods or services to be bided for, as well as the bid process itself.

#### **5.10.5 Fair distribution of work**

The municipality will take reasonable steps to make sure that the procurement of goods or services is fairly distributed amongst the service providers. This will be done to avoid the excessive procurement of goods or services from one provider/supplier only.

#### **5.10.6 Competition**

The Council will encourage fair competition between suppliers that provide goods and services to it.

### **5.11 CRITERIA TO EVALUATE TECHNICAL AND FINANCIAL ABILITY**

Regardless of the scope and value of the contracts involved, all contracts will be judged on grounds of:

#### **5.11.1 Compliance with bid conditions**

- (a) Bids submitted on time.
- (b) Bid forms signed.
- (c) All essential information provided

#### **5.11.2 Meeting technical specifications and compliance with bid conditions**

- (a) Where requested in bid documentation, bidders must describe how they will produce the required outputs outlined in the bid documentation in terms of either goods or services.

- (b) The ability to produce the required goods or services within the stated time frame may be included as criteria for compliance.

#### **5.11.3 Infrastructure and resources available**

Bidders must indicate the extent of infrastructure under their control and resources available to enable them to execute the contract.

#### **5.11.4 Quality/ Durability**

- (a) Where requested, bidders must provide evidence that they will be able to adhere to generally accepted levels of quality in the provision of the product or services under consideration.
- (b) Where bidders requested must clearly explain their mechanisms for quality assurance and review.

#### **5.11.5 Size of enterprise and current workload**

- (a) Bidders must give an indication of the resources available for the contract they are bidding on.
- (b) Bidders must give an indication of the number and value of other contracts being undertaken by them at the date of bid, as to enable the municipality to ascertain their ability to execute the contract.

#### **5.11.6 Staffing profile**

- (a) Bidders must indicate the number of fulltime employees employed by the company in South Africa at the time of bidding. Such information must include a breakdown in

terms of race and gender at top and middle management levels.

- (b) Bidders must also indicate the experience of top and middle management staff, especially where the experience of the company as a whole is limited.

#### **5.11.7 Previous experience**

- (a) Bidders must indicate the number of years that they have been operating their business.
- (b) Bidders must provide evidence of previous experience in providing the goods or services under consideration, by providing a minimum of three contactable and relevant references.

#### **5.11.8 Financial ability to execute the contract**

- (a) Bidders must indicate the revenue generated by their company in the previous financial year.
- (b) Bidders must provide an indication of their financial ability to execute the contract.

### **5.12 IMPLEMENTATION FRAMEWORK**

According to the Preferential Procurement Policy Framework Act, No. 5 of 2000 and Regulations a preference point system must be followed:

- (a) For contracts with a Rand value above a prescribed value (more than R 500,000) a maximum of 10 points may be allocated for specific goals as outlined below provided that the lowest acceptable bid scores 90 points.
- (b) For contracts with a Rand value below a prescribed value (less than R 500,000) a maximum of 20 points may be allocated for

specific goals as outlined below provided that the lowest acceptable bid scores 80 points.

- (c) Any other acceptable bids that are higher in price must be awarded fewer points, on a pro rata basis, calculated on their bid price in relation to the lowest acceptable bid, in accordance with a prescribed formula.

The following formula shall apply

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

Where:

- $P_s$  = Point scored for price of bid under consideration  
 $P_t$  = Rand Value of bid under consideration  
 $P_{min}$  = Rand value of the lowest acceptable bid

and where 80 is to be replaced with 90 for contracts exceeding R 500 000 in contract value.

Where the lowest bid is a negative value that value shall, for purposes of applying the formula, be adjusted to a positive value and all other bids be adjusted with the same amount

## 5.13 MECHANISMS TO SUPPORT PREFERENTIAL PROCUREMENT

### 5.13.1 Determination of bid requirements in relation to bid value

The municipality will set targets for the supply of goods and services, and link specific requirements relating to enterprise with HDI ownership and/or SMME status.

### 5.13.2 Establishment/maintain a database of SMME service providers



The municipality will establish a database of HDI, SMME and other service providers in order to track their records of services to the municipality.

### **5.13.3 Identification of Business Opportunities**

- (a) Within a month after the Capital and Operating budgets have been approved, the minimum figures (targets) for the supply of goods or services that could be supplied by HDI owned enterprises and SMME's, should be submitted to the respective Portfolio Committee for approval.
- (b) Joint venture opportunities between HDI owned enterprises and SMME's, and other business entities, will be identified and be described in the bid requirements.
- (c) Sub-contracting opportunities for HDI owned enterprises will be supported.

### **5.13.4 Creation of an enabling environment**

The municipality will create an enabling environment to enable SMME's to become part of the supply chain management process. Steps to be taken include:

**(i) Surety Requirements**

See the SCM Policy, paragraph 21(1)(f) regarding the lesser extent that sureties are called for.

**(ii) Access to Bidding Information**

Bidding and related information will be made available in a simplified and uncomplicated format to assist new and emerging enterprises and any business or organisation bidding for municipal business.

**(iii) Bidding Advice Centre**

Assistance must be provided by the Local Economic Development Department to increase SMME awareness and share in the supply chain and

procurement process. Assistance must be provided for new and emerging SMME's.

**(iv) Sub-Contracting**

The procurement of goods and services for any project or other requirement of the municipality should cater for the engagement of sub-contractors. This will provide opportunities for smaller businesses to increase their share in public sector procurement.

**(v) Proposed Process**

- Bids shall be packaged into suitably sized segments of subcontractors to target SMME's wherever possible.
- A review of all term (period) contracts shall be undertaken to assess the viability of packaging these into smaller sub-contracts. These bids should be issued in smaller manageable sub-contracts so that preference can be given to local SMME's.
- Appropriate standards, specifications, delivery dates and related contractual obligations shall be employed to help smaller businesses to cope and compete.

**(vi) Early Payment Cycles**

- Small enterprises should be assisted by means of early payment cycles by the municipality.
- A procedure for processing payments within a maximum of 30 days from the date of receipt of invoices must be instituted. Payment times less than 30 days from the date of receipt of invoices may be introduced subject to discounts.
- When dealing with SMME's, the above shall not exclude other accommodating measures such as interim or early payment or direct payment of

suppliers. Such measures shall however not be regarded as policy or standard procedure, and shall be applied at the discretion of the chief financial officer on an individual contract basis.

**(vii) Simplification of Tender Documentation**

- Bid submission documents should be rationalised and simplified to make it easier for small businesses to deal with the paperwork involved in tendering.
- All bid submission forms shall be regularly reviewed and the various bid/contractual documents shall be standardised as far as possible.
- Essential information shall be consolidated and bid forms reformatted in line with the aims of this policy.

**(viii) Retention**

- The value of retention deducted will be as follows:
  - **Contracts up to R1 m (VAT Included):**  
5% of the value of the work carried out, up to a limit of 5% of the tender sum, with no reduction for the duration of the maintenance period.
  - **Contracts exceeding R1 m (Vat Included):**  
10% of the value of work carried out with no limit, reducing to 5% for the duration of the maintenance period.
- Retention in respect of the procurement of goods and services will not generally be called for, but where required, will be in accordance with the limits described above.

### 5.13.5 Advertising

- (a) In order to reach the largest number of HDI owned and SMME service providers possible, the municipality will undertake to advertise invitations to bid through a range of media.
- (b) The municipality will provide an appropriate time period within which bidders can request additional clarification and will be sensitive to the issues of language in this regard.

### FRAMEWORK FOR THE ADJUDICATION OF BIDS

Bids are adjudicated by the Bid Adjudication Committee in terms of Council's preferential procurement policy. The following framework is provided in this regard in line with Regulations 8 and 9 of the Preferential Procurement Regulations R725 of 10/08/01:

#### <sup>2</sup>6.1 TECHNICAL ADJUDICATION

Bids are adjudicated in terms of:

- Compliance with bid conditions
- Meeting of technical specifications

If the bid does not comply with the bid conditions, the bid may be rejected depending on the extent and the seriousness of the non-compliance. If technical specifications are not met, the bid may also be rejected.

#### 6.1.1 Bids containing any one or more of the following errors or omissions will be rejected:

- Pages to be completed removed from the document (therefore not submitted)
- Failure to complete the schedule of quantities as required – only lump sums provided
- Scratching out / writing over rates / painting over rates / use of correcting fluid
- Failure to attend compulsory site inspections / compulsory briefing sessions
- Bid form not signed

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<sup>2</sup> Amended by Council Resolution A-F (36-2006) dated 30 November 2006

- No authority for signatory submitted
- Enterprise particulars not provided
- A tax clearance certificate or copy thereof not attached, provided that no award will be made unless a valid original tax clearance certificate is submitted before the date of the final award
- The bid has been submitted after the closing date and time

**6.1.2 Bids containing any one or more of the following errors or omissions will not be rejected, provided that when the bid is awarded to such a bidder, the error or omission is corrected:**

1. Failure to initial each page of the bid document

**6.2 GENERAL CRITERIA**

**6.2.1 Infrastructure and resources available**

Evaluate the following in terms of the size, nature and complexity of the goods and/or services required:

- Physical facilities
- Plant and equipment available for the project which is owned by the bidder
- Plant and equipment the bidder intends renting, should the project be awarded to him.

Awards points as follows:

Description	Points awarded
Bidder has the necessary infrastructure and resources available to successfully executed the contract	2
There is some doubt about whether Bidder has all the necessary infrastructure and resources available. He has most of it available however.	1
Bidder does not have the necessary infrastructure and resources available to execute the project.	0

Note: With regard to rented plant and equipment the adjudicator must establish whether:

- (a) The plant hire company has the equipment available for the bidder; and
- (b) Whether the bidder's creditworthiness and /or financial standing will allow him to rent plant

### 6.2.2 Size of enterprise and current workload

Evaluate the bidder's position in terms of:

- Previous and expected current annual turnover
- Current contractual obligations
- Capacity to execute the contract

Award points as follows:

Description	Points awarded
Bidder has the necessary capacity available to successfully execute the contract.	2
There is some doubt about whether Bidder has all the necessary capacity available.	1
Bidder does not have the necessary capacity available to execute the project.	0

Note: Combine the contractor's current obligations with the impact this contract will have, and compare with the turnover of the previous year and the estimated turnover for the current year.

### 6.2.3 Staffing profile

Evaluate the bidder's position in terms of:

- Staff available for the contract
- Qualifications and experience of key staff to be utilized on this contract.

Award points as follows:

Description	Points awarded
Bidder has the necessary staff available to successfully execute the contract	2
There is some doubt about whether Bidder has all the necessary	1

staff available.	
Bidder does not have the necessary staff available to execute the project.	0

Note: The availability of staff is particularly important if the enterprise does not have the necessary previous experience.

#### 6.2.4 Previous experience

Evaluate the Bidder's position in terms of his previous experience.

Pay particular attention to the following:

- Relevant experience in the technical field
- Experience of contracts of similar size
- Contact some or all of the reference to obtain their input.

Award points as follows:

Description	Points awarded
Bidder has the necessary experience to successfully execute the contract.	2
There is some doubt about whether Bidder has all the necessary experience to successfully execute the contract.	1
Bidder does not have the necessary experience to execute the project	0

Note: In the case where there is doubt the bidder's experience the adjudicator should establish whether it will be possible to provide assistance, for example through the contractor development programme, or by employing a construction and materials manager on the project. Should such support be available, 2 points may be awarded.

#### 6.2.5 Financial ability to execute the contract

Evaluate the bidder's financial ability to execute the contract. Pay particular attention to the following:

- Surety proposed

- Estimated cash flow
- Contact the bidder's bank manager and assess his financial ability to execute the contract.

Award points as follows:

Description	Points awarded
Bidder has the necessary financial ability to successfully execute the contract	2
There is some doubt about whether Bidder has the financial ability to successfully execute the contract.	1
Bidder does not have the financial ability to execute the project.	0

Note: In the case where there is doubt about the bidder's financial ability the adjudicator should establish whether it will be possible to provide assistance, for example through the contractor development programme, or by utilizing a project account or other method to effect quick payment. Should such support be available, 2 points may be awarded.

### <sup>3</sup>6.2.6 Good standing with South African Revenue Services

Establish whether a tax clearance certificate has been submitted with the Bid documents on closing of the bid. If no such certificate or copy thereof has been submitted, the bid must be rejected. If a valid original tax clearance certificate has not been submitted, the bidder must be requested in writing and in the standard format approved by the Executive Director: Legal & Administration to submit a valid original tax clearance certificate by a specific date and at a specified venue.

### 6.2.7 General acceptability (form 1: Bid Evaluation Form)

Bid number: \_\_\_\_\_

Submission Date \_\_\_\_\_

<sup>3</sup> Amended by Council Resolution A-F (36-2006) dated 30 November 2006



No	Bid's name	Meeting technical specifications	Compliance with bid conditions	Tax clearance certificate	Infrastructure and resources available	Size of enterprise and current workload	Staffing Profile	Previous experience	Financial ability	Total	Accept or reject
	<b>Weighting</b>	Y/N	Y/N	Y/N	2	2	2	2	2	10	<b>See notes</b>

Notes: Bidder must have a Y (Yes) in the first three columns after his name, and must have a minimum of 8 out of 10 points in the next five columns, in order to be considered able to execute the works. If this is not the case the bid is rejected. If any of criteria was rated zero points, the bid is also rejected, even if the required 8 of 10 points are achieved.

The point calculated on this sheet is not being used in the calculation of the bid point.

### 6.3 SPECIFIC GOALS

### 6.3.1 Price

Calculate the points awarded for price for each bid, using the following formula:

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

*Where:*

- P<sub>s</sub>** = Point scored for price of bid under consideration  
**P<sub>t</sub>** = Rand value of bid under consideration  
**P<sub>min</sub>** = Rand value of the lowest acceptable

and where 80 is to be replaced with 90 for contracts exceeding R500 000, 00 in contract value (VAT included).

Note: Refer to the Regulations of the Preferential Procurement Policy Framework Act (Act 5 of 2000) where bids are not all below or above R500 000, 00

### 6.3.2 Equity Ownership

Calculate the points to be awarded for equity ownership as follows:

$$NEPe = NOPe \times EPe$$

*Where:*

- NEPe** = nr of points awarded for equity ownership by HDI's (To be filled in on Form 2)  
**NOPe** = maximum nr of points awarded for equity ownership by HDI's (As shown on Form 2)  
**Epe** = percentage of Equity Ownership by HDI's within the enterprise or joint venture (take into account the requirement of managerial involvement, and taking into account work sub-contracted to HDI owned enterprise)

E<sub>Pe</sub> is calculated as follows:

$$E_{Pe} = (100 - PS) \frac{MEO}{100} + \frac{PS \times SEO}{200}$$

*Where:*

- PS** = The percentage of the contract sub – contracted  
**MEO** = The percentage equity ownership by HDI's of the enterprise or

**SEO** = joint venture.  
The percentage equity ownership of sub-contractors where part of the work is being sub-contracted

**Example:**

- No joint venture
- Main contractor 50% HDI owned
- 20% of the work is being sub-contracted
- Combined HDI ownership of sub-contractors is 80%

$$E_{Pe} = (100-20) \frac{50}{100} + \frac{20 \times 80}{200}$$

$$= 48.0\%$$

**6.3.3 SMME Status**

Award points as follows:

$$NEPs = NOPs \times \frac{EPS}{100}$$

Where:

<b>NEPe</b>	=	number of points awarded for SMME status (To be filled in on Form 2)
<b>NOPe</b>	=	maximum number of points awarded for SMME status (As shown on Form 2)

EPs is awarded as follows:

Description	EPs
Medium enterprise	50
Small enterprise	67
Very small enterprise	84
Micro enterprise	100

**6.3.4 Job creation**

Calculate the points awarded for job creation for each bid using the following formula:

$$NEP_j = NOP_j \left( 1 - \frac{J_t}{J_{max}} \right)$$

Where:

**NOP<sub>j</sub>** = The maximum number of points awarded for job creation

(As shown on Form 2)

**NEP<sub>j</sub>** = Point scored for job creation of bid under consideration

**J<sub>t</sub>** = Nr of jobs offered in bid under consideration (measured in person-months)

**J<sub>max</sub>** = Nr of jobs offered by the acceptable bid offering the highest number of jobs (measured in person-months)

### 6.3.5 Local Content & Ekurhuleni based bidders

Calculate the points to be awarded for local content as follows:

$$NEP_i = NOP_i \times \frac{EP_i}{100}$$

Where:

**NEP<sub>i</sub>** = Nr of points awarded for local (South African) content (To be filled in on Form 2)

**NOP<sub>i</sub>** = Maximum nr of points awarded for local content (As shown on Form 2)

**EP<sub>i</sub>** = percentage local content

**And** Ekurhuleni based companies are awarded maximum points for locally based (As shown on form 2)

### 6.3.6 Specific goals (Form 2: Allocation of specific goals)

Using the above information, complete Form 2 for all bidders accepted.

Bid Number \_\_\_\_\_

Submission date \_\_\_\_\_

No	Bidder	Comparative price	HDI Ownership	Female Ownership	Disabled Ownership	SMME status	Job creation	Local RSA content	EMM Based	GRAND TOTAL
	Weighting for bids with the 80:20 principle	80	8	2	1	2	3	1	3	100

	Weighting for bids with the 90:10 principle	90	4	1	1	1	1	1	1	100

**7. SHORT TITLE**

This part of the policy is called the Ekurhuleni Metropolitan Municipality Preferential Procurement Policy.