



CITY OF CAPE TOWN | ISIXEKO SASEKAPA | STAD KAAPSTAD

THIS CITY WORKS FOR YOU

Supply Chain Management Policy

(Incorporating Preferential Procurement)

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DEFINITIONS

1. In this Supply Chain Management Policy, unless the context indicates otherwise;
 - 1.1 “Adjudication points”: means the points for price and points for B-BBEE contribution referred to in the Preferential Procurement Regulations, 2011 and the Preferential Procurement section of this policy, also referred to as “evaluation points”.
 - 1.2 “All applicable taxes”: includes value-added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies.
 - 1.3 “Asset”: means a tangible or intangible resource capable of ownership.
 - 1.4 “B-BBEE”: means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act.
 - 1.5 “B-BBEE Status Level of Contributor”: means the B-BBEE status received by a measured entity based on its overall performance using the relevant scorecard contained in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act.
 - 1.6 “Bid”: means a written offer in a prescribed or stipulated form in response to an invitation by the City for the provision of goods, services or construction works through price quotations, advertised competitive bidding processes or proposals.
 - 1.7 “Bidder”: means any person submitting a competitive bid or a quotation.
 - 1.8 “Broad-Based Black Economic Empowerment Act”: means the Broad-Based Black Economic Empowerment Act, 53 of 2003 and Codes of Good Practice pertaining thereto.
 - 1.9 “Capital Asset”: means:
 - 1.9.1 any immovable asset such as land, property or buildings; or
 - 1.9.2 any movable asset that can be used continuously or repeatedly for more than one year in the production or supply of goods or services, for rental to others or for administrative purposes, and from which future benefit can be derived, such as plant, machinery and equipment.

- 1.10 “City”: means the municipality of the City of Cape Town or any person(s) or committee delegated with the authority to act on its behalf.
- 1.11 “City Manager”: means the Accounting Officer as defined in the Municipal Finance Management Act.
- 1.12 “Closing Time”: means the time and day specified in the bid documents for the receipt of bids.
- 1.13 “Comparative Price”: means the price after the factors of a non-firm price and all unconditional discounts that can be utilized have been taken into consideration.
- 1.14 “Competitive Bidding Process”: means a competitive bidding process referred to in Regulation 12 (1) (d) of the Supply Chain Management Regulations.
- 1.15 “Competitive Bid”: means a bid in terms of a competitive bidding process.
- 1.16 “Community Based Vendor”: means a supplier of goods, services and/or construction works who resides in a target area or community, who meets the criteria for community based vendors as determined by the Director: Supply Chain Management from time to time, and who is registered as such on the City’s Supplier database.
- 1.17 “Consortium”: also referred to as a “Joint Venture” (see clause 1.39 below).
- 1.18 “Construction Industry Development Board (CIDB) Act”: means the Construction Industry Development Board Act, 38 of 2000 and includes the regulations pertaining thereto.
- 1.19 “Construction Works”: means any work in connection with:
- 1.19.1 the erection, maintenance, alteration, renovation, repair, demolition or dismantling of or addition to a building or any similar structure;
 - 1.19.2 the installation, erection, dismantling or maintenance of a fixed plant;
 - 1.19.3 the construction, maintenance, demolition or dismantling of any bridge, dam, canal, road, railway, sewer or water reticulation system or any similar civil engineering structure; or
 - 1.19.4 the moving of earth, clearing of land, the making of an excavation, piling or any similar type of work.

- 1.20 “Consultant”: means a person or entity providing services requiring knowledge based expertise, and includes professional service providers.
- 1.21 “Contract”: means the agreement which is concluded when the City accepts, in writing, a competitive bid or quotation submitted by a supplier.
- 1.22 “Contractor”: means any person or entity whose competitive bid or quotation has been accepted by the City.
- 1.23 “Contract participation goal”: the value of the participation of a specific target group that a contractor must achieve in the performance of a contract, expressed as a percentage of the bid sum less provisional sums, contingencies and VAT.
- 1.24 “Day(s)”: means calendar days unless the context indicates otherwise.
- 1.25 “Delegated Authority”: means any person or committee delegated with authority by the City in terms of the provisions of the Municipal Finance Management Act.
- 1.26 “Designated sector”: means a sector, sub-sector or industry that has been designated by the Department of Trade and Industry in line with national development and industrial policies for local production, where only locally produced services, works or goods or locally manufactured goods meet the stipulated minimum threshold for local production and content.
- 1.27 “Evaluation of Bids”: in respect of bids that exceed R200 000, shall be deemed to take place when the Bid Evaluation Committee meets to make a recommendation to the Bid Adjudication Committee.
- 1.28 “Evaluation Points”: also referred to as “Adjudication Points” (see clause 1.1 above).
- 1.29 “Exempted Capital Asset”: means a municipal capital asset which is exempted by section 14(6) or 90(6) of the MFMA from the other provisions of that section.
- 1.30 “Exempted Micro Enterprise”: means a bidder with an annual total revenue of R5 million or less (in terms of the Broad-Based Black Economic Empowerment Act).
- 1.31 “Final Award”: in relation to bids or quotations submitted for a contract, means the final decision on which bid or quote to accept.

- 1.32 “Firm Price”: means the price that is only subject to adjustments in accordance with the actual increase or decrease resulting from the change, imposition, or abolition of customs or excise duty and any other duty, levy, or tax, which, in terms of the law or regulation, is binding on the contractor and demonstrably has an influence on the price of any supplies, or the rendering costs of any service, for the execution of the contract.
- 1.33 “Formal Written Price Quotation”, “Written Price Quotation”, “Quotation” or “Quote”: means a written or electronic offer to the City in response to an invitation to submit a quotation. Also referred to as “Bids”.
- 1.34 “Functionality”: means the measurement according to predetermined norms, as set out in the bid or quotation documents, of a service or commodity that is designed to be practical and useful, working or operating, taking into account, among other factors, the quality, reliability, viability and durability of a service and the technical capacity and ability of a bidder. “Functionality” is also referred to as “Quality”.
- 1.35 “Granting of Rights”: means the granting by the City of the right to use, control or manage capital assets in circumstances where sections 14 and 90 of the MFMA and Chapters 2 and 3 of the Municipal Asset Transfer Regulations do not apply. In other words, where the granting of such rights does not amount to “transfer” or “disposal” of the asset and which includes leasing, letting, hiring out, etc, of the capital asset.
- 1.36 “Green Procurement”: is defined as taking into account environmental criteria for goods and services to be purchased in order to ensure that the related environmental impact is minimised.
- 1.37 “Imported Content”: means that portion of the bid price represented by the cost of components, parts or materials which have been or are still to be imported (whether by the supplier or its sub-contractors) and which costs are inclusive of the costs abroad, plus freight and other direct importation costs, such as landing costs, dock dues, import duty, sales duty or other similar tax or duty at the South African port or entry.
- 1.38 “In the service of the state”: means:
- 1.38.1 a member of any municipal council, any provincial legislature or the National Assembly or the National Council of Provinces;
 - 1.38.2 an official of any municipality or municipal entity;

- 1.38.3 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, 1 of 1999;
 - 1.38.4 a member of the board of directors of any municipal entity;
 - 1.38.5 a member of the accounting authority of any national or provincial public entity; or
 - 1.38.6 an employee of Parliament or a provincial legislature.
- 1.39 “Joint Venture or Consortium”: means an association of persons formed for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract or contracts. The Joint Venture must be formalised by agreement between the parties.
- 1.40 “Local Content”: means that portion of the bid price which is not included in the imported content, provided that local manufacture does take place.
- 1.41 “Municipal Asset Transfer Regulations”: means the Municipal Asset Transfer Regulations published in Government Gazette 31346 of 22 August 2008.
- 1.42 “Municipal Entity”: means an entity as defined in the Systems Act.
- 1.43 “Municipal Finance Management Act” (MFMA): means the Local Government: Municipal Finance Management Act, 56 of 2003.
- 1.44 “Non-compliant Contributor”: means a person who does not meet the minimum score to qualify as a status level 8 B-BBEE Contributor, or a person who is not verified in terms of the required Sector Charter.
- 1.45 “Non-exempted Capital Asset”: means a municipal capital asset which is not exempted by section 14(6) or 90(6) of the MFMA, from the other provisions of that section.
- 1.46 “Non-firm Prices”: means all prices other than “firm” prices.
- 1.47 “Person”: includes a natural or legal entity.
- 1.48 “Policy”: means this Supply Chain Management Policy as amended from time to time.
- 1.49 “Preference points”: mean the points for preference referred to in this Policy.
- 1.50 “Preferential Procurement Policy Framework Act” (PPPFA): means the Preferential Procurement Policy Framework Act, 5 of 2000.

- 1.51 “Preferential Procurement Regulations”: means the regulations pertaining to the PPPFA.
- 1.52 “Prime Contractor”: shall have the same meaning as “Contractor”.
- 1.53 “Promotion of Administrative Justice Act”: means the Promotion of Administrative Justice Act, 3 of 2000.
- 1.54 “Quality”: also referred to as “Functionality” (see clause 1.34 above).
- 1.55 “Rand Value”: means the total estimated value of a contract in South African currency, calculated at the time of bid invitations, and includes all applicable taxes and excise duties.
- 1.56 “Republic”: means the Republic of South Africa.
- 1.57 “Responsible Agent”: means either an internal project manager (being an employee of the City) or an external consultant (appointed by the City), as the case may be, who is responsible for the implementation of a project or part thereof.
- 1.58 “SARS”: means the South African Revenue Services.
- 1.59 “Stipulated Minimum Threshold”: means that portion of local production and content as determined by the Department of Trade and Industry.
- 1.60 “Sub-contract”: means the prime contractor’s assigning, leasing, making out work to, or employing, another person to support such prime contractor in the execution of part of a project in terms of the contract.
- 1.61 “Sub-contractor”: means any person that is assigned, leased, employed or contracted by the prime contractor to carry out work in support of the prime contractor in the execution of a contract.
- 1.62 “Supplier/Vendor”: are generic terms which may include suppliers of goods and services, contractors and/or consultants.
- 1.63 “Supplier Database”: means the list of accredited prospective providers which a municipality or municipal entity must keep in terms of Regulation 14 of the Supply Chain Management Regulations.
- 1.64 “Supply Chain Management (SCM) Regulations”: means the Municipal Supply Chain Management Regulations published in terms of the Municipal Finance Management Act.
- 1.65 “Systems Act”: means the Local Government: Municipal Systems Act, 32 of 2000.

- 1.66 “Targeted Labour”: means those individuals employed by a contractor, or sub-contractor, in the performance of a contract, who are defined in the contract as the target group, and who permanently reside in the defined target area.
- 1.67 “Targeted Enterprises”: means those enterprises (suppliers, manufacturers, service providers or construction works contractors) that own, operate or maintain premises within the target area defined in the contract, for the purposes of carrying out their normal business operations.
- 1.68 “Tender/Tenderer”: means “bid/bidder”.
- 1.69 “Term Bid”: means a rates based bid for the supply of goods, services or construction works, which are of an ad-hoc or repetitive nature where the individual rates are approved for use over a predetermined period of time.
- 1.70 “Total Revenue”: bears the same meaning assigned to this expression in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act and promulgated in the Government Gazette on 9 February 2007.
- 1.71 “Transaction Value”: means the actual contract value (the bid sum or price) in South African currency, inclusive of all applicable taxes in respect of the goods, services or construction works that are contracted for.
- 1.72 “Treasury Guidelines”: means any guidelines on supply chain management issued by the Minister in terms of section 168 of the MFMA;
- 1.73 “Trust”: means the arrangement through which the property of one person is made over or bequeathed to a trustee to administer such property for the benefit of another person.
- 1.74 “Trustee”: means any person, including the founder of a trust, to whom property is bequeathed in order for such property to be administered for the benefit of another person.
- 1.75 “Unsolicited Bid”: means an offer submitted by any person at its own initiative without having been invited by the City to do so.
2. Words importing the singular shall include the plural and vice versa and words importing the masculine gender shall include females and words importing persons shall include companies, close corporations and firms, unless the context clearly indicates otherwise.
3. Unless otherwise indicated, all amounts/limits stated in this document shall be deemed to be inclusive of all applicable taxes.

POLICY STATEMENT

Introduction

4. Section 111 of the Municipal Finance Management Act requires each municipality and municipal entity to adopt and implement a supply chain management policy, which gives effect to the requirements of the Act.
5. In addition, the Preferential Procurement Policy Framework Act requires an Organ of State to determine its Preferential Procurement Policy and to implement it within the framework prescribed. This requirement is given effect to in the Preferential Procurement section of this Policy.

Goal

6. The goal of this Policy is to provide a mechanism to ensure sound, sustainable and accountable supply chain management within the City of Cape Town, whilst promoting black economic empowerment, which includes general principles for achieving the following socio-economic objectives:
 - 6.1 to stimulate and promote local economic development in a targeted and focused manner;
 - 6.2 to promote resource efficiency and reduce the negative environmental impact of daily operations of the City;
 - 6.3 to facilitate creation of employment and business opportunities for the people of Cape Town with particular reference to Broad-Based Black Economic Empowerment;
 - 6.4 to promote the competitiveness of local businesses;
 - 6.5 to increase the small business sector access, in general, to procurement business opportunities created by Council;

Objectives

7. The objectives of this Policy are:
 - 7.1 to give effect to section 217 of the Constitution of the Republic of South Africa by implementing a system that is fair, equitable, transparent, competitive and cost effective;
 - 7.2 to comply with all applicable provisions of the Municipal Finance Management Act including the Municipal Supply Chain Management Regulations published under GN868 in Government Gazette 27636 30 May 2005 and any National Treasury Guidelines issued in terms of the MFMA;

- 7.3 to ensure consistency with all other applicable legislation and any regulations pertaining thereto, including:
- 7.3.1 the Preferential Procurement Policy Framework Act;
 - 7.3.2 the Broad-Based Black Economic Empowerment Act;
 - 7.3.3 the Construction Industry Development Board Act;
 - 7.3.4 the Local Government: Municipal Systems Act; and
 - 7.3.5 the Promotion of Administrative Justice Act.
8. This Policy will also strive to ensure that the objectives for uniformity in supply chain management systems between organs of state, in all spheres, is not undermined and that consistency with national economic policy on the promotion of investments and doing business with the public sector is maintained.

Oversight

9. Section 117 of the Municipal Finance Management Act prohibits a City Councillor from being a member of a bid committee or any other committee evaluating or approving quotations or bids nor may a City Councillor attend any such meeting as an observer.
10. Council, however, has an oversight role to ensure that the City Manager implements this Supply Chain Management Policy.
11. The Executive Mayor must provide general political guidance over the fiscal and financial affairs of the City and must monitor and oversee the exercise of responsibilities assigned to the City Manager and chief financial officer in terms of the Municipal Finance Management Act.
12. For the purposes of such oversight, the City Manager shall, within 10 (ten) days of the end of each quarter, submit a report on the implementation of this Policy to the Executive Mayor and, within 30 days of the end of each financial year, shall submit a similar such report to Council.
13. In addition, if any serious and material problems arise in relation to the implementation of this Policy, the City Manager shall immediately report to Council accordingly.
14. All such reports shall be made public in accordance with section 21(1)(a) of the Systems Act.

Compliance with Ethical Standards

15. In order to create an environment where business can be conducted with integrity and in a fair and reasonable manner, this Policy will strive to ensure that the City Manager and all representatives of the City of Cape Town involved in supply chain management activities shall act with integrity and in accordance with the highest ethical standards.
16. All supply chain management representatives shall adhere to the code of conduct of municipal staff contained in schedule 2 of the Systems Act, and this Policy's Code of Ethical Standards.

GENERAL PROVISIONS AND APPLICATION OF POLICY

Commencement and Review

17. This Policy is effective from the date on which it is adopted by Council.
18. The City Manager must annually review the implementation of this Policy and if she/he considers it necessary, submit proposals for the amendment of the Policy to the Council for approval.

Application of Policy

19. This Policy applies to:
 - 19.1 the procuring of goods or services, including construction works and consultant services;
 - 19.2 the disposal by the City of goods no longer needed;
 - 19.3 the selection of contractors to provide assistance in the provision of municipal services otherwise than in circumstances where chapter 8 of the Systems Act applies; or
 - 19.4 the selection of external mechanisms referred to in section 80 (1) (b) of the Systems Act for the provision of municipal services in circumstances contemplated in section 83 of that Act.
20. Unless specifically stated otherwise, this Policy does not apply if the City contracts with another organ of state for:
 - 20.1 the provision of goods or services to the City;
 - 20.2 the provision of a municipal service; or
 - 20.3 the procurement of goods and services under a contract secured by that other organ of state, provided that the relevant supplier has agreed to such procurement.

A report shall nevertheless be submitted to the Bid Adjudication Committee seeking authority to contract with another organ of state.

21. The Policy provides for the following supply chain management systems:
 - 21.1 demand management system;
 - 21.2 acquisition management system;
 - 21.3 logistics management system;
 - 21.4 disposal management system;

- 21.5 risk management system;
 - 21.6 performance management system.
22. These systems must be adhered to in all supply chain management activities undertaken by the City.

Delegations

23. To the extent that it may be necessary, Council authorises the City Manager to delegate or sub-delegate to a staff member any power conferred on the City Manager in terms of the MFMA and the Supply Chain Management Regulations relating to supply chain management.
24. No decision-making in terms of any supply chain management powers and duties may be delegated to an advisor or consultant.

Competency

25. The City Manager shall ensure that all persons involved in the implementation of this Policy meet the prescribed competency levels, and where necessary, shall provide relevant training.
26. The training of officials involved in implementing this Policy shall be in accordance with any National Treasury guidelines on supply chain management training.

Supply Chain Management Unit

27. The City has established a Supply Chain Management Department to assist the City Manager to implement this Policy.

Communication with the City

28. All correspondence with regard to this Policy shall be addressed to the Director: Supply Chain Management.

Availability of Supply Chain Management Policy

29. A copy of this Policy and other relevant documentation is available on the City's website.

DEMAND MANAGEMENT SYSTEMS

Introduction

30. Demand management provides for an effective system to ensure that the resources required to support the strategic operational commitments of the City are delivered at the correct time, at the right price and at the right location, and that the quantity and quality satisfy the needs of the City.
31. The City's Integrated Development Plan (IDP) is a comprehensive strategy document setting out how the City intends to tackle its development challenges in a financial year. It is on the basis of the IDP that the resources of the municipality will be allocated and on which the budget is based.
32. In order to achieve effective demand management, the Director: Supply Chain Management shall continuously ensure:
 - 32.1 That efficient and effective provisioning and procurement systems and practices are implemented to enable the City to deliver the required quantity and quality of services to the communities.
 - 32.2 The establishment of uniformity in policies, procedures, documents and contract options and the implementation of sound systems of control and accountability.
 - 32.3 The development of a world-class professional supply chain management system which results in continuing improvement in affordability and value for money, based on total cost of ownership and quality of procurement as competition amongst suppliers is enhanced.
 - 32.4 In dealing with suppliers and potential suppliers, that the City shall respond promptly, courteously and efficiently to enquiries, suggestions and complaints.

Major Activities

33. Demand management lies at the beginning of the supply chain and the major activities associated with identifying demand are:
 - 33.1 establishing requirements;
 - 33.2 determining needs; and
 - 33.3 deciding on appropriate procurement strategies.
34. Demand management accordingly shall involve the following activities:
 - 34.1 understanding the future needs;

- 34.2 identifying critical delivery dates;
- 34.3 identifying the frequency of the need;
- 34.4 linking the requirement to the budget;
- 34.5 conducting expenditure analyses based on past expenditure;
- 34.6 determining requirements,
- 34.7 conducting commodity analyses in order to check for alternatives;
and
- 34.8 conducting industry analyses.

ACQUISITION MANAGEMENT SYSTEM

Introduction

35. The objectives of this acquisition management system are to ensure:
- 35.1 that goods and services, including construction works and consultant services are procured by the City only in accordance with the authorised procedures incorporated herein;
 - 35.2 that expenditure on goods and services, including construction works and consultant services is incurred in terms of an approved budget;
 - 35.3 that the threshold values of the different procurement procedures are complied with;
 - 35.4 that bid documentation, evaluation and adjudication criteria, and general conditions of contract are in accordance with the requirements of relevant legislation including, the Preferential Procurement Policy Framework Act, and any conditions of the Construction Industry Development Board Act; and
 - 35.5 that procurement guidelines issued by the National Treasury are taken into account.

General

Application

36. This acquisition management system contains the general conditions and procedures which are applicable, as amended from time to time, to all procurement, contracts, and orders for the City.

Supplier Database

37. The City Manager shall ensure that the City's supplier database is updated at least quarterly and at least once per year shall, through newspapers commonly circulating locally, the website of the City, and any other appropriate ways, invite prospective suppliers of goods and services, construction works and consultant services to apply for listing as an accredited prospective supplier.
38. Prospective suppliers shall however be allowed to submit applications and amendments for listing on the database at any time.
39. The listing criteria for accredited prospective suppliers are:
- 39.1 Name of supplier / service provider;
 - 39.2 Street address;

- 39.3 Postal address;
 - 39.4 Contact person in Sales Department;
 - 39.5 Sales Department's telephone number;
 - 39.6 Sales Department's fax number;
 - 39.7 Sales Department's cell number;
 - 39.8 Sales Department's email address;
 - 39.9 Contact person in Accounts Department;
 - 39.10 Accounts Department's telephone number;
 - 39.11 Accounts Department's fax number;
 - 39.12 Accounts Department's email address;
 - 39.13 Vat registration yes/no;
 - 39.14 Vat registration number;
 - 39.15 Bank details;
 - 39.16 Type of industry;
 - 39.17 Valid certification for specialised services;
 - 39.18 Valid tax clearance certificate;
 - 39.19 CIDB registration if applicable;
 - 39.20 Valid certification in respect of Exempted Micro Enterprises or B-BBEE Status Level of Contributor.
40. The City Manager shall disallow the listing of any prospective supplier on the City's supplier database who does not comply with the accreditation requirements based on standards, set by any relevant control bodies that govern or regulate the category of service or industry.
41. The City Manager shall disallow the listing of any prospective supplier whose name appears on the National Treasury's List of Restricted Suppliers and/or Register for Tender Defaulters and who is therefore prohibited from doing business with the public sector.
42. For quotations (up to and including R200 000) bidders are required to be registered on the City's supplier database prior to the acceptance of their quotation (the issue of an official order) in respect of the goods or services required.

43. Where bids exceed R200 000, bidders who are not registered on the City's Supplier Database are not precluded from submitting bids, but must however be registered prior to the evaluation of bids in order for their bids to be responsive.
44. All parties to a Joint Venture or Consortium must comply with the requirements of clauses 42 and 43 above.

Combating Abuse of the Supply Chain Management Policy¹

45. The City Manager shall take all reasonable steps to prevent abuse of the supply chain management system and to investigate any allegations against an official, or other role player, of fraud, corruption, favouritism, unfair, irregular or unlawful practices or failure to comply with the supply chain management system and when justified in terms of administrative law:
- 45.1 shall take appropriate steps against such official or other role player;
or
- 45.2 shall report any alleged criminal conduct to the South African Police Service;
- 45.3 may reject a recommendation for the award of a contract if the recommended bidder or person submitting a quote, or any of its directors, has committed a corrupt or fraudulent act in competing for the particular contract;
- 45.4 must invalidate recommendations or decisions that were unlawfully or improperly made, taken or influenced, including recommendations or decisions that were made, taken or in any way influenced by:
- 45.4.1 councillors in contravention of item 5 or 6 of the Code of Conduct for Councillors in schedule 1 of the Systems Act;
or
- 45.4.2 municipal officials in contravention of item 4 or 5 of the Code of Conduct for Municipal Staff Members set out in schedule 2 of the Systems Act.
- 45.5 may cancel a contract awarded to a person if:
- 45.5.1 the person committed a corrupt or fraudulent act during the procurement process or the execution of the contract;
or
- 45.5.2 an official or other role player committed any corrupt or fraudulent act during the procurement process or in the execution of the contract that benefited that person.

¹ In terms of Combating Abuse of Supply Chain Management System Policy
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46. The City Manager may reject the bid or quote of any person if that person or any of its directors has:
- 46.1 failed to pay municipal rates and taxes or municipal service charges and such rates, taxes and charges as are in arrears for more than three months;
 - 46.2 failed, during the last five years, to perform satisfactorily on a previous contract with the City or any other organ of state after written notice was given to that bidder that performance was unsatisfactory;
 - 46.3 abused the supply chain management system of the City or has committed any improper conduct in relation to this system;
 - 46.4 been convicted of fraud or corruption during the past five years;
 - 46.5 wilfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
 - 46.6 been listed on the National Treasury's Register for Tender Defaulters in terms of the Prevention and Combating of Corrupt Activities Act, 12 of 2004 or has been listed on the List of Restricted Suppliers and who is therefore prohibited from doing business with the public sector.
47. The City Manager shall inform the National and Provincial Treasury of any actions taken in terms of clauses 45 and 46 above.

Appointment of Observer

48. Where appropriate, the City Manager may appoint a neutral or independent observer in order to ensure fairness and transparency in the application of this acquisition management system.

Contracts Having Budgetary Implications beyond Three Financial Years

49. The City may not enter into any contract that will impose financial obligations beyond the three years covered in the annual budget for that financial year, unless the requirements of section 33 of the Municipal Finance Management Act have been fully complied with.

Proudly South African Campaign

50. The City supports the Proudly South African Campaign and may, where appropriate, aside from stipulating minimum local content thresholds determined by the Department of Trade and Industry in respect of designated sectors, determine minimum thresholds in respect of other sectors as well.

Specialised Forms of Procurement

Acquisition of Goods or Services from other Organs of State or Public Entities

51. In the case of goods or services procured from another organ of state or public entity (including the Department of Water Affairs, Eskom or any other such entities), such procurement shall be made public, giving details of the nature of the goods or services to be procured and the name/s of the supplier/s.

Acquisition of Goods and Services under Contracts secured by other Organs of State

52. The City Manager may procure goods or services under a contract secured by another organ of state, but only if:
- 52.1 the contract has been secured by that other organ of state by means of a competitive bidding process applicable to that organ of state;
 - 52.2 the municipality or entity has no reason to believe that such contract was not validly procured;
 - 52.3 there are demonstrable discounts or benefits for the municipality or entity to do so; and
 - 52.4 that other organ of state and the provider have consented to such procurement in writing.

Acquisition of Banking Services

53. Subject to section 33 of the Municipal Finance Management Act, any contract for the provision of banking services:
- 52.1 shall be procured through a competitive bidding process;
 - 52.2 shall be consistent with section 7 of the Municipal Finance Management Act; and
 - 52.3 may not be for a period longer than five years.
54. The process for procuring a contract for banking services must commence at least nine months before the end of an existing contract.

55. The closure date for the submission of bids for banking services may not be less than 60 days from the date on which the advertisement is placed in a newspapers commonly circulating locally.
56. Bids shall be restricted to banks registered in terms of the Banks Act, 94 of 1990.

Acquisition of IT Related Goods or Services

57. If the transaction value of IT related goods or services exceeds R50 million in any financial year, or if the transaction value of a single contract (whether for one or more years) exceeds R50 million, the City Manager must notify the State Information Technology Agency (SITA) together with a motivation of the IT needs of the City.
58. If SITA comments on the submission and the City disagrees with such comment, the comments and the reasons for rejecting or not following such comments must be submitted to the Council, the Provincial and National Treasury, and the Auditor-General prior to awarding the bid.
59. Notwithstanding the above, the City Manager may request the SITA to assist with the acquisition of IT related goods or services in which case the parties must enter into a written agreement to regulate the services provided by, and the payments to be made to, the SITA.

Acquisition of Goods Necessitating Special Safety Arrangements

60. Goods, other than water, which necessitate special safety arrangements (for example, flammable products, poisons), may not be acquired in excess of immediate requirements unless there is sound financial justification therefor.
61. Where the storage of goods, other than water in bulk is justified, the City Manager may authorise such storage and the decision must be based on sound reason including total cost of ownership and cost advantages for the City.

Public-Private Partnerships

62. Part 2 of chapter 11 of the MFMA applies to the procurement of public-private partnership agreements. Section 33 also applies if the agreement will have multi-year budgetary implications for the City within the meaning of that section.

Publications in the Media

63. In respect of any contract relating to the publication of official and legal notices and advertisements in the media by or on behalf of the City, there is no requirement for a competitive bidding process to be followed.

Community Based Vendors

64. The Director: Supply Chain Management may request quotations directly from Community Based Vendors in a specific area or from a specific community for the procurement of goods and services for amounts less than R30 000 (including construction works).

Range of Procurement Processes

65. Goods and services, including construction works and consultant services shall be procured through the range of procurement processes set out below.

Competitive Bids

66. Where the estimated transaction value exceeds R200 000, or for any contract exceeding one year in duration (which includes any defects liability period, if applicable).

Term Bids

67. For the supply of goods and services or construction works that is of an ad-hoc or repetitive nature for a predetermined period of time.

Formal Written Price Quotations

68. Where the estimated transaction value exceeds R10 000 and is less than or equal to R200 000.

Written Price Quotations

69. Where the estimated transaction value exceeds R2 000 and is less than or equal to R10 000.

Petty Cash Purchases

70. Where the transaction value is less than or equal to R2 000.

Procurement of Consulting Services

71. Where the estimated value of fees exceeds R200 000 or where the duration of the appointment will exceed one year, a competitive bidding process shall apply.
72. Where the estimated value of fees is less than or equal to R200 000 and the duration of the appointment will be less than one year, a selection process as described in this Policy, as amended from time to time, shall be applied.

Reduction in Threshold Values

73. The City Manager may:
- 73.1 lower, but not increase, the different threshold values specified in the acquisition management system of this Policy; or
 - 73.2 direct that:
 - 73.2.1 written quotations be obtained for any specific procurement of a transaction value lower than R2 000;
 - 73.2.2 formal written price quotations be obtained for any specific procurement of a transaction value lower than R10 000; or
 - 73.2.3 a competitive bidding process be followed for any specific procurement of a transaction value lower than R200 000.

Parcelling

74. The provision of goods, services or construction works may not deliberately be split into parts, or items of a lesser value, merely to avoid complying with the requirements of the different range of procurement processes described in this policy.

General Conditions Applicable to Bids and Quotations

75. The City shall not consider a bid or quote unless the bidder who submitted the bid or quote:
- 75.1 has furnished the City with that bidder's:
 - 75.1.1 full name;
 - 75.1.2 identification number or company or other registration number; and
 - 75.1.3 tax reference number; and
 - 75.1.4 VAT registration number, if any;
 - 75.1.5 certificate of attendance at a compulsory site inspection, where applicable;
 - 75.2 has submitted an original and valid tax clearance certificate certifying that the provider's tax matters are in order; and
 - 75.3 has indicated whether:
 - 75.3.1 the provider is in the service of the state, or has been in the service of the state in the previous twelve months;

- 75.3.2 if the provider is not a natural person, whether any of the directors, managers, principal shareholders or stakeholders is in the service of the state, or has been in the service of the state in the previous twelve months; or
 - 75.3.3 whether a spouse, child or parent of the provider or of a director, manager, shareholder or stakeholder referred to in sub-clause 75.3.2 is in the service of the state, or has been in the service of the state in the previous twelve months.
76. Irrespective of the procurement process, the City may not make any award above R15 000, to a person whose tax matters have not been declared by the SARS to be in order.
77. Before making an award the City must check with SARS if the person's tax matters are in order and, if SARS does not respond within seven days such person's tax matters may, for the purposes of clause 76, be presumed to be in order.
78. Irrespective of the procurement process followed, the City is prohibited from making an award to a person:
- 78.1 who is in the service of the state;
 - 78.2 if the person is not a natural person, of which any director, manager or principal shareholder or stakeholder is in the service of the state; or
 - 78.3 who is an advisor or consultant contracted with the City (refer to clause 95 in this regard).
79. The City Manager shall ensure that the notes to the annual financial statements of the City disclose particulars of any award above R2000 to a person who is a spouse, child or parent of a person in the service of the state, or who has been in the service of the state in the previous twelve months, including:
- 79.1 the name of the person;
 - 79.2 the capacity in which the person is in the service of the state: and
 - 79.3 the amount of the award.

Competitive Bids

General

80. Competitive bids must be called for any procurement of goods or services, construction works, or consultant services above a transaction value of R200 000, or for any contract exceeding one year in duration.

81. When determining transaction values, a requirement for goods or services, construction works or consultant services consisting of different parts or items must as far as possible be treated and dealt with as a single transaction.

Bid Specifications

82. Bid specifications must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services.
83. Bid specifications must take account of any accepted standards such as those issued by South African National Standards, the International Standards Organisation, or any authority accredited or recognised by the South African National Accreditation System with which the equipment or material or workmanship should comply.
84. Bid specifications shall, where possible, be described in terms of performance required rather than in terms of descriptive characteristics for design.
85. Bid specifications may not create trade barriers in contract requirements in the forms of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labelling of conformity certification.
86. Bid specifications may not make any 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 words "or equivalent".
87. Bid specifications must be approved by the City Manager or his delegated authority prior to publication of the invitation for bids.
88. Where specifications are based on standard documents available to bidders, a reference to those documents is sufficient.

Bid Specification Committee

89. All bid specifications and bid documentation must be compiled by an ad-hoc bid specification committee constituted for each project or procurement activity.
90. The Bid Specification Committee shall be comprised of at least three City officials, an appointed Chairperson, a responsible official and at least one Supply Chain Management Practitioner of the City.
91. Where appropriate a representative of Internal Audit and/or Legal Services and/or other specialist advisors (internal or external) may form part of this committee.

92. Green procurement must be incorporated as far as reasonable possible, for all specifications of goods, services and construction works.
93. In the development of bid specifications, innovative mechanisms should be explored to render the service or product more resource and energy efficient.
94. The City Manager, or his delegated authority, shall, taking into account section 117 of the MFMA, appoint the members of the Bid Specification Committees.
95. No person, advisor or corporate entity involved with the bid specification committee, or director of such corporate entity, may bid for any resulting contracts.
96. Bid Specification Committee meetings must be conducted in accordance with the applicable Terms of Reference, Rules of Order and Implementation Guidelines Regulating the Conduct of Meetings of Bid Specification, Evaluation and Adjudication Committees.

Compilation of Bid Documentation

97. If the bid relates to construction works as contemplated by the Construction Industry Development Board Act, then the requirements of that Act must be taken into account in the bid documentation.
98. General conditions of contract and supply chain management guidelines of the National Treasury in respect of goods and services must be taken into account when compiling bid documents.
99. Bid documentation must clearly indicate the terms and conditions of contract, specifications, criteria for evaluation and adjudication procedures to be followed where applicable, and include where, in exceptional circumstances, site inspections are compulsory.
100. An appropriate contract and/or delivery period must be specified for all contracts.
101. The requirements of the preferential procurement section of this Policy must be clearly set out in the bid documentation.
102. The bid documentation and evaluation criteria shall not be aimed at hampering competition, but rather to ensure fair, equitable, transparent, competitive and cost effective bidding, as well as the protection or advancement of persons, or categories of persons, as embodied in the preferential procurement section of this Policy.
103. The bid documentation must require a bidder to furnish the following:
 - 103.1 the bidders full name;
 - 103.2 the identification number or company or other registration number;

- 103.3 the bidders tax reference number and VAT registration number, if any; and
- 103.4 an original valid tax clearance from the South African Revenue Services stating that the bidders tax matters are in order.
- 104. Bid documentation must stipulate that disputes must be settled by means of mutual consultation, mediation (with or without legal representation) or, where unsuccessful, in a court of South African law.
- 105. A provision for the termination/cancellation of the contract in the case of non- or under-performance must be included in the bid documentation.
- 106. Unless otherwise indicated in the bid documents, the City shall not be liable for any expenses incurred in the preparation and/or submission of a bid.
- 107. Bid documentation must state that the City shall not be obliged to accept the lowest bid, any alternative bid or any bid.
- 108. Unless the City Manager otherwise directs bids are invited in the Republic only.
- 109. Laws of the Republic shall govern contracts arising from the acceptance of bids.
- 110. Where the acquisition in question is likely to involve an imported component which will be subject to foreign exchange rate adjustments, the bid documentation must specify that the contractor take out a forward exchange contract in order to fix the Rand based price as soon as possible after the award.
- 111. Bid documentation must compel bidders to declare any conflict of interest they may have in the transaction for which the bid is submitted.
- 112. The bid documentation must require bidders to disclose:
 - 112.1 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;
 - 112.2 if the bidder is not a natural person, whether any of its directors, managers, principal shareholders or stakeholder is in the service of the state, or has been in the service of the state in the previous twelve months; or
 - 112.3 whether a spouse, child or parent of the bidder or of a director, manager, shareholder or stakeholder referred to in sub-clause 112.2 is in the service of the state, or has been in the service of the state in the previous twelve months.
- 113. Bid documentation must require bidders to complete, sign and submit, together with their bid, a certificate of independent bid determination.

114. Bid documentation for consultant services must require bidders to furnish the City with particulars of all consultancy services, and any similar services (to the services being bid for) provided to an organ of state in the last five years.
115. Bid documentation for consultant services must ensure that copyright in any document produced, and the patent rights or ownership in any plant, machinery, item, system or process designed or devised by a consultant in terms of an appointment by the City, shall vest in the City.
116. Bid documentation must state that the responsibility for registration and verification on the City's supplier database rests solely with the bidder.

Bids exceeding R10 million

117. If the estimated value of the transaction exceeds R10 million, the bid documentation must require the bidders to furnish:
 - 117.1 if the bidder is required by law to prepare annual financial statements for auditing, their audited annual financial statements -
 - 117.1.1 for the past three years, or
 - 117.1.2 since their establishment if established during the past three years,
 - 117.2 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,
 - 117.3 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, and
 - 117.4 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 City is expected to be transferred out of the Republic.

Alternative Bids

118. Bid documentation may state that alternative bids can be submitted provided that a bid free of qualifications and strictly in accordance with the bid documents is also submitted.
119. An alternative bid shall be submitted on a separate complete set of bid documents and shall be clearly marked "Alternative Bid" to distinguish it from the unqualified bid referred to above.
120. Bid documentation shall state that the City will not be bound to consider alternative bids.

Public Invitation for Competitive Bids

121. On completion of the bid specification process the City shall publicly invite bids.
122. Bid invitation shall be by notice published in the media.
123. The notice shall, as soon as possible after the publication contemplated above, be posted on official notice boards designated by the City Manager.
124. The notice may require payment of a non-refundable bid fee by bidders wanting to collect bid documents. This bid fee shall be determined by the Director: Supply Chain Management from time to time.
125. The notice contemplated by clause 122 above shall specify:
 - 125.1 the title of the proposed contract and the bid or contract reference number;
 - 125.2 such particulars of the contract as the City deems fit;
 - 125.3 the date, time and location of any site inspection, if applicable;
 - 125.4 the place where the bid documentation is available for collection and the times between which bid documentation may be collected;
 - 125.5 that bids may only be submitted on the bid documentation provided by the City;
 - 125.6 the deposit payable, if any;
 - 125.7 the place where bids must be submitted;
 - 125.8 the closing date and time for submission of bids; and
 - 125.9 the required CIDB contractor grading for construction work.
126. The notice shall further state that all bids for the contract must be submitted in a sealed envelope on which it is clearly stated that such envelope contains a bid and the contract title and contract or bid reference number for which the bid is being submitted.
127. Bid documentation shall be available for collection until the closing date of bids.

Issuing of Bid Documents

128. Bid documents and any subsequent notices may only be issued by officials designated by the Director: Supply Chain Management from time to time.

129. Details of all prospective bidders who have been issued with bid documents must be recorded by the issuing office but shall remain **confidential** for the duration of the bid period.
130. Details of prospective bidders must, wherever possible, include the full name of the person drawing documents, a contact person, a contact telephone and fax number and a postal and email address.

Site Inspections/Bid Clarification Meetings

131. Site inspections/clarification meetings in respect of bids exceeding R200 000 will, in general, not be compulsory. In exceptional circumstances however, a site inspection/clarification meeting may be made compulsory with the approval of the Director: Supply Chain Management, provided that the minimum bid period is extended by at least 7 (seven) days (refer to clauses 160 to 162 in this regard).
132. If site inspections/clarification meetings are to be held, full details must be included in the bid notice, including whether or not the site inspection/clarification meeting is compulsory.
133. Where site inspections/clarification meetings are made compulsory, the date for the site inspection/clarification meeting shall be at least 14 (fourteen) days after the bid has been advertised, and a certificate of attendance signed by the Responsible Agent must be submitted with the bid.
134. If at a site meeting/clarification meeting, any additional information is provided or clarification of vague points is given, such additional information or clarification must be conveyed to all bidders in accordance with clauses 167 to 169 of this Policy.

Two-stage (Prequalification) Bidding Process

135. In a two-stage (prequalification) bidding process, bidders are first invited to prequalify in terms of predetermined criteria, without being required to submit detailed technical proposals (where applicable) or a financial offer.
136. In the second stage, all bidders that qualify in terms of the predetermined criteria will be shortlisted and invited to submit final technical proposals (where applicable) and/or a financial offer.
137. This process may be applied to bids for large complex projects of a specialist or long term nature or where there are legislative, design, technological and/or safety reasons to restrict bidding to firms who have proven their capability and qualification to meet the specific requirements of the bid, including projects where it may be undesirable to prepare complete detailed technical specifications or long term projects with a duration exceeding three years.
138. The notice inviting bidders to pre-qualify must comply with the provisions of public invitation for competitive bids (clauses 121 to 127 refer).

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

Two Envelope System

140. A two envelope system differs from a two-stage (prequalification) bidding process in that a technical proposal and the financial offer are submitted in separate envelopes at the same place and time. The financial offers will only be opened once the technical proposals have been evaluated (clauses 187 to 192 refer).

Validity Periods

141. The period for which bids are to remain valid and binding must be indicated in the bid documents.
142. The validity period is calculated from the bid closure date and bids shall remain in force and binding until the end of the final day of that period.
143. This period of validity may be extended by the Director: Supply Chain Management, provided that the original validity period has not expired, and that all bidders are given an opportunity to extend such period. Any such extension shall be agreed to by a bidder in writing.
144. Bidders who fail to respond to such a request before the validity of their bid expires, or who decline such a request shall not be considered further in the bid evaluation process.
145. The Director: Supply Chain Management must ensure that all bidders are requested to extend the validity period of their bids where necessary in order to ensure that the bids remain valid throughout the 21 day appeal period described in clause 230.
146. In the event that an appeal in terms of clause 230 is received, the validity period is deemed to be extended until finalisation of the appeal.

Contract Price Adjustment

147. For all contract periods equal to or exceeding one year, an appropriate contract price adjustment formula must be specified in the bid documents.
148. In general, if contract periods do not exceed one year, the bid shall be a fixed price bid and not subject to contract price adjustment.
149. However, if as a result of any extension of time granted, the duration of a fixed price contract exceeds one year, the contract will automatically be subject to contract price adjustment for that period by which the extended contract period exceeds such one year. An appropriate contract price adjustment formula must be specified in the bid documents.

150. Notwithstanding clause 148, if the bid validity period is extended, then contract price adjustment may be applied.

Contracts providing for Compensation Based on Turnover

151. If a service provider acts on behalf of the City 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 City must stipulate;

151.1 a cap on the compensation payable to the service provider; and

151.2 that such compensation must be performance based.

Provisional Sums and Prime Cost or Sub-contract Allowances

152. Where monetary allowances in excess of R200 000 in respect of provisional sums or prime cost items have been included in the bid documents, and where the work or items to which the sums relate are to be executed/supplied by sub-contractors/suppliers, then one of the following processes, as determined by the Bid Specification Committee, shall be followed in respect of these allowances:

152.1 An **open competitive bidding process** in which bid documents are prepared by the Responsible Agent in consultation with and to the approval of the contractor, invitations to bid are advertised in the media, and whereby the **selected sub-contractor/supplier** is chosen by the Responsible Agent together with the contractor from the responses received. The contractor must satisfy him/herself that the selected sub-contractor/supplier can meet the requirements of the sub-contract/supply agreement, and assumes the risk for the performance of the sub-contractor/supplier. The contractor may, on reasonable grounds, elect not to employ a particular sub-contractor/supplier.

152.2 A **two-stage selection process**, whereby the Responsible Agent will advertise (in the media) for expressions of interest from suitably qualified sub-contractors/suppliers. From the responses received, the Responsible Agent and the contractor, in conjunction, shall compile a list of at least three (unless less than three responses were received) suitable sub-contractors/suppliers who will then be asked to submit prices for the works/items required. The contractor will assume the risk for the performance of the **selected sub-contractor/supplier** identified through this process.

- 152.3 A **nominated process**, whereby the City instructs the contractor to appoint a particular (typically specialist) sub-contractor/supplier. In this process the sub-contractor/supplier is a **nominated sub-contractor/supplier**, and the risk is transferred from the contractor to the City. The use of this process must therefore be motivated to, and approved by, the Director: Supply Chain Management prior to its implementation.

A preference point system (as described later in this policy) must be applied in all of the above selection processes.

153. When monetary allowances of less than R200 000 have been included in the bid documents, and where the work or items to which the sums relate are to be executed/supplied by sub-contractors/suppliers, the contractor must be required to obtain a minimum of three written quotations for approval by the Responsible Agent.

Samples

154. Where samples are called for in the bid documents, samples (marked with the bid and item number as well as the bidder's name and address) shall be delivered separately (to the bid) to the addressee mentioned in the bid documents.
155. Bids may not be included in parcels containing samples.
156. If samples are not submitted as required in the bid documents or within any further time stipulated by the Chairperson of the Bid Evaluation Committee in writing, then the bid concerned may be declared non-responsive.
157. Samples shall be supplied by a bidder at his/her own expense and risk. The City shall not be obliged to pay for such samples or compensate for the loss thereof, unless otherwise specified in the bid documents, and shall reserve the right not to return such samples and to dispose of them at its own discretion.
158. If a bid is accepted for the supply of goods according to a sample submitted by the bidder, that sample will become the contract sample. All goods/materials supplied shall comply in all respects to that contract sample.

Closing of Bids

159. Bids shall close on the date and at the time stipulated in the notice.
160. For bids (excluding quotations) for goods and services the bid closing date must be at least 14 (fourteen) days after publication of the notice.
161. For bids (excluding quotations) for construction works the bid closing date must be at least 21 (twenty one) days after publication of the notice.

162. Notwithstanding the above, if the estimated contract value exceeds R10 million, or if the contract is of a long term nature with a duration period exceeding one year, then the bid closing date must be at least 30 (thirty) days after publication of the notice.
163. For banking services, the bid closing date must be at least 60 (sixty) days after publication of the notice.
164. For proposal calls using a two envelope system, the bid closing date must be at least 30 (thirty) days after publication of the notice.
165. The bid closing date may be extended by the Director: Supply Chain Management if circumstances justify this action; provided that the closing date may not be extended unless a notice is published in the press prior to the original bid closing date. This notice shall also be posted on the official notice boards designated by the City Manager, and a notice to all bidders to this effect shall be issued.
166. The City Manager may determine a closing date for the submission of bids which is less than any of the periods specified in clauses 160 to 164 above, 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.

Communication with bidders before bid closing

167. The Bid Specification Committee Chairperson may, if necessary, communicate with bidders prior to bids closing.
168. Such communication shall be in the form of a notice issued to all bidders by the Director: Supply Chain Management by either e-mail, facsimile, or registered post as appropriate. A copy of the notice together with a transmission verification report/proof of posting shall be kept for record purposes. Notices should be issued at least one week prior to the bid closing date, where possible.
169. Notwithstanding a request for acknowledgement of receipt of any notice issued, the bidder will be deemed to have received such notice if the procedures in clause 168 have been complied with.

Submission of Bids

170. Bids must be submitted before the closing time, at the address and in accordance with the directives in the bid documents.
171. Each bid must be in writing using non-erasable ink and must be submitted on the official Form of Bid/Offer issued with the bid documents.

172. The bid must be submitted in a separate sealed envelope with the name and address of the bidder, the bid number and title, the bid box number (where applicable), and the closing date indicated on the envelope. The envelope may not contain documents relating to any bid other than that shown on the envelope. Only sealed bids will be accepted.
173. The onus shall be on the bidder to place the sealed envelope in the official, marked and locked bid box provided for this purpose, at the designated venue, not later than the closing date and time specified in the bid notice.
174. No bids forwarded by telegram, facsimile or similar apparatus shall be considered. However, photostat copies of bids or facsimiles which are submitted in the prescribed manner will be considered, provided the original Forms of Bid/Offer can be shown to have been posted or couriered prior to the close of bids.
175. Electronic bids will not be accepted.
176. The bidder shall choose a *domicilium citandi et executandi* in the Republic and unless notice of the change thereof has duly been given in writing, it shall be the address stated in the bid.
177. No person may amend or tamper with any bids or quotations after their submission.

Late Bids

178. A bid is late if it is not placed in the relevant bid box by the closing time for such bid.
179. A late bid shall not be admitted for consideration and shall be returned unopened (where feasible) to the bidder with the reason for the return thereof endorsed on the envelope.

Opening of Bids

180. At the specified closing time on the closing date the applicable bid box shall be closed.
181. The bid box shall be opened in public as soon as practical after the closing time.
182. Immediately after the opening of the bid box, all bids shall be opened in public and checked for compliance.
183. The official opening the bids shall read out the name of the bidder, and, if practical, the amount of the bid and the preference claimed.
184. As soon as a bid or technical proposal has been opened:

- 184.1 the bid/proposal shall be stamped with the official stamps, and endorsed with the opening official's signature;
 - 184.2 the name of the bidder, and where possible, the bid sum shall be recorded in a bid opening record kept for that purpose; and
 - 184.3 the responsible official who opened the bid shall forthwith place his/her signature on the bid opening record.
185. Bids found to be inadvertently placed in the incorrect bid box will be redirected provided that the applicable bids either closed on the same day at the same time, or are still open (in which case the City disclaims any responsibility for seeing that the bids are in fact lodged in the correct bid box).
186. Bids received in sealed envelopes in the bid box without a bid number or title on the envelope will be opened at the bid opening and the bid number and title ascertained. If the bid was in the correct bid box it will be read out. If the bid is found to be in the incorrect bid box, it will be redirected provided that the applicable bids either closed on the same day at the same time, or are still open. If the bid closes at a later date, the bid will be placed in a sealed envelope with the bid number and title endorsed on the outside, prior to being lodged in the applicable box. The City however disclaims any responsibility for seeing that the bid is in fact lodged in the correct box.

Opening of Bids where a Two Envelope System (consisting of a technical proposal and a financial proposal) is followed

187. If a two envelope system is followed, only the technical proposal will be opened at the bid opening.
188. The unopened envelope containing the financial proposal shall be stamped and endorsed with the opening official's signature, and be retained by him/her for safekeeping.
189. When required the financial offers/bids corresponding to responsive technical proposals, shall be opened by the opening official in accordance with clauses 183 and 184.
190. All bidders who submitted responsive technical proposals must be invited to attend the opening of the financial offers/bids.
191. Envelopes containing financial offers/bids corresponding to non-responsive technical proposals shall be returned unopened along with the notification of the decision of the Bid Adjudication Committee in this regard (clause 233 refers).
192. After being recorded in the bid opening record, the bids/technical proposals shall be handed over to the official responsible for the supervision of the processing thereof and that official shall acknowledge receipt thereof by signing the bid opening record.

Invalid Bids

193. Bids shall be invalid, and shall be endorsed and recorded as such in the bid opening record by the responsible official appointed by the Director: Supply Chain Management to open the bid, in the following instances:
- 193.1 If the bid is not sealed;
 - 193.2 the bid, including the bid price amount, where applicable is not submitted on the official Form of Bid/Offer;
 - 193.3 if the bid is not completed in non-erasable ink;
 - 193.4 if the Form of Bid/Offer has not been signed;
 - 193.5 if the Form of Bid/Offer is signed, but the name of the bidder is not stated, or is indecipherable; or
 - 193.6 if in a two envelope system, the bidder fails to submit both a technical proposal and a separate sealed financial offer/bid.
194. When bids are declared invalid at the bid opening, the bid sum of such bids shall not be read out. However, the name of the bidder and the reason for the bid having been declared invalid shall be announced.

Bid Sum

195. A bid will not necessarily be invalidated if the amount in words and the amount in figures do not correspond, in which case the amount in words shall be read out at the bid opening.
196. All rates, with the exception of rates only bids, and proprietary information are confidential and shall not be disclosed.

Bid Evaluation

Bid Evaluation Committee

197. An ad-hoc Bid Evaluation Committee shall be constituted for each project or procurement activity to evaluate bids received.
198. The Bid Evaluation Committee shall be comprised of at least three City officials, an appointed Chairperson (who may be the same person as the Chairperson of the Bid Specification Committee), a responsible official and at least one Supply Chain Management Practitioner of the City.
199. Where appropriate, a representative of Internal Audit and/or Legal Services may form part of this committee, which may also include other internal specialists/experts as necessary. External specialists/experts may advise the Bid Evaluation Committee, as required.

200. The City Manager, or his delegated authority, shall, taking into account section 117 of the MFMA, appoint the members of the Bid Evaluation Committees.
201. Bid Evaluation Committee meetings must be conducted in accordance with the applicable Terms of Reference, Rules of Order and Implementation Guidelines Regulating the Conduct of Meetings of Bid Specification, Evaluation and Adjudication Committees.

Bid Evaluation

202. The Responsible Agent shall carry out a preliminary evaluation of all valid bids received and shall submit a draft bid evaluation report to the Bid Evaluation Committee for consideration.
203. Any evaluation of a bid shall consider the bids received and shall note for inclusion in the evaluation report, a bidder:
 - 203.1 whose bid was endorsed as being invalid by the City official presiding over the bid opening;
 - 203.2 whose bid does not comply with the provisions for combating abuse of this Policy;
 - 203.3 who has failed to submit a certificate of independent bid determination, either with the bid, or within such time for submission stated in the City's written request to do so.
 - 203.4 whose bid does not comply with the general conditions applicable to bids and quotations of this Policy;
 - 203.5 whose bid is not in compliance with the specification;
 - 203.6 whose bid does meet the minimum score for functionality, if applicable;
 - 203.7 whose bid is not in compliance with the terms and conditions of the bid documentation;
 - 203.8 who is not registered and verified on the City's supplier database;
 - 203.9 who, in the case of construction works acquisitions, does not comply with the requirements of the Construction Industry Development Board Act regarding registration of contractors;
 - 203.10 who has failed to submit an original and valid tax clearance certificate from the South African Revenue Services (SARS) certifying that the taxes of the bidder are in order or that suitable arrangements have been made with SARS, and

- 203.11 who fails to comply with any applicable Bargaining Council agreements.
204. Bids shall be evaluated according to the following as applicable:
- 204.1 bid price, excluding VAT (corrected if applicable and brought to a comparative price where necessary),
 - 204.2 the unit rates and prices,
 - 204.3 the bidder's ability to execute the contract,
 - 204.4 any qualifications to the bid,
 - 204.5 the bid ranking obtained in respect of preferential procurement as required by this Policy,
 - 204.6 the financial standing of the bidder, including its ability to furnish the required institutional guarantee, where applicable,
 - 204.7 any other criteria specified in the bid documents.
205. No bidder may be recommended for an award unless the bidder has demonstrated that it has the necessary resources and skills required to fulfil its obligations in terms of the bid document.
206. The Bid Evaluation Committee shall check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not in arrears.
207. Additional information or clarification of bids may be called for if required but only in writing.
208. Alternative bids may be considered, provided that a bid free of qualifications and strictly in accordance with the bid documents is also submitted. The City shall not be bound to consider alternative bids.
209. If a bidder requests in writing, after the closing of bids, that his/her bid be withdrawn, then such a request may be considered and reported in the bid evaluation report for decision by the Bid Adjudication Committee.
210. Adjudication points calculated in terms of the preference point system described in this policy must be rounded off to the nearest two decimal places.
211. The responsive bid that scores the highest number of adjudication points must be recommended for acceptance unless objective criteria, in addition to those specific goals contemplated in section 2 of the PPPFA, justify the acceptance of another bid.

212. If, after bids have been brought to a comparative price, two or more score equal total adjudication points, the recommended bidder shall be the one scoring the highest number of preference points for B-BBEE.
213. When functionality is part of the evaluation process and two or more bids have scored equal points, including equal preference points for B-BBEE, the recommended bidder shall be the one scoring the highest score for functionality.
214. If two or more bids are equal in all respects, the Bid Evaluation Committee shall draw lots to decide on the recommendation for award, or may, in the case of goods and services, recommend splitting the award proportionately, where applicable.
215. All disclosures of a conflict of interest shall be considered by the Bid Evaluation Committee and shall be reported to the Bid Adjudication Committee.

Recommendation to Bid Adjudication Committee

216. The Bid Evaluation Committee shall, having considered the Responsible Agent's draft bid evaluation report, submit a report, including recommendations regarding the award of the bid or any other related matter, to the Bid Adjudication Committee for award.

Bid Adjudication

General

217. The City shall not be obliged to accept any bid.
218. For goods and services bids, the City shall have the right to accept the whole bid or part of a bid or any item or part of an item or accept more than one bid.

Bid Adjudication Committee

219. The Bid Adjudication Committee shall comprise at least four senior managers, and shall include:
- 219.1 the Chief Financial Officer or a Manager designated by the Chief Financial Officer;
 - 219.2 at least one senior supply chain management practitioner of the City; and
 - 219.3 a technical expert in the relevant field who is an official of the City, if the City has such an expert.
220. The City Manager shall appoint the members and chairperson of the Bid Adjudication Committee. If the chairperson is absent from a meeting, the members of the committee who are present shall elect one of the committee members to preside at the meeting.

221. Neither a member of a Bid Specification Committee, Bid Evaluation Committee, nor an advisor or person assisting such committees, may be a member of a Bid Adjudication Committee.

Adjudication and Award

222. The Bid Adjudication Committee shall consider the report and recommendations of the Bid Evaluation Committee and make a final award or make another recommendation to the City Manager on how to proceed with the relevant procurement.
223. The Bid Adjudication Committee may make an award to a preferred bidder(s), subject to the City Manager negotiating with the preferred bidder(s) in terms of clause 236 of this Policy.
224. The City Manager may at any stage of the bidding process, refer any recommendation made by the Bid Evaluation or Bid Adjudication Committee back to that committee for reconsideration of the recommendation.

Approval of Bid not Recommended

225. If a 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:
- 225.1 check in respect of the preferred bidder whether that bidder's municipal rates and taxes and municipal service charges are not in arrears;
- 225.2 check in respect of the preferred bidder that it has the necessary resources and skills required to fulfil its obligations in terms of the bid document.
- 225.3 notify the City Manager.
226. The City Manager may:
- 226.1 after due consideration of the reasons for the deviation ratify or reject the decision of the Bid Adjudication Committee referred to in clause 225 above.
- 226.2 If the decision of the Bid Adjudication Committee is rejected, refer the decision of the adjudication committee back to that committee for consideration.
227. If a bid other than the one recommended in the normal course of implementing this Policy is approved, then the City Manager must, in writing and within ten working days, notify the Auditor-General, the Provincial Treasury and the National Treasury of the reasons for deviating from such recommendation.

228. The requirement of clause 225.3 does not apply if a different bid was approved in order to rectify an irregularity.

Reconsideration of Recommendations

229. The City Manager may, at any stage of a bidding process, refer any recommendation made by the Bid Evaluation Committee or Bid Adjudication Committee back to that Committee for reconsideration of the recommendation.

Right of Appeal

230. In terms of Section 62 of the Systems Act, a person whose rights are affected by a decision taken by the City, in terms of a delegated authority, in the implementation of its supply chain management system, may appeal against that decision by giving written notice of the appeal and reasons to the City Manager within 21 days of the date of receipt of the notification of the decision.
231. Bid documents must state that any appeal in terms of clause 230 must be submitted to the City Manager at the address stated, and must contain the following:
- 231.1 reasons and/or grounds for the appeal;
 - 231.2 the way in which the appellants rights have been affected; and
 - 231.3 the remedy sought by the appellant.
232. No bid shall be formally accepted until either the expiry of the 21 day appeal period, or confirmation in writing before the expiry of the 21 day appeal period that none of the affected parties intend to appeal, or confirmation of the satisfactory resolution of any appeals.

Notification of Decision

233. If the Bid Adjudication Committee or other delegated official has resolved that a bid be accepted, the successful and unsuccessful bidders shall be notified in writing of this decision.
234. The successful bidder shall, in addition, be advised of the 21 day appeal period, and be notified that no rights accrue to him/her until the bid is formally accepted in writing.
235. Every notification of decision shall be faxed or sent via electronic mail to the address chosen by the bidder, with a copy of proof of transmission kept for record purposes, or shall be delivered by hand, in which case acknowledgement of receipt must be signed and dated on a copy of such notification and kept for record purposes.

Negotiations with Preferred Bidders

236. The City Manager may negotiate the final terms of a contract with bidders identified through a competitive bidding process as preferred bidders provided that such negotiation:
- 236.1 does not allow any preferred bidder a second or unfair opportunity;
 - 236.2 is not to the detriment of any other bidder; and
 - 236.3 does not lead to a higher price than the bid as submitted.
237. Minutes of such negotiations must be kept for record purposes.

Cancellation and re-invitation of Bids

238. A bid may be cancelled, prior to the award of the contract, if:
- 238.1 due to changed circumstances, there is no longer a need for the goods, services or construction works requested;
 - 238.2 funds are no longer available to cover the total envisaged expenditure; or
 - 238.3 no acceptable bids are received.
239. It is a requirement that in the event of:
- 239.1 An **80/20** preference point system having been stipulated in the bid documents, and all bids received **exceed a value of R1 000 000**; or
 - 239.2 A **90/10** preference point system having been stipulated in the bid documents, and all bids received **are equal to, or below a value of R1 000 000**,
- then the bid must be cancelled, and new bids must be invited.
240. Bids cancelled in terms of clause 239 above, must be re-advertised, with the correct preference point system clearly stipulated in the bid documents.
241. If it becomes necessary to cancel or re-advertise formal bids, then a report to this effect shall be submitted to the Bid Adjudication Committee for decision.
242. If a bid has been cancelled, then all bidders must be notified in writing.
243. A decision to cancel a bid in terms of clause 238 above must be published in the media in which the original bid invitation was advertised.
244. It is not necessary to notify original bidders when calling for new bids, which will be advertised in accordance with clause 122.

245. Unless no valid bids have been received, no bid may be re-advertised before the Bid Adjudication Committee has resolved to cancel the original bid, and all bidders have been notified accordingly.
246. In the case of bids for construction related works, and where the Bid Adjudication Committee resolved that there were no responsive bids received, then the bid may be re-advertised forthwith.

Increase in Contract Period or Contract Sum

247. Any increase in the contract period or contract sum that may become necessary as a result of exceptional circumstances, or which are considered to be in the public's interest, may be approved by the Bid Adjudication Committee. Such approval must be obtained prior to the contract period expiring or contract sum being exceeded.
248. Any unapproved increases in the contract sum that have become necessary as a result of exceptional circumstances, or which have been considered to be in the public's interest, must be explained in a report to the Bid Adjudication Committee requesting condonation and approval for such unapproved increase.
249. Any unapproved increase in the contract period must be dealt with in accordance with clause 290.

Term Bids

General

250. It is permissible to invite bids for the supply of goods and services or construction works that is of an ad-hoc or repetitive nature, for a predetermined period of time (commonly referred to as a term bid).
251. The general acquisition procedure for term bids shall comply with procedures contained in the acquisition management system for competitive bids.
252. Bid documentation, where applicable, shall state that the acceptance of term bids based on a schedule of rates will not necessarily guarantee the bidder any business with the City.
253. The practice of using term bids to circumvent the bid process in respect of what should be planned project work is not permissible.
254. Material for repairs and maintenance can be purchased on a term bid where circumstances warrant it.
255. Additional items included in a term bid by any bidder which are clearly not an alternative to any of the items specified shall not be considered.

Evaluation and Adjudication of Term Bids

256. The process for considering term bids shall be in terms of the evaluation and adjudication procedures for conventional competitive bids.
257. Subsequent to award, where different selections of items are required in terms of the same term bid and it is not possible or practical to separate orders for different items from different suppliers, service providers or contractors (in the case of construction works, for example), then a selection process will have to be carried out in respect of each application by the Responsible Agent. Individual orders will then be placed (or contracts awarded) on the basis of the highest total evaluation points received, per application.
258. If the selected supplier, contractor or service provider, in terms of the selection process specified in the term bid documentation, is unable to provide the required goods, services or construction works at the required time and confirms as such in writing then the bidder with the next highest evaluation points shall be selected. If after a contract is awarded, or an order is placed in terms of a term bid, the supplier, contractor or service provider fails to supply the goods or service required, then the remedies in terms of the contract shall apply.

Formal Written Price Quotations

General

259. Where the City intends to enter into any contract which is for the supply of any goods or services, or the execution of any construction work which involves or is likely to involve a transaction value over R10 000 and up to R200 000, then a minimum of three written quotes shall be obtained from providers who are suitably qualified and experienced, having the necessary resources, and who are registered and verified on the City's supplier database. Quotations may be obtained from providers who are not listed on the City's supplier database, provided that such providers must meet the listing criteria referred to in this Policy.
260. A preference point system, as described in the preferential procurement section of this Policy, must be applied to such quotations.
261. Any request for a formal written quotation which is likely to be in excess of R30 000 must be advertised for at least 7 (seven) days on the City's official website and an official notice board as applicable.
262. Notwithstanding clause 259, if quotations have been invited on the City's official website, no additional quotes need to be obtained should the number of responses be less than three.

263. If it is not possible to obtain at least three written quotations, the reasons must be recorded and approved by the Director: Supply Chain Management who must, within three days of the end of the month, report to the Chief Financial Officer on any approvals given during that month in this regard.
264. The names of the potential providers and their written quotations must be recorded.

Quotation Documentation

265. All quotation documentation, where practicable, shall comply with the requirements of bid documentation contained in the acquisition management system for competitive bids.

Validity Periods

266. The provisions of clauses 141 to 146 of this Policy shall apply *mutatis mutandis* with regard to quotations.

Quotation Prices

267. In general, all quotations should be submitted on a fixed price basis (not subject to contract price adjustment). Only in exceptional circumstances may contract price adjustment be applied.

Submission of Quotations

268. Quotation documents issued by the City shall clearly state the place where such documents must be submitted and the date and time by when they must be submitted.

Closing of Quotations

269. Quotations shall close on the date and at the time stipulated on the request for quotations.
270. The closing date for quotations less than or equal to R30 000 in value must be at least 2 (two) days after publication of the request for quotations.
271. The closing date for quotations greater than R30 000 in value must be at least 7 (seven) days after publication of the request for quotations.
272. No quotations submitted after any stipulated closing date and time shall be considered.

Opening of Quotations (where lodged in a quotation box)

273. The provisions of clauses 180 to 186 of this Policy shall apply with regard to quotations that are required to be lodged in a quotation box.

Consideration and Acceptance of Quotations

274. All orders in respect of formal written price quotations shall be approved and released by the City Manager or his delegated authority.

Written Price Quotations

General

275. Where the City intends to procure any goods or services, which involves a transaction value over R2 000 and up to R10 000, written price quotations shall be obtained from at least three different providers preferably from, but not limited to, providers whose names appear on the supplier database, provided that if quotations are obtained from providers who are not listed, such providers must meet the listing criteria referred to in this Policy.
276. A preference point system, as described in the preferential procurement section of this Policy, must be applied to such quotations.
277. If it is not possible to obtain at least three written quotations, the reasons must be recorded and approved by the Director: Supply Chain Management who must, within three days of the end of the month, report to the Chief Financial Officer on any approvals given during that month in this regard.
278. The names of the potential providers requested to provide quotations and their written quotations must be recorded.
279. All orders in respect of written price quotations shall be approved and released by the City Manager, or his delegated authority.

Petty Cash Purchases

General

280. Where there is a need to purchase any goods or services using a petty cash system, which involves a transaction value up to R2 000, the City's Procedures and Guidelines for Petty Cash Purchases shall be adhered to.
281. The delegated official responsible for petty cash must compile monthly reconciliation report for the Chief Financial Officer, which must include the total amount of petty cash purchases for that month and receipts and appropriate documents for each purchase.

Appointment of Consultants

General

282. In the procurement of consulting services cognisance should be taken of any National Treasury guidelines in this respect, or of Construction Industry Development Board Guidelines in respect of services relating to the built environment and construction works.

Procurement Process (over R200 000)

283. Where the estimated value of the fees exceeds R200 000, or where the duration of the appointment will exceed one year, consulting services shall be procured through a competitive bidding process.

Procurement Process (up to R200 000)

284. Where the estimated value of the fees is less than or equal to R200 000 and the duration of the appointment is less than one year, the selection of a consultant to provide the required service shall follow a written price quotation or a formal written price quotation procedure as described in this Policy.
285. A preference point system, as described in the preferential procurement section of this Policy, must be applied to such quotations.

Single-source Selection

286. National Treasury Guidelines provide for single-source selection in exceptional cases. The justification for single-source selection must be examined in the context of the overall interests of the City and the project.
287. Single-source selection may be appropriate only if it presents a clear advantage over competition:
- 287.1 for services that represent a natural continuation of previous work carried out by the consultant, and continuity of downstream work is considered essential;
 - 287.2 where rapid selection is essential;
 - 287.3 for very small appointments;
 - 287.4 when only one consultant is qualified, or has experience of exceptional worth for the project.
288. The reasons for single-source selection must be fully motivated in a report and approved by the Bid Adjudication Committee prior to conclusion of a contract, provided that if the award is for an amount of R200 000 or less, such award shall be approved by the Director: Supply Chain Management.

Deviation from the Procurement Processes

General

289. The City Manager may dispense with the official procurement processes established by this Policy, and procure any required goods or services through any convenient process, which may include direct negotiation, but only in respect of:

- 289.1 any contract relating to an emergency (as described in clauses 291 and 292 below) where it would not be in the interests of the City to invite bids,
 - 289.2 any goods or services which are available from a single provider only,
 - 289.3 the acquisition of animals for zoos, or
 - 289.4 the acquisition of special works of art or historical objects where specifications are difficult to compile;
 - 289.5 any other exceptional circumstances where it is impractical or impossible to follow the official procurement process, including:
 - 289.5.1 any purchase on behalf of the City at a public auction sale;
 - 289.5.2 any contract in respect of which compliance therewith would not be in the public interest;
 - 289.5.3 ad-hoc repairs to plant and equipment where it is not possible to ascertain the nature or extent of the work required in order to call for bids; and
290. The City Manager may condone a deviation from the procurement processes, provided that such deviation is limited to the circumstances referred to in clause 289.

Emergency Dispensation

291. The conditions warranting Emergency dispensation should include the existence of one or more of the following:
- 291.1 the possibility of human injury or death;
 - 291.2 the prevalence of human suffering or deprivation of rights;
 - 291.3 the possibility of damage to property, or suffering and death of livestock and animals;
 - 291.4 the interruption of essential services, including transportation and communication facilities or support services critical to the effective functioning of the City as a whole;
 - 291.5 the possibility of serious damage occurring to the natural environment;
 - 291.6 the possibility that failure to take necessary action may result in the City not being able to render an essential community service; and
 - 291.7 the possibility that the security of the state could be compromised.

292. The prevailing situation, or imminent danger, should be of such a scale and nature that it could not readily be alleviated by interim measures, in order to allow time for the formal procurement process. Emergency dispensation shall not be granted in respect of circumstances other than those contemplated above.
293. Where possible, in an emergency situation, three quotes in accordance with general acquisition management principles should be obtained and a report submitted, via the Bid Adjudication Committee, to the City Manager for approval. However, where time is of the essence, the emergency shall be immediately addressed, and the process formalised in a report to the City Manager as soon as possible thereafter.

Unsolicited Bids

294. The City is not obliged to consider any unsolicited bids received outside of the normal bidding process.
295. The City may only consider an unsolicited bid if the following have been complied with:
- 295.1 the product or service offered in terms of the bid is a demonstrably or proven unique innovative concept;
 - 295.2 the product or service offered will be exceptionally beneficial to, or have exceptional cost advantages for, the City;
 - 295.3 the person or entity that made the bid is the sole provider of the product or service; and
 - 295.4 the reasons for not going through the normal bidding processes are found to be sound by the City Manager. In this regard a report must be submitted to the City Manager seeking approval to take the unsolicited bid process further.
296. If the City Manager considers the unsolicited bid worthy of pursuing, the decision to consider such bid shall be made public in accordance with section 21A of the Systems Act together with:
- 296.1 reasons as to why the bid should not be open to other competitors;
 - 296.2 an explanation of the potential benefits for the City were it to accept the unsolicited bid; and
 - 296.3 an invitation to the public and other potential suppliers to submit their written comments within 30 (thirty) days of the notice being published.
297. Details of the unsolicited bid, together with any written comments received pursuant to clause 296.3 as well as any responses from the bidder, shall be submitted to the provincial and National Treasury for comment.

298. The unsolicited bid shall then be submitted to the Bid Adjudication Committee, together with any written comments submitted by the public and any written comments or recommendations of the provincial or National Treasury, for consideration.
299. The Bid Adjudication Committee may award the bid in respect of any amount.
300. Any meeting of the Bid Adjudication Committee to consider an unsolicited bid shall be open to the public.
301. If any recommendations of the Provincial or National Treasury are rejected or not followed, the City Manager shall submit to the Auditor-General, the Provincial Treasury and the National Treasury the reasons for rejecting or not following those recommendations. Such submission shall be made within 7 (seven) days of the decision to award the unsolicited bid. No contract committing the City to the bid may be entered into or signed within 30 (thirty) days of the submission.

Ratification of Minor Breaches of the Bid Processes

302. The City Manager may ratify any minor breaches of the procurement processes, which are purely of a technical nature, by an official or committee acting in terms of delegated powers or duties.

Obligation to Report

303. The reasons for all deviations shall be recorded and reported by the City Manager to Council at the next Council meeting, and shall be included as a note to the annual financial statements.

LOGISTICS MANAGEMENT SYSTEM

Introduction

304. Logistics management must provide for an effective system in order to provide for the setting of inventory levels, placing of orders, receiving and distribution of goods, stores and warehouse management, expediting orders, transport management, vendor performance, maintenance and contract administration.

General Logistics

Placing of Orders

305. Purchase orders will be created with reference to requisitions where the supply source is either bids or quotations.
306. All purchase orders will be captured on the City's SAP system exclusive of VAT.
307. Standing orders (also known as "framework orders") will be used in cases where longer term arrangements, necessitating interim payments, are required.
308. Purchase order approvals will be systems based and shall be authorized by the Procurement Department only.

Receiving of Goods

309. Goods received will be captured on the City's SAP system via a Goods Received Note with reference to the relevant purchase order. Where applicable, the Treasury Department's Assets Section (for asset creation) and Insurance Section (for claims) will be informed of the purchase via the City's SAP system, at the end of the procurement process, in terms of other applicable policies.
310. Deliveries of goods may not exceed the order quantity. Short deliveries will keep the purchase order open until the balance of the order is received or cancelled.

Expediting Orders

311. The purchasing expeditor will be required to monitor and expedite outstanding purchase orders.
312. Reminder letters can be communicated automatically to vendors based on the reminder levels (days before delivery due date) that are set in the purchase order.

Transport Management

313. The City's fleet management policy must be adhered to at all times.

Vendor Performance

314. The SAP system will enable system-based evaluation, based on the vendors' performance with regard to certain pre-determined criteria.

315. This information will be available for future evaluation purposes, contract negotiations and regular feedback to the vendors.

Contract Administration

316. Contract administration includes all administrative duties associated with a contract that has arisen through one of the acquisition/procurement processes described in this policy.

317. All contracts must be administered by a contract manager, who will be an internal official assigned to ensure the effective administration of the contract. The contract manager will typically be the internal project manager assigned to the project as a whole, but may also be a cost centre owner or other responsible official.

318. A contract manager must be assigned to each contract and, where possible, should be involved from the earliest stages of the acquisition process.

319. The contract manager's duties and powers shall be governed by the conditions of contract and the general law.

320. In administering a contract, the contract manager will be required to form opinions and make decisions which, while in the City's best interests, must be fair to all parties concerned.

321. Departmental Heads (Directors) shall be responsible for ensuring that contract managers:

321.1 are assigned to all contracts within the Department Head's area of responsibility;

321.2 are adequately trained so that they can exercise the necessary level of responsibility in the performance of their duties.

322. The contract manager shall:

322.1 ensure that all the necessary formalities in signing up the contract and/or issuing the purchase order(s) are adhered to;

322.2 ensure that contracts related to the procurement of goods and services are captured on the City's SAP system in the form of a price schedule;

- 322.3 ensure that all original contract documentation is lodged with the Supply Chain Management Department for record purposes;
- 322.4 monitor the performance of the contractor in order to ensure that all of the terms and conditions of the contract are met;
- 322.5 where necessary, take appropriate action where a contractor is underperforming or is in default or breach of the contract;
- 322.6 where appropriate, authorise payments due in terms of the contract by processing payment certificates (if applicable), and ensuring that the necessary Service Entry Sheets or Goods Received Notes are captured on the City's SAP system;
- 322.7 manage contract variation or change procedures;
- 322.8 administer disputes where necessary, in terms of this policy and the applicable Conditions of Contract;
- 322.9 conduct, as appropriate, post contract reviews;
- 322.10 maintain adequate records (paper and/or electronic) in sufficient detail on an appropriate contract file to provide an audit trail;
- 322.11 act with care and diligence and observe all accounting and legal requirements.

Stock Logistics

Valuation of Stock

- 323. Stock is valued on the weighted average costing method per plant and is VAT exclusive.
- 324. Input VAT is claimed upon purchase and output VAT is accounted for at the time of issue according to the accounting policy.

Setting of Inventory Levels

- 325. Stock items shall be systematically replenished using the re-order point planning strategy.
- 326. Open reservations shall be taken into account during the replenishment run.

Issuing of Stock

- 327. Goods will be issued from stock with reference to reservations. Goods can be issued for consumption against internal orders, cost centres, projects and assets under construction.

Stock Replenishment

- 328. Purchase orders will be created, where applicable, with reference to replenishment requisitions in respect of term supply contracts for goods.
- 329. Replenishment requisition approvals will be systems based.
- 330. All replenishment will be effected via the Acquisition Management System.

Stores Management

- 331. The stores function shall be decentralised in different districts and will operate under the jurisdiction of the Supply Chain Management Department.
- 332. The Supply Chain Management Department must ensure proper financial and budgetary control; uphold the principle of effective administration, proper stock holding and control, product standardisation, quality of products and a high standard of service levels.

DISPOSAL MANAGEMENT SYSTEM

Goal

333. To give effect to:
- 333.1 Regulation 40 of the Supply Chain Management Regulations which requires an effective system for the disposal of letting of assets including unserviceable, redundant or obsolete assets, and
 - 333.2 the Municipal Asset Transfer Regulations,
- subject to sections 14 and 90 of the Municipal Finance Management Act (MFMA) and any other applicable legislation.
334. As far as possible, assets to be disposed of must be made available to recycling. Disposal to landfill is not allowed unless no recycling options are available.

Disposal Management System

335. Subject to the provisions of the Municipal Asset Transfer Regulations:
- 335.1 moveable assets may be sold either by way of written price quotations, a competitive bidding process, auction or at market related prices, whichever is the most advantageous to the City;
 - 335.2 immovable property may:
 - 335.2.1 be sold only at market related prices except when the public interest or the plight of the poor demands otherwise;
 - 335.2.2 let only at market related rates except when the public interest or the plight of the poor demands otherwise and provided that all charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property are annually reviewed;
 - 335.3 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;
 - 335.4 in the case of fire arms, the National Conventional Arms Control Committee must approve any sale or donation of firearms to any person within or outside the Republic.

Transfer or Permanent Disposal of Assets and the Granting of Rights

336. Non-exempted capital assets shall be transferred or permanently disposed of strictly in accordance with Chapter 2 of the Municipal Asset Transfer Regulations.
337. Exempted capital assets shall be transferred strictly in accordance with Chapter 3 of the Municipal Asset Transfer Regulations.
338. The granting of rights (where sections 14 and 90 of the MFMA do not apply) by the City, shall be executed strictly in accordance with Chapter 4 of the Municipal Asset Transfer Regulations.

RISK MANAGEMENT SYSTEM

The risks pertaining to Supply Chain Management should at all times comply with the criteria laid down in the risk management policies of the City.

General

- 339. Risk Management shall provide for an effective system for the identification, consideration and avoidance of potential risks in the City's supply chain management system.
- 340. Managing risk must be part of the City's philosophy, practices and business plans and should not be viewed or practiced as a separate activity in isolation from line managers.
- 341. Risk Management shall be an integral part of effective management practice.

The Risk Management Process

- 342. The risk management process shall be applied to all stages of supply chain management, be it the conceptual stage, project definition, specification preparation, acquisition approval or implementation to completion.
- 343. Risk management is an integral part of good management of acquisition activities and cannot be effectively performed in isolation from other aspects of acquisition management.
- 344. Appropriate risk management conditions should therefore be incorporated in contracts.

Key Principles

- 345. The key principles on managing risk in supply chain management include:
 - 345.1 early and systematic identification of risk on a case-by-case basis, analysis and assessment of risks, including conflicts of interest and the development of plans for handling them;
 - 345.2 allocation and acceptance of responsibility to the party best placed to manage risk;
 - 345.3 management of risks in a pro-active manner and the provision of adequate cover for residual risks;
 - 345.4 assignment of relative risks to the contracting parties through clear and unambiguous contract documentation;
 - 345.5 acceptance of the cost of the risk where the cost of transferring the risk is greater than that of retaining it; and

345.6 ensuring that the costs incurred in managing risks are commensurate with the importance of the purchase and the risks to the City's operations.

PERFORMANCE MANAGEMENT SYSTEM

The City Manager must establish and implement an internal monitoring system in order to determine the basis of a retrospective analysis whether the authorised Supply Chain Management processes were followed and whether the objectives of this Policy were achieved.

346. Performance management shall accordingly be characterised by a monitoring process and retrospective analysis to determine whether:

346.1 value for money has been attained;

346.2 proper processes have been followed;

346.3 desired objectives have been achieved;

346.4 there is an opportunity to improve the process;

346.5 suppliers have been assessed and what that assessment is; and

346.6 there has been deviation from procedures and, if so, what the reasons for that deviation are.

347. The performance management system shall accordingly focus on, amongst others:

347.1 achievement of goals;

347.2 compliance to norms and standards;

347.3 savings generated;

347.4 cost variances per item;

347.5 non-compliance with contractual conditions and requirements; and

347.6 the cost efficiency of the procurement process itself.

CODE OF ETHICAL STANDARDS

General

348. In addition to this Code of Ethical Standards, the codes of conduct for municipal councillors and employees shall apply in the application of this Supply Chain Management Policy.
349. A code of ethical standards is hereby established for officials and all role players in the supply chain management system in order to promote:
- 349.1 mutual trust and respect; and
 - 349.2 an environment where business can be conducted with integrity and in a fair and reasonable manner.
350. An official or other role player involved in the implementation of the supply chain management policy:
- 350.1 must treat all providers and potential providers equitably;
 - 350.2 may not use his or her position for private gain or to improperly benefit another person;
 - 350.3 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;
 - 350.4 notwithstanding clause 350.3, must declare to the City Manager details of any reward, gift, favour, hospitality or other benefit promised, offered or granted to that person or to any close family member, partner or associate of that person;
 - 350.5 must declare to the City Manager details of any private or business interest which that person, or any close family member, partner or associate, may have in any proposed procurement or disposal process of, or in any award of a contract by, the City;
 - 350.6 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;
 - 350.7 must be scrupulous in his or her use of property belonging to the City;
 - 350.8 must assist the City Manager in combating fraud, corruption, favouritism and unfair and irregular practices in the supply chain management system; and

- 350.9 must report to the City Manager any alleged irregular conduct in the supply chain management system which that person may become aware of, including;
- 350.9.1 any alleged fraud, corruption, favouritism or unfair conduct;
- 350.9.2 any alleged contravention of this policy; or
- 350.9.3 any alleged breach of this code of ethical standards.
351. Declarations in terms of clause 350.5 must be recorded in a register which the City Manager must keep for this purpose.
352. The City has adopted the National Treasury's code of conduct for supply chain management practitioners and other role players involved in supply chain management. This code of conduct is binding on all officials and other role players involved in the implementation of the supply chain management policy.
353. A copy of the National Treasury code of conduct is available on the website www.treasury.gov.za/mfma located under "legislation".
354. A breach of the code of conduct adopted will be dealt with in accordance with schedule 2 of the Systems Act.

Inducements, Rewards, Gifts and Favours

355. 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:
- 355.1 any inducement or reward to the City for or in connection with the award of a contract; or
- 355.2 any reward, gift, favour or hospitality to any official or any other role player involved in the implementation of the supply chain management policy.
356. The City Manager must promptly report any alleged contravention of clause 355 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.
357. Clause 355 does not apply to gifts less than R350 in value or gifts from a single source in any calendar year that does not exceed R350 in value.

Sponsorships

358. The City Manager 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:
- 358.1 a provider or prospective provider of goods or services; or
 - 358.2 a recipient or prospective recipient of goods disposed or to be disposed.

Objections and Complaints

359. 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

360. The City Manager shall appoint an independent and impartial person not directly involved in the supply chain to assist in the resolution of disputes between the City and other persons regarding:
- 360.1 any decisions or actions taken in the implementation of the supply chain management system; or
 - 360.2 any matter arising from a contract awarded in the course of the supply chain management system; or
 - 360.3 to deal with objections, complaints or queries regarding any such decisions or actions or any matters arising from such contract.
361. The City Manager, or another official designated by the City Manager, is responsible for assisting the appointed person to perform his or her functions effectively.
362. The person appointed must;
- 362.1 strive to resolve promptly all disputes, objections, complaints; or
 - 362.2 queries received; and
 - 362.3 submit monthly reports to the City Manager on all disputes, objections, complaints or queries received, attended to or resolved.
363. A dispute, objection, complaint or query may be referred to the relevant provincial treasury if;

- 363.1 the dispute, objection, complaint or query is not resolved within 60 days; or
 - 363.2 no response is forthcoming within 60 days.
364. 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.
365. The provisions above must not be read as affecting a person's rights to approach a court at any time.

PREFERENTIAL PROCUREMENT

Introduction

366. The following procurement strategies are addressed in this section:
- 366.1 the application of a preference point system for Exempted Micro Enterprises and B-BBEE Contributors in terms of the Preferential Procurement Regulations, 2011.
 - 366.2 the stipulation, in bid documentation, of minimum thresholds for local production and content in accordance with directives issued by the National Treasury and Department of Trade and Industry.
 - 366.3 the unbundling of large projects, where appropriate, into smaller contracts to ensure that a spread of opportunities are made available to suppliers, service providers and construction contractors of various sizes.
 - 366.4 the use of functionality/quality, where appropriate, in procurement processes in order to ensure that goods supplied are fit for purpose, or that a minimum level of experience and competence in respect of service providers or construction contractors is attained.
 - 366.5 the increase of employment opportunities by encouraging the use of labour intensive technologies.
 - 366.6 the targeting of labour and/or enterprises from specific areas within the boundaries of the Cape Town Municipal area.
367. Preferential procurement is further enhanced by provisions aimed at improved access to information, simplification of documentation, reduced performance guarantee requirements, reduced retention, reduced payment cycles and good governance.

Aim

368. The aim of this section of the City's Supply Chain Management Policy is to give effect to, and to ensure compliance with, all applicable legislation and national directives in respect of preferential procurement and broad-based black economic empowerment.

Performance Management

369. The level of B-BBEE contribution achieved by the City through the application of this policy will be monitored in terms of the Supply Chain Management performance management system.

Preferential Procurement System

Key Principles

370. The key principles of this system are:
- 370.1 the application of an **80/20** preference point system for procurement (competitive bids or quotations) with a **Rand value of greater than R2 000 but less than or equal to R1 000 000**;
 - 370.2 the application of a **90/10** preference point system for procurement (competitive bids) with a **Rand value greater than R1 000 000**;
 - 370.3 that bids may be declared non-responsive if they fail to achieve a minimum score for functionality (quality), if indicated in the bid documents.
371. The preference point system shall be used in the evaluation of responsive bids for the purposes of determining preferred/recommended bidders, and for the adjudication thereof.
372. The preference point system is not applicable to petty cash purchases.

Planning and Stipulation of Preference Point System

373. Prior to embarking on any procurement process, the Responsible Agent must properly plan for, and, as far as possible, accurately estimate the cost of the goods, services or construction works for which bids are to be invited.
374. The Responsible Agent shall determine the appropriate preference point system to be used in the evaluation and adjudication of bids, and shall ensure that such is clearly stipulated in the bid documentation.
375. The Responsible Agent shall determine whether the goods, services or construction works which are to be procured, have been designated for local production and content by the National Treasury or Department of Trade and Industry, in which case the requirements of clauses 420 to 426 shall be followed.

Evaluation of Bids on Functionality (Quality)

376. Functionality (otherwise known as quality) may be included in the bid evaluation process as a qualifying (eligibility) criterion.
377. If a bid is to be evaluated on functionality, this must be clearly stated in the invitation to submit a bid, and in the bid documentation.
378. The evaluation criteria for measuring functionality must be objective.
379. When evaluating bids on functionality the:
- 379.1 evaluation criteria for measuring functionality;

- 379.2 weight of each criterion;
- 379.3 applicable values; and
- 379.4 minimum qualifying score for functionality,
- must be clearly stipulated in the bid document.
380. The norm for the minimum qualifying score for functionality shall be 60% of the total possible score. For more specialised or complex projects the minimum score may, at the discretion of the Bid Specification Committee, be increased to up to 70% of the total possible score. The setting of a minimum score any higher than 70% of the total possible score must be motivated to, and approved by, the Director: Supply Chain Management prior to use.
381. If a bid fails to achieve the minimum qualifying score for functionality as indicated in the bid document, it must be regarded as non-responsive, and be rejected (not considered any further in the evaluation process).
382. Bids that have achieved the minimum score for functionality, and passed any other responsiveness tests, must be evaluated further in terms of the preference point system prescribed below.

Evaluation and Adjudication of Bids

General

383. An 80/20 preference point system is stipulated for bids with a Rand value of greater than R2 000, but less than or equal to R1 000 000, and a 90/10 preference point system of procurement with a Rand value of greater than R1 000 000.
384. This means that either 80 or 90 points, depending on the Rand value of the bid, will be awarded to the person who offers the lowest price, and proportionately fewer points are awarded to those with higher prices. Either 20 or 10 points are then available as preference points for Exempted Micro Enterprises or B-BBEE contributors, as applicable.

Cancellation and Re-invitation of Bids

385. In the event that, in the application of the 80/20 preference point system as stipulated in the bid documents, **all** bids received exceed a value of R1 000 000, the bids must be cancelled.
386. If one or more of the acceptable bids received are within the prescribed threshold of R1 000 000, all bids received must be evaluated on the 80/20 preference point system.
387. In the event that, in the application of the 90/10 preference point system as stipulated in the bid documents, **all** bids received are equal to, or below R1 000 000, the bids must be cancelled.

388. If one or more of the acceptable bids received are above the prescribed threshold of R1 000 000, all bids received must be evaluated on the 90/10 preference point system.
389. Bids cancelled in terms of clauses 385 and 387 above, must be re-invited, with the correct preference point system clearly stipulated in the bid documents.

The 80/20 Preference Point System for the Procurement (Acquisition) of Goods, Services or Construction Works up to a Rand Value of R1 000 000

390. The following formula must be used to calculate the points for price in respect of bids (including price quotations) with a Rand value of greater than R2 000 and up to a Rand value of R1 000 000 (all applicable taxes included):

$$Ps = 80 \left[1 - \frac{(Pt - Pmin)}{Pmin} \right]$$

Where :

- Ps = Points scored for comparative price of the bid under consideration;
- Pt = Comparative price (corrected, if applicable, exclusive of VAT) of the bid under consideration; and
- Pmin = Comparative price (corrected, if applicable, exclusive of VAT) of lowest responsive bid.
391. The nomenclature used in the formula above may be varied to comply with prescribed standard bid documentation, provided the formula itself is not varied.
392. Points for preference must be awarded to Exempted Micro Enterprises or to bidders having attained a B-BBEE status level of contributor in accordance with the tables below.

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

or, in respect of Exempted Micro Enterprises (EMEs)

| Black Ownership of EME | Deemed B-BBEE Status Level of Contributor | Number of Points for Preference |
|------------------------|---|---------------------------------|
| > 50% | 3 | 16 |
| ≤ 50% | 4 | 12 |

393. The points for preference scored by a bidder in terms of clause 392 above, must then be added to the points for price scored in terms of clause 390, in order to obtain the total number of adjudication points scored for each responsive bid.
394. Subject to clause 211, the contract must be awarded to (and/or order placed with) the bidder that scores the highest total number of adjudication points.

The 90/10 Preference Point System for the Procurement (Acquisition) of Goods, Services or Construction Works with a Rand Value above R1 000 000

395. The following formula must be used to calculate the points for price in respect of bids with a Rand value above R1 000 000 (all applicable taxes included):

$$Ps = 90 \left[1 - \frac{(Pt - Pmin)}{Pmin} \right]$$

Where :

- Ps = Points scored for comparative price of the bid under consideration;
- Pt = Comparative price (corrected, if applicable, exclusive of VAT) of the bid under consideration; and
- Pmin = Comparative price (corrected, if applicable, exclusive of VAT) of lowest responsive bid.

396. The nomenclature used in the formula above may be varied to comply with prescribed standard bid documentation, provided the formula itself is not varied.
397. Points for preference must be awarded to Exempted Micro Enterprises or to bidders having attained a B-BBEE status level of contributor in accordance with the tables below.

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

or, in respect of Exempted Micro Enterprises (EMEs)

| Black Ownership of EME | Deemed B-BBEE Status Level of Contributor | Number of Points for Preference |
|------------------------|---|---------------------------------|
| > 50% | 3 | 8 |
| ≤ 50% | 4 | 5 |

398. The points for preference scored by a bidder in terms of clause 397 above, must then be added to the points for price scored in terms of clause 395, in order to obtain the total number of adjudication points scored for each responsive bid.
399. Subject to 211, the contract must be awarded to (and/or order placed with) the bidder that scores the highest total number of adjudication points.

B-BBEE Status Level Certificates

400. In order to qualify for preference points in terms of clauses 392 to 397 above, Exempted Micro Enterprises must have submitted, to the City, a certificate issued by a registered auditor, accounting officer (as contemplated in section 60(4) of the Close Corporation Act, 1984 (Act No. 69 of 1984)) or an accredited verification agency, confirming their status as such.
401. Bidders other than Exempted Micro Enterprises must submit, to the City, their original and valid B-BBEE status level verification certificate, or a certified copy thereof, substantiating their B-BBEE status level of contributor.
402. The submission of such certificates must comply with the requirements of instructions and guidelines issued by the National Treasury and be in accordance with notices published by the Department of Trade and Industry in the Government Gazette.
403. Bidders who fail to submit the required certificates, or certified copies thereof, will be deemed to be non-compliant contributors.
404. Where specific sector charters have been gazetted in terms of the B-BBEE Act, bid documentation for procurement from within such sectors, must specify that only persons verified in terms of the particular sector charter (or Code of Good Practice), or Exempted Micro Enterprises, will qualify for a preference. A status level of contributor in respect of generic Codes of Good Practice will not, in such circumstances, qualify for any preference.
405. Where no specific sector charter has been gazetted, persons other than Exempted Micro Enterprises must be verified in terms of the gazetted generic Codes of Good Practice in order to qualify for a preference.
406. For the purposes of transparency, bidders shall, in respect of all competitive bids (over R200 000), be required to claim, in their bid submission, a preference in accordance with their B-BBEE status.

407. Notwithstanding what is contained in the bid submission, preference points will be allocated during the bid evaluation process in accordance with the verified B-BBEE status level (or deemed status level) of contributor.

Conditions Relating to the Granting of Preferences

408. Bidders must, in the manner stipulated in the bid documentation, declare that:
- 408.1 the information provided is true and correct;
 - 408.2 the signatory to the bid document is duly authorised; and
 - 408.3 documentary proof regarding any bidding issue will, when required, be submitted to the satisfaction of the City.
409. Only bidders who have completed and signed the necessary declarations may be considered.
410. The Bid Evaluation Committee must, when calculating comparative prices, take into account any discounts which have been offered unconditionally.
411. A discount which has been offered conditionally must, despite not being taken into account for evaluation purposes, be implemented when payment is effected.
412. A trust or joint venture will qualify for preference points for their B-BBEE status level as a legal entity, provided that the entity has submitted its verified B-BBEE status level certificate (or certified copy thereof) to the City.
413. A trust or joint venture will qualify for preference points for their B-BBEE status level as an unincorporated entity, provided that the entity has submitted its consolidated B-BBEE scorecard as if it is a group structure and that such a consolidated B-BBEE scorecard is prepared for every separate bid. The consolidated B-BBEE scorecard must be submitted in the form of a certificate issued by an accredited verification agency (or a certified copy thereof).
414. A bidder may not be awarded points for B-BBEE status level if it is indicated in the bid documents that such a bidder intends sub-contracting more than 25% of the value of the contract to any other enterprise that does not qualify for at least the points that the bidder qualifies for, unless the intended sub-contractor is an Exempted Micro Enterprise that has the capability and ability to execute the sub-contract.
415. A bidder that has been awarded a contract may not sub-contract more than 25% of the value of the contract to enterprises that do not have an equal or higher B-BBEE status level than the bidder concerned, unless the sub-contractors are Exempted Micro Enterprises that have the capability and ability to execute the sub-contract. Compliance with this particular requirement must be monitored by the Responsible Agent during the execution of the contract.

416. If a service is required that can only be provided by tertiary institutions, such services must be procured through a bidding process from the identified tertiary institutions.
417. The tertiary institutions referred to in clause 416 above, must submit their B-BBEE status in terms of the specialized scorecard contained in the B-BBEE Codes of Good Practice.
418. If a service is required that can be provided by one or more tertiary institutions or public entities and enterprises from the private sector, the appointment of a service provider/contractor must be done by means of a competitive bidding process.
419. Public entities must submit their B-BBEE status in terms of the specialized scorecard contained in the gazetted B-BBEE Codes of Good Practice.

Local Production and Content

420. The National Department of Trade and Industry is empowered to designate industry sectors, in line with national development and industrial policies for local production, where only locally produced goods, services or construction works, or locally manufactured goods that meet a stipulated minimum threshold for local production and content, may be used.
421. In the case of designated sectors, where in the award of bids, local production and content is of critical importance, such bids must be advertised with a specific condition of bidding, that only locally produced goods, services or construction works or locally manufactured goods, with a stipulated minimum threshold for local production and content will be considered.
422. Any instructions, circulars and guidelines issued by National Treasury in the above regard must be complied with.
423. Where there is no designated sector, bids may include, as a specific condition of bidding, that only locally produced goods, services or construction works, or locally manufactured goods with a stipulated minimum threshold for local production and content, will be considered, on condition that such prescript and threshold(s) are in accordance with the specific directives issued for this purpose by the National Treasury in consultation with the Department of Trade and Industry.
424. Every bid issued in terms of clauses 421 to 423 must be measurable and audited.
425. Where necessary, for bids referred to in clauses 421 to 423, a two-stage bidding process may be followed, where the first stage involves functionality and minimum threshold for local production and content, and the second stage price and B-BBEE level of contribution, with the possibility of price negotiations only with the short listed bidder/s.

426. A person awarded a contract in relation to a designated sector, may not sub-contract in such a manner that the local production and content of the overall value of the contract is reduced to below the stipulated minimum threshold.

Other Specific Goals

Unbundling Strategies

427. In order to encourage increased participation and the sustainable growth of the small business sector, the unbundling of larger projects into smaller, more manageable, contracts is encouraged.
428. Unbundling must however be considered in the context of:
- 428.1 economies of scale being lost;
 - 428.2 abortive work becoming necessary;
 - 428.3 additional demands (not only financial) being placed on the City's resources; and
 - 428.4 the risk of later phases not being completed as a result of budget cuts becoming necessary in the future.
429. Unbundling, and all of its associated implications, must therefore be carefully considered at the planning stage of any project and the budgets for, and design thereof, should be structured accordingly.
430. It is important to note that while it is the City's policy to procure goods, services or construction works in the smallest practicable quantities, the practice of parcelling such procurement in order to avoid complying with the requirements of the different range of procurement processes described in this policy is not permitted.

Increasing Employment Opportunities

431. One of the City's key socio-economic objectives is to facilitate the creation of employment for the people of Cape Town.
432. Increasing employment opportunities through procurement may be achieved by specifying labour intensive technologies and/or methods of construction in the bid documents.
433. It is up to Responsible Agents to thoroughly investigate the options available in the above regard, to evaluate the positive versus negative impact of any proposals, and to specify labour intensive technologies and/or methods where appropriate.

434. All labour earning less than a threshold wage, determined in accordance with National Guidelines, that is employed for the provision of services or construction works for the City, shall be reported in the prescribed format, on a monthly basis, to the Corporate EPWP² Unit.

Targeted Labour and/or Targeted Enterprises

435. The targeting of labour and/or enterprises from specific areas within the boundaries of the Cape Town Municipal area may be achieved, where appropriate, by specifying in the bid documents, a minimum level of participation (a contract participation goal) that must be achieved in respect of targeted labour and/or targeted enterprises in the performance of the contract.
436. Specified contract participation goals must be measurable and achievable, and the performance in respect of which must be monitored by the Responsible Agents during the execution of the contract.
437. Where a minimum contract participation goal has been specified in respect of targeted labour and/or enterprises, the contractor is obliged to meet that goal, and must be penalised if he or she does not.
438. Contract participation goals in respect of targeted labour and/or enterprises may not be introduced into the preference point system used for the evaluation of bids.

Remedies

Action in Respect of Fraud or Non-performance

439. The City Manager must, upon detecting that the B-BBEE status level of contribution has been claimed or obtained on a fraudulent basis, or that any of the conditions of the contract have not been fulfilled, act against the bidder or person awarded the contract.
440. The City Manager may, in addition to any other remedy that he may have against the bidder or person awarded the contract:
- 440.1 disqualify the person from the bidding process;
 - 440.2 recover all costs, losses or damages it has incurred or suffered as a result of that person's conduct;
 - 440.3 cancel the contract and claim any damages which the City has suffered as a result of having to make less favourable arrangements due to such cancellation;

² Expanded Public Works Programme

440.4 restrict the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, from obtaining business from the City for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and

440.5 forward the matter for criminal prosecution.

Calculation of Penalties

441. Penalties for failure to comply with specific terms and conditions of the contract must be clearly stipulated in the bid/contract document and must be applied should the terms or conditions not be met.

442. The penalty to be applied for sub-contracting more than 25% of the value of a contract to enterprises that do not qualify for at least the preference points that the prime contractor qualified for (unless the sub-contractors are Exempted Micro Enterprises) shall be as provided for in any prescribed standard contract documentation, failing which the following formula shall be stipulated:

$$\text{Penalty} = 0.5 \times E(\%) \times P^*$$

Where: **E** = The value of work (excluding VAT), executed by sub-contractors that do not qualify for at least the preference points that the prime contractor qualified for, expressed as a percentage of P*, less 25%

P* = Accepted bid sum less provisional sums, contingencies and VAT.

443. The penalty to be applied for non-compliance with a specified contract participation goal, is as follows:

$$\text{Penalty} = (\text{CPG}^s - \text{CPG}^a) \times P^*$$

Where: **CPG^s** = The minimum Contract Participation Goal specified (expressed as a percentage).

CPG^a = The Contract Participation Goal achieved (expressed as a percentage).

P* = Accepted bid sum less provisional sums, contingencies and VAT.

Documentation

444. Within the context of preferential procurement, one of the strategies to encourage and assist entry into Local Government procurement by emerging businesses is to simplify and/or standardise bid/contract documentation wherever possible.

445. To this end, the City will prepare a suite of standard documentation and, where appropriate, simplified bid/contract documents for use in the City's procurement process as and where applicable.
446. Where standard bid/contract documentation is prescribed in terms of legislation (the CIDB Standard for Uniformity, for example) such standard documentation must be used for the procurement of goods, services and/or construction works, as applicable.

Guarantees for Due Performance

447. Performance guarantees for the procurement of goods and services (including consultant services) will not generally be called for, but in exceptional circumstances, where required, will be in accordance with the limits set for construction works below.
448. The performance guarantees required for construction works are as follows:
- 448.1 In respect of a Rand value less than or equal to R1 000 000: **waived** (that is, no performance guarantee is required);
- 448.2 In respect of a Rand value exceeding R1 000 000, but less than or equal to R10 000 000 : **5%** of the bid sum;
- 448.3 In respect of a Rand value exceeding R10 000 000 : **7%** of the bid sum;
- unless otherwise provided for in the standard conditions of contract prescribed.
449. The value of the performance guarantee required may be increased with approval of the Director: Supply Chain Management.

Retention

450. Retention for procurement of goods and services (including consultant services) will not generally be called for, but where required, will be in accordance with the limits set for construction works below.
451. The value of retention to be deducted in respect of construction works contracts shall be as follows:
- 451.1 In respect of a Rand value less than or equal to R200 000 : No retention is called for;
- 451.2 In respect of a Rand value exceeding R200 000, but less than or equal to R1 000 000 : 10% of the value of work carried out with no limit, reducing by half for the duration of the defects liability period;
- 451.3 In respect of a Rand value exceeding R1 000 000 : 5% of the value of work carried out with no limit, reducing by half for the duration of the defects liability period;

unless otherwise provided for in the standard conditions of contract prescribed.

452. Where consultant services are to be completed at the end of the defects liability period in respect of a construction contract, the value of this work (typically 5%) may be invoiced at the end of the construction period, but shall be held as retention until the completion of the service (typically, an end of defects liability period inspection and the preparation of the final account). Alternatively, the value of this work must be budgeted for in the following financial year.
453. The above retention limits may be increased with the approval of the Director: Supply Chain Management.
454. Financial guarantees in lieu of retention are, in general, not acceptable. Any motivation for the acceptance of a retention guarantee must be approved by the Director: Supply Chain Management.

Payment Terms

Payment Terms for Goods and Services

455. A monthly payment cycle will be the norm. All invoices received for goods and services whereby the invoices are dated on or before the 20th of a particular month, will typically be paid between the 23rd and 26th of the ensuing month.
456. In order to qualify for payments on a 14 day cycle, a supplier must submit a fully motivated application to the Director: Supply Chain Management for consideration.
457. More frequent payment to suppliers is not a right in terms of this policy. Requests for such payments will be considered at the sole discretion of the Director: Supply Chain Management.

In order to give effect to a more frequent payment cycle (if approved), an additional mid-month payment run will be affected as necessary. The additional payment run dates will be between the 10th and the 13th of the month.

458. The actual payment run dates will be dependent on the number of days of the month and the influence of public holidays.

Payment Terms for Construction related Contracts

459. For construction related contracts (including professional services), payment will be made within the time for payment stipulated in the contract (but not less than 30 days from date of invoice).

Preferential Procurement Regulations, 2011

460. Where this Policy does not provide for a matter regulated by the Preferential Procurement Regulations, 2011, the provisions of the regulations will prevail in respect of a “tender” as defined in the regulations.

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