

<p>Item A-F (28-2020) CM 25/06/2020</p>	<p>REVIEWED INTEGRATED DEVELOPMENT PLAN (IDP), MEDIUM - TERM REVENUE AND EXPENDITURE FRAME WORK (MTREF), AND BUILT ENVIRONMENT PERFORMANCE PLAN (BEPP): 2020/2021 TO 2022/23</p>
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Resolved:

5. **That** to guide the implementation of the municipality’s annual budget, the Council of the City of Ekurhuleni **APPROVES** the policies as set out in the following Annexures of this document.

- Annexure D1** Medium-term Budget Statement Policy (reviewed)
- Annexure D2** Pricing Policy Statement (reviewed)
- Annexure D3** Property Rates Policy (reviewed)
- Annexure D4.1** Provision of Free Basic Electricity Policy (reviewed)
- Annexure D4.2** Provision of Free Basic Water Supply Services (reviewed)
- Annexure D5** Waste Management Services Tariff Policy (reviewed)
- Annexure D6** Consumer Deposit Policy (reviewed)
- Annexure D7** Indigent Support Policy (reviewed)
- Annexure D8** Credit Control & Debt Collection Policy (reviewed)
- Annexure D9** Provision for Doubtful Debtors and Debtors Write Off (reviewed)
- Annexure D10** Budget Implementation and Monitoring Policy (reviewed)
- Annexure D11** Municipal Entity Financial Support Policy (remains unchanged)
- Annexure D12** Accounting Policy (reviewed)
- Annexure D13** Electricity Metering for Residential and business Customers (reviewed)
- Annexure D14** Policy for the Vending of pre-paid electricity (remains unchanged)
- Annexure D15** Policy for Correction of Meter Reading and Billing Data (reviewed)
- Annexure D16** Electricity Tariff policy (reviewed)
- Annexure D17** Virement Policy (reviewed)
- Annexure D18** Consumer Agreement Policy (reviewed)
- Annexure D19** **Supply Chain Management Policy (reviewed)**
- Annexure D20** Treasury Policy (remains unchanged)
- Annexure D21** Allocation for Grants-in-Aid (reviewed)
- Annexure D22** Assets Management Policy (remains unchanged)
- Annexure D23** Cost Containment Policy (reviewed)
- Annexure D24** Policy for the wheeling of Electricity (new)
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- Annexure D26** Ekurhuleni Community Enterprise Development Fund Policy (new)

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SECTION 1 DOCUMENT ADOPTION AND DEFINITION

1.1 ADOPTION OF SCM POLICY

- 1.1.1 The Municipal Supply Chain Management (MSCM) Regulations provide that:
- 1.1.1.1 Regulation 3(1) states that the Accounting Officer (AO), who is the City Manager (CM) of the municipality shall:
- 1.1.1.2 promptly prepare and submit a draft supply chain management (SCM) policy, complying with MSCM Regulation 2 to the Council for adoption
- 1.1.1.3 at least annually review the implementation of the policy, and
- 1.1.1.4 when the CM considers it necessary, submit proposals for amendment of the policy to the Council.
- 1.1.2 Regulation 3(2) states that:
- 1.1.2.1 the CM may use any Treasury guidelines determining standards for municipal SCM policies and submit to Council that standard or a modified version thereof, as a draft policy
- 1.1.2.2 if the CM submits a draft policy to the Council that differs from the (National Treasury's) guideline standard, the CM shall ensure that such draft policy complies with Regulation 2.
- 1.1.2.3 the CM shall report any deviation from the guideline standard to the National Treasury and the relevant Provincial Treasury.
- 1.1.2.4 Regulation 3(3) states that when preparing or amending its SCM policy, the municipality shall take account of the need for uniformity in SCM practices, particularly to promote accessibility of SCM systems for small businesses.
- 1.1.3 Regulation 3(4) states that the CM shall in terms of section 62(1)(f)(iv) of the MFMA take all reasonable steps to ensure that the Municipality has and implements a SCM policy as set out in Regulation 2.

Recommended by

City Manager

Date:

**Approved by the
Council of City of
Ekurhuleni**

Council Resolution No:

Date:

Version No

1.4 DISTRIBUTION OF SCM POLICY

- 1.4.1 All changes shall be distributed to relevant SCM role players.
- 1.4.2 After changes have been made, updated hard copies and electronic copies (posted on the Intranet) of the document shall be sent at least to the following EMM officials:
- 1.4.3 City Manager
- 1.4.4 Heads of Departments
- 1.4.5 Directors
- 1.4.6 Senior officials and project managers
- 1.4.7 Members of Bid Committees.
- 1.4.8 All supply chain officials.
- 1.4.9 All EMM employees who specifically need to be informed of the changes.

1.5 APPLICABILITY OF SCM POLICY

- 1.5.1 This policy is applicable to the EMM and all EMM's SCM activities shall be executed in line with this policy.
- 1.5.2 The policy shall also apply to EMM's Entities, once adopted by the Board of Directors of each such Entity.
- 1.5.3 In terms of Municipal SCM Regulation (2), where Entities have their own SCM policy, such policy shall be consistent with this EMM SCM policy.

1.6 TRANSGRESSION OF SCM POLICY

- 1.6.1 Any EMM official, who acts contrary to any provision of this policy, shall be subject to disciplinary action in line with EMM's Disciplinary Policy.

SECTION 2 TERMINOLOGY

2.1 ABBREVIATIONS

Table 2

ABBREVIATION	MEANING
AG	Auditor-General
CM	Accounting Officer – (known in EMM as the City Manager)
B-BBEE	Broad Based Black Economic Empowerment
B-BBEE Act	Broad Based Black Economic Empowerment Act, Act No. 53 of 2003.
BEE	Black Economic Empowerment
CFO	Chief Financial Officer
CIDB	Construction Industry Development Board
CM	City Manager
DTI	Department of Trade and Industry
GCC	General Conditions of Contract
IDP	Integrated Development Plan
IT	Information Technology
ITC	Information to Consultants
LCC	Life Cycle Costing
MFMA	Municipal Finance Management Act, Act No. 56 of 2003.
MSA	Municipal Systems Act, Act No. 32 of 2000.
MSCM Regulations	Municipal Supply Chain Management Regulations of 2005
MTREF	Medium Term Revenue and Expenditure Framework
NIPP	National Industrial Participation Programme
PCCA	Prevention and Combating of Corrupt Activities Act, Act No. 12 of 2004
PPP	Public-Private Partnership
PPPFA	Preferential Procurement Policy Framework Act, Act No. 5 of 2000
QBS	Quality Based Selection
QCBS	Quality and Cost Based Selection
RFI	Request for Information
RFP	Request for Proposal
RFQ	Request for Quotation
SAPS	South African Police Services
SARS	South African Revenue Services
SCM	Supply Chain Management
SCM Unit	Supply Chain Management Unit
SITA	State Information Technology Agency
SLA	Service Level Agreement
TCO	Total Cost of Ownership
TOR	Terms of Reference
WIP	Work in Process

2.2 DEFINITIONS

Table 3

TERM	DEFINITION
Accountability	The personal responsibility of a person to his senior or higher authority for any act or omission in the execution of his assigned duties (accountability cannot be delegated).
Accounting	Means the recording of all receipts and issues and continued recording thereof
Accounting officer	Also the City Manager and means the municipal officer referred to in section 60 of the MFMA
Acquisition management	<p>The process of procurement of goods, works and services and includes the:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Identification of preferential policy objectives; <input type="checkbox"/> Determination of market strategy; <input type="checkbox"/> Application of depreciation rates; <input type="checkbox"/> Application of total cost of ownership principle; <input type="checkbox"/> Compilation of quotation/bid documentation, including conditions; <input type="checkbox"/> Determination of evaluation criteria; <input type="checkbox"/> Publishing of quotes/bids <input type="checkbox"/> Receiving and opening of quotes/bids <input type="checkbox"/> Evaluation of quotes/bids and tabling of recommendations; <input type="checkbox"/> Award of quotes/bids <input type="checkbox"/> Negotiations <input type="checkbox"/> Compilation and signing of contract documents <input type="checkbox"/> Access to information <input type="checkbox"/> Contract administration.
Asset	<p>It is a resource controlled by the municipality as a result of past events and from which future economic benefits or service potential is expected to flow to the municipality. It has the following characteristics:</p> <ul style="list-style-type: none"> <input type="checkbox"/> It possesses service potential or future economic benefit that is expected to flow to the municipality. <input type="checkbox"/> It is controlled by the municipality. <input type="checkbox"/> It originates as a result of a past transaction or event.
<u>Asset Controller</u>	A person delegated to be in charge of a division/section and to whom non-consumable items are issued. The asset controller will be held responsible for these items, until such times as they are returned to store or are disposed of. The asset controller may appoint sub asset holders.
Authority	Authority is the right or power attached to a rank or appointment permitting the holder thereof to make decisions, to take command or to demand action by others.
Broad Based Black Economic Empowerment	Means the economic empowerment of all black people including women, workers, youth people with disabilities and people living in rural areas through diverse but integrated socio-economic strategies that include, but are not limited to:

TERM	DEFINITION
	<ul style="list-style-type: none"> <input type="checkbox"/> Increasing the number of black people that manage, own and control enterprises and productive assets. <input type="checkbox"/> Facilitating ownership and management of enterprises and productive assets by communities, workers, cooperatives and other collective enterprises. <input type="checkbox"/> Human resource and skills development. <input type="checkbox"/> Achieving equitable representation in all occupational categories and levels in the workforce. <input type="checkbox"/> Preferential procurement. <input type="checkbox"/> Investment in enterprises that are owned or managed by black people.
Chief Financial Officer	A Chief Financial Officer means a person designated in terms of MFMA section 80(2)(a)
Community or broad-based enterprise	Has an empowerment shareholder who represents a broad base of members such as a local community or where the benefits support a target group for example black women, people living with disabilities, the youth and workers.
Close family member	Close family member of a person means the 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.
Combative practices	<p>Practices that include but are not limited to:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Suggestions to fictitious lower quotations <input type="checkbox"/> Reference to non-existent competition <input type="checkbox"/> Exploiting errors in bids <input type="checkbox"/> Soliciting bids from bidders whose names appear on the list or restricted bidders/suppliers/persons.
Competitive bid	Means a bid in terms of a competitive bidding process
Competitive bidding process	Means a competitive bidding process referred to in MSCM Regulation 12(1)(d)
Construction industry	Means the broad conglomeration of industries and sectors which add value in the creation and maintenance of fixed assets within the built environment.
Construction procurement	Procurement in the construction industry including the invitation, award and management of contracts.
Construction works	Means the provision of a combination of goods and services arranged for the development, extension, installation, repair, maintenance, renewal, removal, renovation, alteration, dismantling or demolition of a fixed asset including building and engineering infrastructure.
Cooperatives	<p>A (primary) co-operative is an autonomous association of persons united voluntarily to meet their common economic, social and cultural needs and aspirations, through a jointly owned and democratically controlled enterprise.</p> <p>A secondary co-operative is a co-operative formed by two or more primary co-operatives to provide services to its members. The purpose of</p>

TERM	DEFINITION
	<p>a secondary co-operative is to help primary enterprises serve their members more effectively and comprehensively. They provide services such as auditing, training, bookkeeping and advisory support.</p> <p>Primary and/or secondary co-operatives may form a tertiary co-operative representing a specific sector or regional area.</p>
Current asset (inventory-perishable goods)	An asset that would, in the normal course of operations, be consumed or converted to cash within 12 months after the last reporting date.
Days	In this policy, unless otherwise specified, days refers to “working days”
<u>Deficiency</u>	where stock is counted during a stock take of stores/asset and the total is physically less than is reflected on the relevant ledger/ tally card or asset record, and the cause of the deficiency cannot be identified at that stage. After accountability has been determined, such deficiency is to be classified as a loss.
<u>Delegating Officials</u>	A person in control of an organisational entity delegating responsibility for specific functions to lower level within the organization, the delegation thereby creating accountability.
<u>Delegation</u>	The assignment of responsibility and authority from higher to lower organizational level.
<u>Demand Management:</u>	Demand Management ensures that resources required to support the strategic objectives are delivered at the correct time, at the right price, location, quantity and quantity that will satisfy the needs.
<u>Duty</u>	Is the obligation resting on an individual to carry out a task/order that has been assigned to him.
<u>Depreciation</u>	Depreciation refers to the reduction in the value of assets generally from wear and tear. The consumption of capital is recognised as a cost of production and an allowance for this is made before net profit is arrived at.
<u>Designated sector</u>	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 meets the stipulated minimum threshold for local production and content.
<u>Discrepancies</u>	The difference discovered during a stores/asset stock-take where the stores/assets physically counted is more or less than the quantity reflected on the relevant ledger/tally card or asset record.
<u>Disposal Committee</u>	Committee constituted to inquire into, and make recommendations concerning the disposal of, obsolete, redundant or unserviceable stores/assets.
<u>Disposal Management</u>	Disposal Management is responsible to ensure that all unserviceable, redundant or obsolete assets are subjected to a formal process of doing away with moveable assets in a cost effective, but transparent and responsible manner. It also entails the maintenance of records and records as prescribed.

TERM	DEFINITION
Emergency procurement	An emergency procurement process will only apply in serious, unexpected and potentially dangerous circumstances which require immediate rectification: <ul style="list-style-type: none"> <input type="checkbox"/> In the event of a threat or interruption in CP ability to execute its mandate <input type="checkbox"/> In the event of an immediate threat to the environment or human safety
<u>Expendable Stores</u>	Relatively cheap items where the administration costs of recording after issuing are not cost effective, or where some lose their identity in the process of utilization and are approved by the Accounting Officer as Consumable Accounting
Final award	In relation to bids or quotations submitted for a contract, means a final decision accepting the bid or quotation.
<u>Financial year</u>	The period from 1 July in any year to 30 June in the ensuing year
Formal written price quotation	Means quotations referred to in MSCM Regulation 12(1)(c).
Fruitless and wasteful expenditure	Means expenditure which was made in vain and would have been avoided had reasonable care been exercised.
<u>Function</u>	A function is a number of related tasks, duties or activities, which contribute to the realisation of a specific objective (Grouping of activities of initial receipt and external issue of stores in the function of "Transit")
<u>Functionary</u>	A person handling stores at the lowest functional level of activity, and who, organizationally, resorts under a specific cost centre manager.
<u>Head of the SCM Unit</u>	It is the official delegated by the Accounting Officer to be responsible for the organizational function of Supply Chain Management at the EMM. He or She is to delegate responsibilities to his/her sub-ordinate in terms of the SCM functions
Immovable assets	Immovable assets consist of: <ul style="list-style-type: none"> a) Tangible assets, namely land, subsoil assets, and water resources; and b) Fixed structures, namely bridges, houses, office buildings, roads, etc.
Imported content	That portion of the tender price represented by the cost of components, parts or materials which have been or are still to be imported (whether by the supplier or its sub-contractors) and which costs are inclusive of the costs abroad, plus freight and other direct importation costs, such as landing costs, dock dues, import duty, sales duty or other similar tax or duty at the South African port of entry.
In the service of the state	Means to be: <ul style="list-style-type: none"> <input type="checkbox"/> A member of <ul style="list-style-type: none"> ▪ Any municipal council, ▪ Any provincial legislature; or ▪ The National Assembly or the National Council of Provinces. <input type="checkbox"/> A member of the board of directors of any municipal entity

TERM	DEFINITION
	<ul style="list-style-type: none"> <input type="checkbox"/> An official of any municipality or municipal entity <input type="checkbox"/> An employee of any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No 1 of 1999). <input type="checkbox"/> A member of the accounting authority of any national or provincial public entity; or <input type="checkbox"/> An employee of Parliament or a provincial legislature.
Intangible assets	Intangible assets are trademarks, licenses and/or the legally enforceable rights associated with copyright and patents.
Inventories	Including stock and stores (consumable stores, maintenance materials, spare parts, WIP, education/training course materials, client services). Properties/land held for sale. Strategic stocks (fuel supplies, precious stones and metals). Seized or forfeited property.
<u>Irrecoverable Losses</u>	This is in the case of Vis major, or where a person does not forfeit his/her cover in terms of the relevant Treasury Instruction and the loss is written off against the EMM.
Irregular expenditure	<p>In relation to a municipality or municipal entity, means -</p> <ul style="list-style-type: none"> (a) Expenditure incurred by a municipality or municipal entity in contravention of, or that is not in accordance with, a requirement of this Act, and which has not been condoned in terms of section 170; (b) Expenditure incurred by a municipality or municipal entity in contravention of, or that is not in accordance with, a requirement of the Municipal Systems Act, and which has not been condoned in terms of that Act; (c) Expenditure incurred by a municipality in contravention of, or that is not in accordance with, a requirement of the Public Office-Bearers Act, 1998 (Act 20 of 1998); or (d) Expenditure incurred by a municipality or municipal entity in contravention of, or that is not in accordance with, a requirement of the supply chain management policy of the municipality or entity or any of the policies of the municipality or entity or any of the municipality's by-laws giving effect to such policy, and which has not been condoned in terms of such policy or by-law, <p>But excludes expenditure by a municipality which falls within the definition of "unauthorised expenditure".</p>
<u>Issue</u>	The physical act of handing over stores, on submission of a requisition (demand) that has been signed by an authorized person.
<u>Issue Voucher</u>	An approved voucher for recording all issue
Lifecycle costing	Lifecycle costing is a technique developed to identify and quantify all costs, initial and on-going, associated with a project, asset or installation

TERM	DEFINITION
	over a given period. Thus, it is a tool that forecasts the total cost of a purchase throughout its predetermined lifecycle.
Limited bidding	Where the competition is limited in one way or another. Limited bidding is reserved for a specific group or category of possible providers.
List of accredited prospective providers	Means the list of accredited prospective providers which a municipality shall keep in terms of MSCM regulation 14
Local content	That portion of the tender price which is not included in the imported content, provided that local manufacture does take place
Long term contract	Means a contract with a duration period exceeding one year
<u>Manager</u>	A person in control of an organisational entity, consisting of a number of functionaries
Movable assets	Movable assets are assets that can be moved (e.g. machinery, equipment, vehicles, aircraft, engines and motors). All inventories and valuables and most non-current assets belong to this category
Net present value (NPV)	The sum that results when the discounted value of the expected costs of an investment are deducted from the discounted value of the expected returns. If the NPV is positive the project in question is potentially worth undertaking.
Obsolete	No longer produced or used, out of date, to become obsolete by replacing it with something new.
Official	Official means: <ul style="list-style-type: none"> <input type="checkbox"/> An employee of a municipality; <input type="checkbox"/> A person seconded to the municipality to work as a member of the staff; <input type="checkbox"/> A person contracted to work as a member of the staff otherwise than as an employee.
<u>Organ of State</u>	Is defined in the RSA Constitution of 1996, as follows <ul style="list-style-type: none"> (a) any department of state or administration in the national, provincial or local sphere of government; or (b) any other functionary or institution- <ul style="list-style-type: none"> (i) exercising a power or performing a function in terms of the Constitution or a provincial constitution; or (ii) exercising a public power or performing a public function in terms of any legislation, but does not include a court or a judicial officer
Other applicable legislation	Means any other legislation applicable to municipal supply chain management, including: <ul style="list-style-type: none"> a) The PPPFA of 2000 b) The B-BBEEA of 2003 c) The CIDB Act of 2000.

TERM	DEFINITION
Receipts	All stores and services received/ irrespective of the means by which they are purchased, transferred, produced, manufactured, donated or acquired.
<u>Receipt Voucher/ Goods Receipt Note</u>	An approved voucher that in complete to record receipt.
Redundant	No longer needed or useful, superfluous (unnecessary).
Repairable	Term applicable to assemblies with detail parts breakdown that are economically repairable, and in the normal course of operation are continually returned to a fully serviceable condition over a period less than the life of the end item to which they are related. These assemblies possess economic value either in a serviceable or unserviceable condition until they are declared no longer of value for operation because of obsolescence of themselves, or of the end item to which they are related, or because these assemblies are no longer repairable.
<u>Requisition</u>	An approved voucher that is completed in order to record all internal demands, or purchases.
Responsibility	The obligation imposed on an individual to properly exercise the authority vested in him/her. This involves the power to command and to demand action in the proper execution of the relevant duties (responsibility may be delegated).
Retention	Retention is an amount of money retained for a certain period to offset costs which may arise from the contractor's failure to comply fully with the contract.
Stipulated minimum threshold	That portion of local production and content as determined by the DTI
Stores/stock	All movable state property/assets that are kept in stock for issue purposes.
Total cost of ownership	The sum of direct spend, related spend, process spend and opportunity cost associated within a specific commodity and service.
Treasury guidelines	Means the guidelines on SCM issued by the Minister in terms of section 168 of the MFMA.
Unserviceable	The condition of an item that is no longer suitable for use and which cannot be economically repaired.
Written or verbal quotations	Means quotations referred to in the MSCM Regulation 12(1)(b).

SECTION 3 SCM STRATEGY, EMPOWERMENT STRATEGY AND SCM POLICY

3.1 VISION AND MISSION

3.1.1 The Vision of SCM is as follows:

3.1.1.1 “In being a professional, transformative SCM unit, we exceed our customers’ expectations and deliver a customer-centric, effective and efficient service every time”

3.1.2 The SCM Mission is:

3.1.2.1 “To develop a strategy business partner who continuously strive to ensure a modern, transparent and pro-active service through unquestionable compliance to policies, delivering value for money.”

3.2 SCM STRATEGY

3.2.1 EMM shall on an annual basis develop and adopt a SCM strategy, including strategic SCM business objectives, key performance indicators, annual or multi- year targets, strategic SCM programmes which will include initiatives and targets to support the achievement of EMM’s targeted procurement and core business objectives.

3.2.2 Taking into consideration the abovementioned SCM strategy, EMM will simultaneously develop an implementation plan to give effect to the approved strategy. The implementation plan will form a part of the SCM strategy.

3.2.3 The annual SCM strategy shall be developed by the SCM Division in conjunction with user departments and other relevant role-players in SCM.

3.2.4 The developed strategy shall be submitted to the CM for his consideration and recommendation to Council for approval, prior to the commencement of each new financial year.

3.3 UNBUNDLING STRATEGY AND PRE-QUALIFICATION FOR PREFERENTIAL PROCUREMENT

3.3.1 Small enterprises can participate in one of two ways in procurement, i.e. by contracting directly with a contracting authority or as sub-contractors.

3.3.2 EMM may decide to apply prequalifying criteria for preferential procurement to advance as subcontractors, small enterprises controlled by designated groups.

3.3.3 If EMM decides to apply the pre-qualifying criteria as contemplated in paragraph 3.3.2 above, a tender shall be advertised with a specific tendering condition that only one or more of the following tenderers may respond –

3.3.3.1 a tenderer subcontracting a minimum of 30% to –

3.3.3.2 an EME or QSE which is at least 51% controlled by black people;

3.3.3.3 an EME or QSE which is at least controlled by black people who are youth;

3.3.3.4 an EME or QSE which is at least controlled by black people who are women;

3.3.3.5 an EME or QSE which is at least controlled by black people with disabilities;

- 3.3.3.6 an EME or QSE which is at least controlled by black people living in rural or underdeveloped areas or townships;
 - 3.3.3.7 a co-operative which is at least 51% controlled by black people
 - 3.3.3.8 an EME or QSE which is at least controlled by black people who are military veterans.
- 3.3.4 For contracts above a value which EMM may in its discretion determine, EMM may decide to include in the bid documents a condition that tenderers who are prime contractors, be required to unbundle and subdivide their contracts into smaller contracts and procure the services of small enterprises controlled by any of the designated groups contemplated in paragraphs 3.3.3.2-3.3.3.8 above.
- 3.3.5 Guidelines for premiums will be contained in SCM procedures.
- 3.3.6 SCM execution shall utilise unbundling as one of the SCM (acquisition) strategies.
- 3.3.7 The Council's guidelines on premiums shall apply to main and sub-contractors.
- 3.3.8 To give effect to the Council's Economic Development Strategy, a contract may be unbundled. This shall be done to accommodate Small Enterprise Development or to diversify in avoidance of concentration risk which EMM may be exposed to.
- 3.3.9 The principle of unbundling should be fair and applied with consistency.
- 3.3.10 Where unbundling is done to give effect to Enterprise Development, the allocation of the remainder of the contract shall be based on proportional system considering price and or scale of suppliers. The methodology shall be detailed in the procedures.

3.4 SUPPLY CHAIN MANAGEMENT POLICY

- 3.4.1 In terms of section 111 of the MFMA, this City of Ekurhuleni SCM Policy shall:
- 3.4.1.1 Give effect to Section 217 of the Constitution; and Part 1 of Chapter 11 and other applicable provisions of the MFMA.
- 3.4.2 Be fair, equitable, transparent, competitive and cost effective.
- 3.4.3 Comply with:
- 3.4.3.1 The regulatory framework prescribed in Chapter 2 of the MSCM Regulations, and
 - 3.4.3.2 Any regulations or guidelines that may be prescribed in terms of section 168 of the MFMA.
 - 3.4.3.3 Be consistent with other applicable legislation.
 - 3.4.3.4 Not undermine the objective for uniformity in SCM systems between organs of state in all spheres, and
 - 3.4.3.5 Be consistent with national economic policy concerning the promotion of investments and doing business with the public sector.
- 3.4.4 EMM shall not act otherwise than in accordance with this SCM policy when:
- 3.4.4.1 Procuring goods or services.
 - 3.4.4.2 Disposing of goods, no longer needed.
 - 3.4.4.3 Selecting contractors to provide assistance in the provision of municipal services other than in circumstances where Chapter 8 of the Municipal Systems Act applies.

3.4.4.4 The SCM policy shall also include relevant transformational priorities and programmes followed by the National Government and Gauteng Provincial Government (GPG).

3.5 EKURHULENI METROPOLITAN MUNICIPALITY'S ECONOMIC EMPOWERMENT STRATEGY

3.5.1 EMM commits to the social and economic transformation of South Africa by supporting objectives and initiatives captured in strategic national programmes such as B-BEEE and Preferential Procurement as well as in the Gauteng Provincial Government's (GPG) transformation programmes, such as:

- 3.5.1.1 Employment Growth and Development Strategy
- 3.5.1.2 B-BBEE Strategy
- 3.5.1.3 Co-operative Strategic Framework.

3.5.2 Other GPG programmes shall also be considered to guide and align the SCM outputs of EMM. Such programmes may include at least:

- 3.5.2.1 LED Framework
- 3.5.2.2 Industrial Policy Framework
- 3.5.2.3 In support of the above national and provincial programmes, EMM adopts the following transformational priorities:
 - 3.5.2.4 Preferential procurement with or without Pre-qualifying criteria.
 - 3.5.2.5 Local economic development
 - 3.5.2.6 Commodities designated and treatments recommended by GPG from time to time
 - 3.5.2.7 Promotion of SMME's and cooperatives
 - 3.5.2.8 Supplier development.

3.5.3 The SCM Division, supported by all EMM departments, shall pursue the above priorities, including related targets set annually by Council through the approval of SCM strategy, in their implementation of an EMM Targeted Procurement Strategy.

3.5.4 Annual targets shall be set for EMM and each Department, for at least the following groups:

- 3.5.4.1 B-BBEE enterprises with equitable gender participation
- 3.5.4.2 Small B-BBEE enterprises with equitable gender participation
- 3.5.4.3 Micro enterprises with equitable gender participation
- 3.5.4.4 Black women owned enterprises
- 3.5.4.5 Locally manufactured products
- 3.5.4.6 Enterprises based within the EMM geographical area
- 3.5.4.7 Products manufactured within the EMM geographical area
- 3.5.4.8 Products manufactured in South Africa
- 3.5.4.9 Youth empowerment
- 3.5.4.10 People with disabilities (PwD).

3.5.5 EMM's SCM division in conjunction with the Economic Development Department and supported by all EMM departments shall proactively ensure that such targets are achieved and accurately reported upon, as and when required by EMM.

3.5.6 Once the list of prospective providers has been compiled per commodity, price quotations should be invited from the list.

3.5.7 The invitation of price quotations from the list per commodity should be done on a

rotational basis in such a manner that ongoing competition amongst providers is promoted.”

- 3.5.8 In order to facilitate targeted procurement in respect of bids in excess of R200 000 (VAT included), the following principles shall apply:
 - 3.5.8.1 Tenders may be advertised with a specific tendering condition that only one or more of the following tenderers may respond –
 - 3.5.8.1.1 a tenderer having a stipulated minimum B-BBBEE status level of contributor
 - 3.5.8.1.2 an EME or QSE
 - 3.5.8.1.3 EMM based bidders falling into any of the target groups contemplated in paragraphs 3.5.4. above.
- 3.5.9 Tenders in respect of goods and services falling within the Minthiro Ya Vula Vula programme shall contain a specific tendering condition that only EMM based bidders may respond.
- 3.5.10 A tender which fails to meet any pre-qualifying criteria stipulated in the tender documents is an unacceptable tender.
- 3.5.11 EMM shall make available the list of suppliers registered on a database approved by the National Treasury to provide the required goods or services in respect of the applicable designated groups from which the tenderer must select a supplier.

SECTION 4 PREFERENTIAL PROCUREMENT AND LOCAL PRODUCTION AND CONTENT

4.1 PREFERENCE POINT SYSTEM

- 4.1.1 The application of preferential procurement and broad based black economic empowerment shall be consistent with:
 - 4.1.1.1 The RSA Constitution
 - 4.1.1.2 The Municipal Finance Management Act and its Regulations.
 - 4.1.1.3 The Preferential Procurement Policy Framework Act and its Regulations.
 - 4.1.1.4 The Broad-based Black Economic Empowerment Act, its Strategy and Codes of Good Practice.
- 4.1.2 EMM shall stipulate the preference point system to be applied to each bid process in each bid document provided to bidders.
- 4.1.3 Bids shall include criteria for the evaluation of quotations/bids to identify the quotation/bid that represents the best value for money, taking also into account the total cost of ownership principle.
- 4.1.4 The PPPFA points system does not have to be applied in respect of acquisitions with a Rand value less than R30 000 per case (all applicable taxes included).
- 4.1.5 The relevant preference point formula as per the PPPFA shall be used to calculate the points for price in respect of acquisitions with a Rand value equal to, or above R30 000 and up to R50 million.

- 4.1.6 The maximum price score shall be allocated to the lowest priced acceptable bid/quote. Any other acceptable quotations/bids, which are higher in price, shall score fewer points on a pro rata basis, calculated on their prices in relation to the lowest acceptable quotation/bid in accordance with the prescribed formula.
- 4.1.6.1 The 80/20 preference points formula shall be used to calculate the points for price in respect of acquisitions with a Rand value equal to, or above R30 000, and up to a Rand value of R50 million with a maximum number points for price of 80.
- 4.1.6.2 The 90/10 preference points formula shall be used to calculate the points for price in respect of acquisitions with a Rand value above R50 million in terms of legislation with a maximum number points for price of 90.
- 4.1.7 A maximum of 20 or 10 points shall be allocated for B-BBEE.
- 4.1.8 Any other acceptable quotations/bids, which are higher in price shall score fewer points on a pro rata basis, calculated on their prices in relation to the lowest acceptable quotation/bid in accordance with the prescribed formula.

4.2 APPLICATION OF THE PREFERENCES

- 4.2.1 Preference points calculations and decisions, made during evaluations, shall be clear and documented.
- 4.2.2 The preference point system shall be applied as follows:

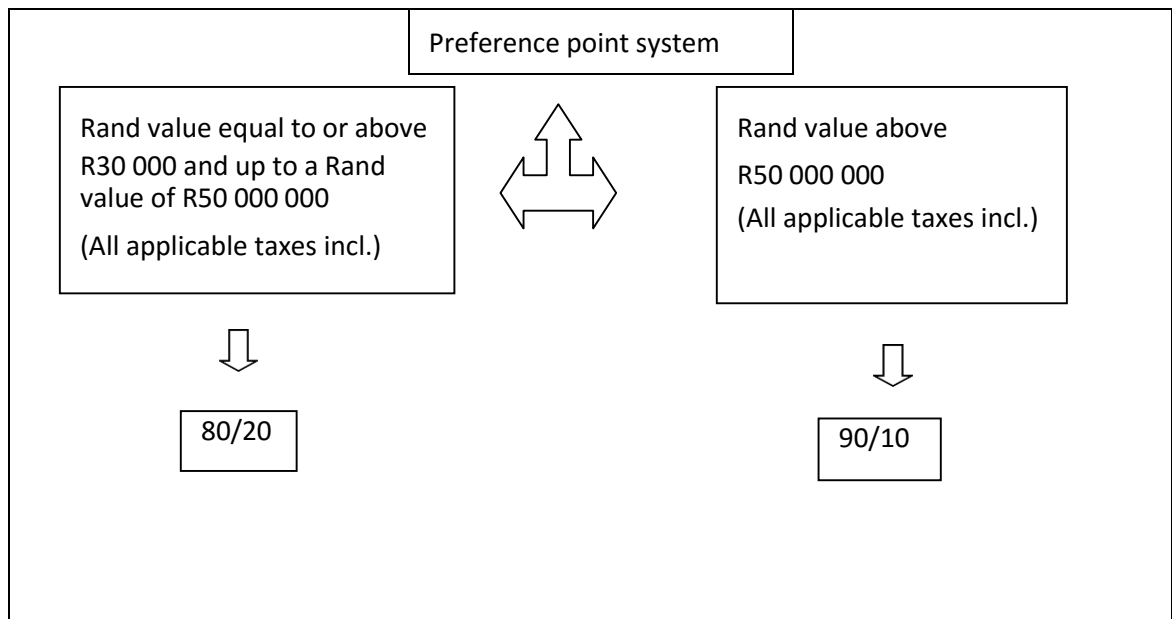


Figure 1

- 4.2.3 If all bids received exceed the estimated Rand value linked to the specified preference point system, the bid invitation shall be cancelled and re-invited, stating the correct preference points system to be applied.

4.3 LOCAL PRODUCTION AND CONTENT

- 4.3.1 In the case of sectors designated by the Minister of Trade and Industry, EMM shall advertise such tenders with a specific tendering condition that only locally produced goods, services or works or locally manufactured goods, with a stipulated minimum threshold for local production and content will be considered.
- 4.3.2 The following sectors/sub-sectors/industries have been designated by the Minister, to which the minimum thresholds for local content shall apply:

Table 4

No	Sectors/sub-sector/industry	Minimum thresholds for local content
1	Buses (bus body)	80%
2	Textiles, clothing, leather and footwear	100%
3	Power Pylons	100%
4	Canned/ processed vegetables	80%
5	Pharmaceutical products: OSD Tender	70% (volumes)
6	Rolling stock	65%
7	Set top boxes	30%
8	Furniture Products:	
	Office Furniture	85%
	School Furniture	100%
	Base and Mattress	90%
10	Solar Water Heater Components	70%
11	Electrical and telecom cables	90%
12	Valves products and actuators	70%
13	Residential Electricity Meter:	
	Prepaid Electricity Meters	70%
	Post Paid Electricity Meters	70%
	SMART Meters	50%

- 4.3.3 The designated sectors may be updated by the DTI over time and EMM shall therefore continually confirm the latest list of sectors designated so that such designations are complied with via the procurement process.
- 4.3.4 The designated sectors may be accessed at http://www.dti.gov.za/industrial_development/ip.jsp.
- 4.3.5 The standard bidding documents (MBD 6.2) must be completed in line with the requirements of the SABS approved technical specification number SATS 1286:2011 and the Guidance Document for the Calculation of Local Content together with the Local Content Declaration Templates (Annex C: Local Content Declaration - Summary Schedule, Annex D: Imported Content Declaration - Supporting Schedule to Annex C and Annex E: Local Content Declaration - Supporting Schedule to Annex C). All these documents are important for the calculation, measurement and verification of local content.
- 4.3.6 EMM shall also, as and when deemed appropriate, include as a specific tendering

condition, that only locally produced services, works or goods or locally manufactured goods with a stipulated minimum threshold for local production and content, shall be considered. However, such prescripts and thresholds shall always be in line with the specific directives issued by the National Treasury in consultation with the DTI.

- 4.3.7 Where necessary, for tenders referred to in 3.1 and 3.5 above, a two stage tendering process shall be followed, where the first stage involves functionality and minimum threshold for local production and content and the second stage for price and B-BBEE with the possibility of price negotiations only with short listed bidders.
- 4.3.8 Every tender issued in terms of PPPFA Regulation 9 shall be measurable and audited.

4.4 CO-OPERATIVES

- 4.1.1 EMM is committed to enhancing the co-operative sector, with due observance of the universally accepted definitions, principles and values central to co-operatives. To this end, it shall support established agencies, such as Gauteng Enterprise Propeller and similar enterprises (to be detailed in the guidelines), whose aim is promoting small businesses and co-operative enterprises.
- 4.1.2 The Co-operatives Act of 2005 and the Co-operative Banks Act of 2007 provide the legislative framework for promoting and regulating co-operatives.
- 4.1.3 A (primary) co-operative is an autonomous association of persons united voluntarily to meet their common economic, social and cultural needs and aspirations, through a jointly owned and democratically controlled enterprise.
- 4.1.4 A secondary co-operative is a co-operative formed by two or more primary co-operatives to provide services to its members. The purpose of a secondary co-operative is to help primary enterprises serve their members more effectively and comprehensively. They provide services such as auditing, training, bookkeeping and advisory support.
- 4.1.5 Primary and/or secondary co-operatives may form a tertiary co-operative representing a specific sector or regional area.
- 4.1.6 Without limiting the number and variety of different kinds of co-operatives, other kinds and types of co-operatives include:
 - 4.1.6.1 Housing co-operative
 - 4.1.6.2 Workers' co-operative
 - 4.1.6.3 Non-profit social co-operative
 - 4.1.6.4 Agricultural co-operative
 - 4.1.6.5 Financial services co-operative
 - 4.1.6.6 Consumer co-operative
 - 4.1.6.7 Marketing and supply co-operative
 - 4.1.6.8 Transport co-operatives
 - 4.1.6.9 Two **characteristics** distinguish co-operatives from other enterprises:
 - 4.1.6.9.1 They are associations of people which agree to be the owners, the makers of democratic decisions and the users of their joint enterprise.
 - 4.1.6.9.2 Their main purpose, as an economic unit, is to promote their members by rendering services, rather than maximising profits.
- 4.1.7 EMM shall support co-operatives by encouraging co-operatives to access EMM contracts via procurement processes. This is in support of Government's drive for co-operative enterprises that enable local people

SECTION 5 ETHICS

5.1 ETHICAL PRINCIPLES

5.1.1 EMM shall adhere to the procurement principles as noted hereunder.

Transparency	The procurement process shall be open and predictable and shall afford each prospective bidder timely access to the same and accurate information
Equal treatment	All bidders and providers shall be treated equally throughout the whole procurement process and shall be given access to the same information.
Effectiveness	EMM shall strive for SCM system effectiveness and shall carry out its procurement processes as cost-effectively as possible while meeting the commercial, regulatory and socio-economic goals of government in a balanced manner appropriate to the procurement requirement.
Efficiency	EMM shall strive to standardise and simplify procedures where appropriate to enhance SCM system effectiveness and shall carry out its SCM processes as cost-effectively and efficiently as possible. EMM shall strive to build relationships with providers, shall ensure good working practices and shall encourage innovative solutions for providers.
Competitiveness	EMM shall satisfy its requirements through competition unless there are justifiable reasons to the contrary.
Fairness	All bidders and contractors shall be dealt with fairly and without unfair discrimination. Unnecessary constraints shall not be imposed on bidders/contractors and commercial confidentiality shall be protected.
Ethics	All providers shall be treated equally whilst promoting certain empowerment objectives, all stakeholders shall conduct business and themselves professionally, fairly, reasonably and with integrity, all interests shall be disclosed and all breach shall be reported. Potential service providers will be subjected to EMM vetting procedures.
Proportionality	The product/service requirements stipulated in the specification/terms of reference and the qualification requirements attached thereto shall be appropriate, necessary and in reasonable proportion to the product/service to be procured.

Accountability

Each practitioner shall be accountable for their decisions and actions relative to their SCM responsibilities, the SCM process as well as in the implementation of concluded contracts. EMM shall have a system, when warranted by circumstances, to investigate and hold liable both employees and relevant private parties dealing with EMM, for their decisions and actions relative to their procurement responsibilities, the procurement process as well as in the implementation of concluded contracts.

Openness

EMM shall ensure a procurement process and a subsequent contract award and implementation according to the predetermined specification in line with the best practice procurement principles.

Value for money

EMM shall achieve value for money through the optimum combination of whole life cost and quality (or fitness for purpose) to meet the customer's requirements while maximising efficiency, effectiveness and flexibility.

EMM shall apply the following TCO philosophy to the procurement of goods and services in achieving value for money.

$TCO = Price + Administration \text{ (maintenance and process)} + Quality/Usage + Supplier \text{ Value-add.}$

Commitment to safety, health and the environment

EMM is committed to the health and safety of its personnel and its providers in the application of its SCM process.

EMM is committed to the preservation of the environment, minimising pollution and the improved use of natural resources in the application of its SCM processes and more specifically in the design of the specifications/terms of reference for each requirement.

EMM shall apply preventative measures in situations of scientific uncertainty where a course of action could harm the environment.

5.2 ETHICAL DIRECTION

- 5.2.1 EMM commits itself to a policy of fair dealing and integrity in the conducting of its SCM activities.
- 5.2.2 All SCM officials and role players in the SCM system are required to promote:
 - 5.2.3 Mutual trust and respect.
 - 5.2.4 An environment where business can be conducted in a fair and reasonable manner and with integrity.
 - 5.2.5 All SCM officials should ensure that they perform their duties efficiently, and effectively, in accordance with the relevant legislation and regulations.
 - 5.2.6 EMM will abide by the EMM Code of Ethical Standards and the Code of Conduct for SCM practitioners and other role players as issued by National Treasury for municipalities and shall direct all SCM practitioners and role players in their conduct within and with EMM. Non-compliance with the Code by any SCM practitioner or role player may result in them being subjected to appropriate disciplinary action.
 - 5.2.7 A breach of the Code of Conduct of Conduct of the EMM shall be dealt with in terms of schedule 2 of the Local Government: Municipal Systems Act 32/2000.
 - 5.2.8 All bidders and contractors shall be made aware of the ethical standards of the EMM, its expectations of them and the consequences of breach or non-compliance. The application of these Standards by bidders the EMM does business with must be promoted and bidders will be subjected to ongoing vetting procedures to ensure compliance.

5.3 THE HIGHEST ETHICAL STANDARDS

- 5.3.1 All SCM practitioners and officials in the SCM system shall observe the highest ethical standards in regard to the performance of their duties. Ethics in this context refers to the concepts of honesty, integrity, probity, diligence, fairness, trust, respect and consistency.
- 5.3.2 An SCM Official must:
 - 5.3.2.1 Comply with the highest ethical standards
 - 5.3.2.2 Preserve the highest standard of honesty, impartially and objectivity.
- 5.3.3 An official of the SCM directorate, who becomes aware of a breach of or failure to comply with any aspect of the SCM system, shall immediately report the breach or failure to the CM in writing.

- 5.3.4 The CM shall take all reasonable steps to prevent abuse of the SCM system.
- 5.3.5 All allegations against a practitioner or any other role player, of corruption, improper conduct or compliance failure with the SCM system shall be investigated by the CM or the delegate who will, when justified take steps against such official or other role player.
- 5.3.6 The CM shall report any conduct that may constitute a criminal offence to the SAPS.

5.4 COMBATING OF ABUSE OF SUPPLY CHAIN MANAGEMENT SYSTEM

5.4.1 MSCM Regulation 38 provides that:

- (1) A supply chain management policy must provide measures for the combating of abuse of the supply chain management system, and must enable the accounting officer -
- (a) to take all reasonable steps to prevent such abuse;
 - (b) to investigate any allegations against an official or other role player of fraud, corruption, favoritism, unfair or irregular practices or failure to comply with the supply chain management policy, and when justified
 - i. take appropriate steps against such official or other role player; or
 - ii. report any alleged criminal conduct to the South African Police Service;
 - (c) to check the National Treasury's database prior to awarding any contract to ensure that no recommended bidder, or any of its directors, is listed as a person prohibited from doing business with the public sector;
 - (d) to reject any bid from a bidder-
 - i. if any municipal rates and taxes or municipal service charges owed by that bidder or any of its directors to the municipality or municipal entity, or to any other municipality or municipal entity, are in arrears for more than three months; or
 - ii. who during the last five years has failed to perform satisfactorily on a previous contract with the municipality or municipal entity or any other organ of state after written notice was given to that bidder that performance was unsatisfactory;
 - (e) to reject a recommendation for the award of a contract if the recommended bidder, or any of its directors, has committed a corrupt or fraudulent act in competing for the particular contract;
 - (f) to cancel a contract awarded to a person if -
 - i. the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract; or

- ii. an official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of the contract that benefited that person; and
- (g) to reject the bid of any bidder if that bidder or any of its directors
 - i. has abused the supply chain management system of the municipality or municipal entity or has committed any improper conduct in relation to such system;
 - ii. has been convicted for fraud or corruption during the past five years;
 - iii. has willfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
 - iv. has been listed in the Register for Tender Defaulters in terms section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004).
- (2) The accounting officer must inform the National Treasury and relevant provincial treasury in writing of any actions taken in terms of sub-regulation (1)(b)(ii), (e) or (f).

5.5 DECLARATION OF INTEREST

- 5.5.1 A SCM practitioner or other role player, or close family member, partner or associate of such practitioner or other role player involved in the implementation of the SCM policy, shall declare to the CM 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 EMM.
- 5.5.2 In addition, the party shall immediately withdraw from participating in any manner whatsoever in the process relating to the contract.
- 5.5.3 A SCM official shall recognise and disclose any conflict of interest that may arise.
- 5.5.4 SCM officials or other role players shall not place themselves under any financial or other obligation to individuals or organizations that might seek to influence them in the performance of their official duties.
- 5.5.5 All declarations must be recorded in a register which the Accounting Officer must keep for this purpose.

5.6 DECLARATION OF BIDDER'S PAST SCM PRACTICES

- 5.6.1 The CM is required to take all reasonable steps to prevent abuse of the SCM system in terms of the MSCM Regulations. Therefore, a bid of any bidder may be disregarded if that bidder or any of its directors have:
 - 5.6.1.1 Abused the institution's supply chain management system;

- 5.6.1.2 Committed fraud or any other improper conduct in relation to such system; or
 - 5.6.1.3 Failed to perform satisfactorily on any previous contract; or
 - 5.6.1.4 Been listed in the Register for Tender Defaulters in terms of section 29 of Prevention and Combating of Corrupt Activities Act (No 12 of 2004).
- 5.6.2 The CM is required to inform the National Treasury and the relevant Provincial Treasury of any steps taken against a bidder in terms of the MSCM Regulations.

5.7 COLLUSIVE PRACTICES (BID RIGGING)

- 5.7.1 Section 4(1)(b)(iii) of the Competition Act No. 89 of 1998, as amended, prohibits any agreement between, or concerted practice by firms, or a decision by an association of firms, if it is between parties in a horizontal relationship and if it involves collusive bidding/ tendering (or bid rigging).
- 5.7.2 In order to deter any form of collusive bidding (bid rigging), bidders shall confirm that they have not entered into any such practices by completing a certificate to that effect.
- 5.7.3 The standard document pertaining to the certification of the independent bid determination shall accompany all price quotations, advertised competitive bids, limited bids and proposals.
- 5.7.4 EMM is required to utilise the information contained in the Certificate of Independent Bid Determination to ensure that when bids are considered all reasonable steps are taken to prevent any form of bid rigging.

5.8 EQUAL TREATMENT

- 5.8.1 All SCM practitioners and other role players shall treat all suppliers and potential suppliers equitably.
- 5.8.2 All SCM officials and role-players, particularly those dealing directly with service providers/suppliers or potential service providers/suppliers, are required to be fair, efficient, firm and courteous and elimination of fraud and corruption

5.9 ACCOUNTABILITY

- 5.9.1 A SCM practitioner and other role players shall be scrupulous in their use of public/organisational property and funds.
- 5.9.2 All SCM officials and other role players shall be accountable for their decisions and actions to the public as well as to EMM.
- 5.9.3 The CM or the delegate is fully responsible and will be held accountable for any expenditures relating to SCM within its area of responsibility.
- 5.9.4 Officials should not make any false or misleading entries into the Accounting systems for any reason whatsoever.

5.10 OPENNESS

- 5.10.1 All supply chain officials shall provide relevant information readily and in a manner that is accessible to relevant parties subject to the Promotion of Access to Information Act No 2 of 2000 and the Promotion of Administrative Justice Act No. 3 of 2000. This shall include giving reasons for the decisions made or actions taken in appropriate cases.

5.11 CONFIDENTIALITY

- 5.11.1 All information that is the property of EMM or its supplier's/service providers shall be protected at all times.
- 5.11.2 Matters of a confidential nature in the possession of supply chain management or other EMM official/s shall be kept confidential unless legislation or the just performance of duty dictates otherwise. Such restrictions should also apply after separation from service.
- 5.11.3 Additional policy provisions regarding the protection of information are contained at section 20 below.

5.12 INDEPENDENCE

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

5.13 GIFTS AND HOSPITALITY

- 5.13.1 No person who is a provider of goods or services or prospective provider of goods or services to EMM, or a recipient or prospective recipient of goods disposed, or to be disposed of, by EMM, may either directly or through a representative or intermediary promise, offer or grant any reward, gift, favour or hospitality to any official of EMM, where such receipt is in excess of the prescribed regulatory amounts.
- 5.13.2 All SCM practitioners and role players shall ensure that officials do not compromise the credibility or integrity of the SCM system through the acceptance of gifts or hospitality or any other act.
- 5.13.3 In the event that any reward, gift, favour or hospitality is in fact provided to any official of EMM, such receipt shall be declared in full to the HOD of the respective Department or the CM, as appropriate.
- 5.13.4 In accordance with EMM's Code of Conduct, the SCM division shall maintain a gift and hospitality register in which all such gifts, etc. shall be recorded.

5.14 FRAUD AND CORRUPTION

- 5.14.1 The Prevention and Combating of Corrupt Activities Act, Act No 12 of 2004 shall be adhered to.
- 5.14.2 EMM is to ensure that all officials, clients and other stakeholders (including providers) are made aware of the implications of The Prevention and Combating of Corrupt Activities Act by way of its bidding processes.
- 5.14.3 Fraud prevention plans shall be instituted.
- 5.14.4 A SCM practitioner or other role player shall assist the CM in combating corruption and fraud in the SCM system.
- 5.14.5 The CM or the delegate shall reject a proposal for adjudication if he/she determines that the provider recommended for adjudication, has engaged in corrupt or fraudulent activities in competing for the contract in question.
- 5.14.6 Contractors shall observe the highest standard of ethics during the selection process and execution of the contract. In terms of these provisions corrupt and fraudulent practices can be defined as follows:
 - 5.14.6.1 Corrupt practice means the offering, giving, receiving or soliciting of anything of value to influence the action of public official in the selection process or in contract execution.
 - 5.14.6.2 Fraudulent practice means a misrepresentation of facts in order to influence a selection process or the execution of a contract to the detriment of the EMM and under collusive practice designed to establish prices at artificial, non-compliance levels and to deprive the EMM of benefits of competition.
 - 5.14.6.3 Contractors must assist in combating corruption in SCM in line with the Prevention and Combating of Corrupt Activities Act, by not giving, receiving or soliciting any item of value to influence the action of an official dealing with Supply Chain Management.
- 5.14.7 Contractors and EMM Official must assist in combating procurement fraud through awareness, vigilance and consistent assessment in line with the Prevention and Combating of Corrupt Activities Act by not misrepresenting facts
in order to influence a procurement process or the execution of a contract to the detriment of the EMM, including collusive practice.
 - 5.14.7.1 All SCM practitioners shall assist the Accounting Officer in combating corruption and fraud.
 - 5.14.7.2 The CM must insist that a provision be included in the contract agreement, requiring contractors to permit the CM to inspect their accounts and records relating to the performance of the contract and to have them audited by auditors appointed by the CM.

5.15 COMBATIVE PRACTICES

- 5.15.1 The use of combative practices shall not be allowed. Combative practices include, but are not limited to:
- 5.15.1.1 Suggestions of fictitious lower quotations.
 - 5.15.1.2 Reference to non-existent competition.
 - 5.15.1.3 Exploiting errors in bids.
 - 5.15.1.4 Soliciting bids from bidders whose names appear on the list of restricted bidders/suppliers/persons.
- 5.15.2 The use of combative practices is unethical and illegal and should be avoided at all costs.

5.16 INTERNAL ABUSE OF PREFERENTIAL PROCUREMENT SYSTEM

- 5.16.1 The CM shall ensure that the preferential procurement system is not abused for any purpose, neither for the benefit of EMM nor for the benefit of any potential provider/contractor or individual.
- 5.16.2 All conduct, dealings and actions are to be bona fide.
- 5.16.3 Any employee suspected of acting contrary to this policy, will be dealt with in terms of the disciplinary code of EMM.
- 5.16.4 The Accounting Officer shall: -
- 5.16.4.1 Take all reasonable steps to prevent abuse, corruption and collusion through at least regular internal audit reviews and external audit as well as risk assessments in the SCM environment.
 - 5.16.4.2 Investigate any allegations against an official or other role-player of fraud, corruption, favoritism, unfair or irregular practices or failure to comply with the SCM Policy
 - 5.16.4.3 Take steps against such official or other role-player and inform Council and National Treasury of such steps in terms of section 32 of the MFMA.
 - 5.16.4.4 Report any conduct that may constitute criminal offence to the SAPS (South African Police Services)
 - 5.16.4.5 Ensure that the EMM considers all complaints received and shall respond thereto in a timely manner.

5.17 EXTERNAL ABUSE OF PREFERENTIAL PROCUREMENT SYSTEM, INCLUSIVE OF FRONTING

- 5.17.1 EMM shall vigorously pursue all legal remedies (Regulations 13 of the Preferential Procurement Regulations, 2011) available in the event that the preferential procurement points system is abused, particularly through, for example, but not limited to the following ways:
- 5.17.2 That a service provider or contractor:
- 5.17.3 Has promised, offered or given a bribe during the bidding process and/or after conclusion of the contract.
- 5.17.4 Has acted in a fraudulent manner or in bad faith or in any other improper manner during the bidding process or after conclusion of the contract.
- 5.17.5 With whom an agreement was entered into on the strength of information furnished by him/her, and it became apparent after conclusion of such agreement that the information provided was incorrect.
- 5.17.6 To protect parties to an agreement, potential providers, contractors and EMM officials shall be made aware of the implications of any contraventions.
- 5.17.7 Potential providers shall be informed via the conditions of contract of implications of contraventions.
- 5.17.8 EMM will endeavor, where possible, to identify fronting before a contract is awarded.
- 5.17.9 Where EMM becomes aware of a possible fronting case, the process in accordance with the Constitution, the rules of Administrative Law and the Promotion of Administrative Justice Act, shall be followed as a starting point.

5.18 SPONSORSHIPS

- 5.18.1 The CM shall promptly disclose to Council, the National Treasury and the Gauteng Provincial Treasury any sponsorship promised, offered or granted to EMM, whether directly or through a representative or intermediary, by any person who is:
- 5.18.2 A provider of goods or services or prospective provider of goods or services to EMM.
- 5.18.3 A recipient or prospective recipient of goods disposed, or to be disposed of, by EMM.

5.19 OFFENCES AND LIABILITY

- 5.19.1 The CM is guilty of an offence if he/she:
- 5.19.1.1 Deliberately or in a grossly negligent way:
 - 5.19.1.1.1 Contravenes or fails to comply with a provision, but not limited to, sections 60(a) & (b); 61(1) & (2), 62(1) & (2), 63(1) & (2), 64(1) to (4); or 65(1) & (2) of the MFMA.
 - 5.19.1.1.2 Fails to take all reasonable steps to prevent irregular or fruitless and wasteful expenditure.
 - 5.19.1.1.3 Fails to take all reasonable steps to prevent corruptive practices in:
 - 5.19.1.1.4 The management of EMM's assets.
 - 5.19.1.1.5 Receipt of money.
 - 5.19.1.1.6 SCM system.
 - 5.19.1.1.7 Deliberately provides false or misleading information in any document which in terms of a requirement of the MFMA shall be:
 - 5.19.1.1.8 Submitted to the Auditor-General, the National Treasury or any other organ of state.
 - 5.19.1.1.9 Made public.
- 5.19.2 A senior official or other official of EMM exercising financial management responsibilities and to whom a power or duty was delegated in terms of Section 78 of the MFMA, is guilty of an offence if that senior official or official deliberately or in a grossly negligent way contravenes or fails to comply with a condition of a delegation.
- 5.19.3 An official of EMM, a member of the Council of EMM or any other person is guilty of an offence if that person deliberately or in a grossly negligent way:
 - 5.19.3.1 Impedes a CM from complying with a provision of the MFMA.
 - 5.19.3.2 Contravenes a provision of section 115(2), 118 or 126(5) of the MFMA or
 - 5.19.3.3 Provides false or misleading information for the purposes of any document which shall in terms of a requirement of the MFMA be:
 - 5.19.3.3.1 Submitted to the Council or CM or to the Auditor-General or the National Treasury or
 - 5.19.3.3.2 Made public
- 5.19.4 No person may amend or tamper with any bids, quotations, and contracts after their submission.
- 5.19.5 A person is liable on conviction of an offence in terms of section 174 of the MFMA to imprisonment for a period not exceeding five (5) years or to an appropriate fine determined in terms of legislation.
- 5.19.6 In terms of section 167(2) of the MFMA, EMM may recover from a political office bearer or official, any loss or damage suffered by it because of the deliberate or negligent unlawful actions of that person when performing such a function of office.

5.20 CONDUCT OF MEMBERS OF BID COMMITTEES

- 5.20.1 Conduct of all members and invitees shall be in accordance with the relevant legislative environment, the National Treasury's Code of Conduct for SCM practitioners and instructions issued from time to time by National Treasury in this regard.
- 5.20.2 A member of any Bid Committee, technical advisor or user representative who contravenes or fails to comply with the afore-mentioned, shall summarily be dismissed from its role and appropriate steps taken against the person.

5.21 CONDUCT OF MEMBERS OF THE COUNCIL AND OFFICIALS

- 5.21.1 No Council members or officials exercising a power or performing a function in terms of the MFMA, is liable in respect of any loss or damage resulting from the exercise of that power or the performance of that function in good faith.

SECTION 6 LEGISLATIVE ENVIRONMENT

6.1 EMM COMMITS TO APPLYING THE PRESCRIBED LEGISLATIVE FRAMEWORK AS IT PERTAINS TO SCM.

6.1.1 THE CONSTITUTION

SCM policy must comply with section 217 of the Constitution of the Republic of South Africa, Act No 108 of 1996, as amended. The section provides that:

- “(1) when an organ of state in the national, provincial or local sphere of Government, or any other institution identified in national legislation, contracts for goods and services, it must do so in accordance with a system which is fair, equitable, transparent, competitive and cost-effective.
- (2) subsection (1) does not prevent the organs of state or institutions referred to in the subsection from implementing a procurement policy providing for:
- categories of preference in the allocation of contracts; and the protection or advancement of persons, or categories of persons, disadvantaged by unfair discrimination.
- (3) national legislation must prescribe a framework within which the policy referred to in subsection (2) must be implemented.”

6.1.2 THE MUNICIPAL FINANCE MANAGEMENT ACT

- 6.1.2.1 According to section 2 of the Municipal Finance Management Act (MFMA), Act No 56 of 2003, the object of the Act is to secure sound and sustainable management of the fiscal and financial affairs of municipalities and municipal entities by establishing

norms and standards for, inter alia, supply chain management.

- 6.1.2.2 The MFMA sets out the roles and responsibilities of the Council, the CM, CFO, senior managers and other officials and prescribes numerous requirements pertaining to municipal SCM.
- 6.1.2.3 The MFMA shall be fully adhered to in the execution of all SCM activities.

6.1.3 MUNICIPAL SCM REGULATIONS OF 2005

- 6.1.3.1 The MSCM regulations prescribe a comprehensive system of SCM that must be adopted and implemented by municipalities. The foundational provisions are:
 - 6.1.3.2 Each municipal entity must have and implement a SCM policy.
 - 6.1.3.3 Council must delegate such SCM powers and duties to the CM for the CM to execute the SCM function appropriately.
 - 6.1.3.4 Each municipality must establish its own SCM Unit to implement its SCM policy. The Unit must, where possible, operate under the direct supervision of the CFO.
 - 6.1.3.5 The training of officials involved in implementing a SCM policy should be in accordance with any Treasury guidelines on SCM training.
 - 6.1.3.6 The SCM system must provide effective systems for the following:
 - 6.1.3.6.1 Demand management.
 - 6.1.3.6.2 Acquisition management.
 - 6.1.3.6.3 Logistics management.
 - 6.1.3.6.4 Disposal management.
 - 6.1.3.6.5 Risk management
 - 6.1.3.6.6 Performance management.
- 6.1.4 The bid documentation must take into account the requirements of the Construction Industry Development Board (CIDB), in the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure.
- 6.1.5 All other regulations issued under the MFMA should be taken into account in so far as they impact on SCM. Applicable regulations are available on the National Treasury's website under the MFMA tab (www.treasury.gov.za).

6.2 MUNICIPAL SYSTEMS ACT

- 6.2.1 The purpose of the Municipal Systems Act, Act No 32 of 2000 as amended by section 35 of Act No 51 of 2002, is as follows:
 - 6.2.2 To provide for the core principles, mechanisms and processes that is necessary to enable municipalities to move progressively towards the social and economic upliftment of local communities, and ensure universal access to essential services that are affordable to all.

- 6.2.3 To provide for governance of municipal entities and general issues like code of conduct for directors and members of staff of a municipality.

6.3 MUNICIPAL SYSTEMS AMENDMENT ACT NO. 44 OF 2003

The Act establishes Integrated Development Plans (IDP) as the principle strategic planning instrument that guides and informs all planning and development and decisions of a municipality.

6.4 THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT (PPPFA) AND REGULATIONS

- 6.4.1 The Preferential Procurement Policy Framework Act (PPPFA), Act No 5 of 2000 and its regulations issued in June 2011, gives effect to Section 217(3) of the Constitution by providing a framework for the implementation of the procurement policy contemplated in Section 217(2) of the Constitution.
- 6.4.2 EMM will apply the Preferential Procurement Policy Framework Act, (Act No 5 of 2000) and its regulations.
- 6.4.3 The Act provides for the implementation of a preference system in the allocation of contracts for categories of service providers and the promotion of goals to advance the interest of persons disadvantaged by unfair discrimination.
- 6.4.4 The Act regulates bid processes.

6.5 THE BROAD-BASED BLACK ECONOMIC EMPOWERMENT ACT (B-BBEE ACT)

- 6.5.1 The Broad Based Black Economic Empowerment Act (B-BBEE Act), Act No. 53 of 2003, provides a framework for the promotion of black economic empowerment, the establishment of a balanced scorecard and the publication of industry transformation charters. A supporting strategy has also been published. The codes of good practice were promulgated in 2007 and consist of a balanced scorecard measuring the BEE status of companies on an annual basis.
- 6.5.2 EMM will adhere to the directives contained in the B-BBEE Act as it affects the procurement process.

6.6 THE PREVENTION AND COMBATING OF CORRUPT ACTIVITIES ACT

- 6.6.1 EMM will adhere to the directives contained in the Prevention and Combating of Corrupt Activities Act, Act 12 of 2004 as it affects the supply chain process.
- 6.6.2 The Act regulates offences in respect of corrupt activities relating to contracts, activities pertaining to acceptance or offering of any gratification and the improper influence of another person as well as offences in respect of corrupt activities relating to procurement.
- 6.6.3 The Act provides for miscellaneous offences relating to possible conflict of interests and other unacceptable conduct.

- 6.6.4 The Act also provides that the National Treasury must establish a register for bid defaulters.

6.7 THE CONSTRUCTION INDUSTRY DEVELOPMENT BOARD (CIDB) ACT, REGULATION AND GUIDELINES

- 6.7.1 Section 16(3) states that the Minister of Public Works must prescribe the manner in which public sector construction contracts may be invited, awarded and managed within the framework of the register and the policy on procurement.
- 6.7.2 Section 16(4) of the CIDB Act states that from a date determined by the Minister, organs of state must apply the register of contractors to its procurement process.
- 6.7.3 Section 18(1) of the CIDB Act states that a contractor may not undertake, carry out or complete any construction works or portion thereof for public sector contracts, awarded in terms of competitive bids or quotations, unless he or she is registered with the Board and holds a valid registration certificate issued by the Board.
- 6.7.4 Section 22(1) states *inter alia* that the CIDB must establish a register of projects. Sub-section (2) states *inter alia* that the Minister must prescribe the requirements for registration of projects, and (3) states that all construction contracts above the prescribed tender value must be recorded in the register. (CIDB Regulation 18(1)(a) specifies the public sector value as exceeding R 200 000, incl. VAT.)
- 6.7.5 Part IV of the CIDB regulations prescribe the requirements referred to in section 16 and Part III prescribes the requirements listed in section 22 of the Act.
- 6.7.6 Section 24(b) of the CIDB Regulations states that every client or employer who is soliciting competitive bids in the construction industry must publish that invitation to bid on the official CIDB website and that solicitation must be in accordance with:
- 6.7.7 The Municipal SCM Regulations of 2005; and the latest approved CIDB Standard for Uniformity in Construction Procurement.
- 6.7.8 The CIDB Best Practice guidelines are recognized by the Board as being Construction Procurement Best Practices and provide comprehensive guidance on implementing the requirements of this standard.
- 6.7.9 MSCM Regulation 21(a)(iii) prescribes that EMM must take into account the requirements of the CIDB in the case of bid documentation relating to construction, upgrading or refurbishment of buildings or infrastructure.

6.8 STATE INFORMATION TECHNOLOGY AGENCY (SITA) ACT

- 6.8.1 The State Information Technology Agency (SITA) Act, Act No 88 of 1998, as amended by Act 38 of 2002, requires that SITA may act as the procurement agency for a municipality's information technology requirements should the municipality so deem necessary.
- 6.8.2 EMM may utilise SITA as an IT procurement agency on an as and when required basis.
- 6.8.3 However, all IT tenders above R 10 million (all applicable taxes included) may be reviewed by SITA at the discretion of the CM.

6.9 OTHER APPLICABLE LEGISLATION, BY-LAWS OR ORDINANCES

- 6.9.1 Cognisance must be taken of the following pieces of legislation that may have an impact on the supply chain environment:
 - 6.9.1.1 Promotion of Administrative Justice Act, Act No 3 of 2000.
 - 6.9.1.2 Promotion of Access to Information Act, Act No 2 of 2000.
 - 6.9.1.3 Protected Disclosures Act, Act No 26 of 2000.
 - 6.9.1.4 National Small Business Act, Act No. 102 of 1996
 - 6.9.1.5 National Small Business Amendment Act, Act No. 29 of 2004
 - 6.9.1.6 Competition Act, Act No 89 of 1998.
 - 6.9.1.7 Close Corporations Act, Act No. 69 of 1984 and its regulations
 - 6.9.1.8 Companies Act, Act No. 71 of 2008
- 6.9.2 All other applicable by-laws, ordinances or legislation impacting on SCM must be taken into account.

6.10 PUBLIC-PRIVATE PARTNERSHIP REGULATIONS

- 6.10.1 In instances where goods, works and/or services are procured by means of public private partnerships (PPP's), Chapter 11, Part 2 of the MFMA as well as the MFMA PPP Regulations of 2005 must be adhered to.
- 6.10.2 SCM must, in terms of National Treasury MFMA Circular 32 of 2003, assist the municipality with preparation of the annual report as it relates to agreements, contracts and projects under Public Private Partnership, service delivery performance, long-terms contracts, etc.

6.11 NATIONAL TREASURY GUIDELINES

- 6.11.1 Regulations issued by National Treasury under the MFMA are mandatory for EMM to follow but SCM guidelines issued under the MFMA must be adopted by Council before they become applicable to the Municipality, either via SCM policy or on their own.
- 6.11.2 EMM will however, utilize all Treasury issued guidelines as best practice references, should such guidelines not be adopted by Council.
- 6.11.3 All MFMA related regulations and guidelines on SCM are electronically available on National Treasury's website (www.treasury.gov.za.)

6.12 THE KING III REPORT ON GOOD GOVERNANCE

- 6.121 The King III report sets out key principles of good governance, as follows:
- 6.122 Developmental local government is local government committed to working with citizens and groups within the community to find sustainable ways to meet their social, economic and material needs and improve the quality of life.
 - 6.12.2.1 Accountability for services
 - 6.12.2.2 Sustainability of services
 - 6.12.2.3 Accountability, transparency and good governance
 - 6.12.2.4 King III promotes that statutory financial information and sustainability information be integrated in the “Annual Report” of an organisation.

SECTION 7 ESTABLISHMENT

7.1 THE SCM SYSTEM

- 7.1.1 An effective and efficient SCM system is hereby established for:
 - 7.1.1.1 The acquisition of goods, services and works
 - 7.1.1.2 The disposal and letting of state assets and goods no longer required.
- 7.1.2 The system shall be fair, equitable, transparent, competitive and cost-effective.
- 7.1.3 The system shall be consistent with the PPPFA and shall take account of the B- BBEE Act and its Codes of Good Practice.
- 7.1.4 The system shall provide for at least the following effective systems:
 - 7.1.4.1 Demand management
 - 7.1.4.2 Acquisition management
 - 7.1.4.3 Logistics management
 - 7.1.4.4 Disposal management
 - 7.1.4.5 Risk management
 - 7.1.4.6 Regular assessment of supply chain performance.

7.2 THE SCM FUNCTION

- 7.2.1 The CM shall establish a SCM directorate (SCM division) to implement this SCM policy.
- 7.2.2 The SCM directorate shall, where possible, operate under the direct supervision of the Chief Financial Officer or a delegated official, in terms of section 7(3) of the MFMA Regulations.

7.3 TRAINING OF SCM OFFICIALS AND OTHER STAKEHOLDERS

- 7.3.1 EMM shall, for SCM purposes, provide resources or opportunities for the training of relevant officials, to meet the prescribed National Treasury minimum competency levels.
- 7.3.2 The training of officials (SCM practitioners, users, SCM committee members, etc.) involved in implementing this SCM policy and system should be in accordance with all Treasury regulations and guidelines on SCM training.
- 7.3.3 Relevant officials should be trained on all aspects of SCM over and above SCM regulations, as and when deemed appropriate by EMM.

SECTION 8 ROLES AND RESPONSIBILITIES

8.1 SUPPLY CHAIN FOCUS

- 8.1.1 The roles and responsibilities of all the structures hereunder are defined only from the perspective of SCM.

8.2 OVERSIGHT ROLE OF EMM COUNCIL

- 8.2.1 The Council shall at least annually review and as necessary adopt an updated or amended SCM Policy.
- 8.2.2 The Council shall maintain oversight over the implementation of the SCM Policy to ensure that it is within the ambit of the applicable legislation.
- 8.2.3 From a SCM perspective, the Municipal Public Accounts Committee shall:
 - 8.2.3.1 Investigate all SCM related expenditure that falls into the definitions of fruitless and wasteful, irregular and unauthorised expenditure and shall recommend appropriate action to Council.
- 8.2.4 The Council shall delegate additional SCM powers and duties to the CM for the execution of SCM functions.

8.3 OVERSIGHT ROLE OF THE MAYORAL COMMITTEE

- 8.3.1 The EMM Mayoral Committee shall:
- 8.3.2 Ensure a co-operative response to SCM policies that affect all the Departments.
- 8.3.3 Co-ordinate the programs and projects of the Departments;

8.4 ROLE OF THE CITY MANAGER

- 8.4.1 In terms of the MFMA, the City Manager (CM) shall:
- 8.4.1.1 Discharge his/her duties in respect of implementation the SCM policy.
 - 8.4.1.2 Comply with his/her responsibilities in terms of Section 115 of the MFMA and other applicable provisions.
 - 8.4.1.3 Take all reasonable steps to ensure that EMM has and implements a SCM policy as set out in MFMA Regulation 2 and taking into account any treasury regulations and guidelines.
 - 8.4.1.4 Maximise administrative and operational efficiency in the implementation of the SCM policy.
 - 8.4.1.5 Sub-delegate in writing such SCM powers and duties as necessary for the effective management of SCM.
 - 8.4.1.6 Enforce reasonable cost-effective measures for the prevention of fraud, corruption, favoritism and unfair and irregular practices in the implementation of the SCM Policy.
 - 8.4.1.7 Take all reasonable steps to ensure that proper mechanisms, delegation (through sub-delegation) and separation of duties in the SCM system are in place to minimise the likelihood of fraud, corruption, favoritism and unfair and irregular practices.
 - 8.4.1.8 Exercise utmost care to ensure reasonable protection of the assets and records of EMM.
- 8.4.2 The CM is responsible for the preparation and submission of the draft SCM policy as well as amendments to the Council for adoption.
- 8.4.3 The CM shall immediately establish a Bid Committee System, comprising of at least the under-mentioned bid committees and must appoint the members of each committee, taking into account that the members must be eligible for the positions:
- 8.4.4 At least one Bid Specification Committees (BSC)
 - 8.4.5 At least one Bid Evaluation Committees (BEC)
 - 8.4.6 A Bid Adjudication Committee (BAC) with varying approval and recommendation thresholds, as deemed appropriate for the proper functioning of the Bid Committee system.
 - 8.4.7 On specific strategic or high value bids, the CM may provide for a neutral and/or independent oversight body to oversee such bid processes CM to ensure compliance, fairness and promote transparency.
 - 8.4.8 The CM may apply the committee system to formal written price quotations, where such intervention is deemed appropriate.
 - 8.4.9 The CM may procure goods and services for EMM by utilising the committee system of another municipality or municipal entity in terms of an agreement with that other municipality or municipal entity.
 - 8.4.10 The CM shall, within 10 days after the end of each financial year, submit a report on the implementation of the SCM policy to the Council for consideration.

- 8.4.11 For the purposes of the oversight role, the CM shall, whenever there are serious and material problems in the implementation of the SCM policy, immediately submit a report on the implementation and maintenance of the policy to the Council.
- 8.4.12 The CM shall within 10 days of the end of the quarter, submit a report on the implementation of the SCM policy to the Mayor.
- 8.4.13 The reports shall be made public in accordance with a process similar to publicising in terms of section 21A of the Municipal Systems Act.
- 8.4.14 The CM may not:
- 8.4.14.1 Act in a way that is inconsistent with the responsibilities assigned to the CM in terms of the MFMA.
- 8.4.14.2 Use the position or privileges of, or confidential information obtained as CM, for personal gain or to improperly benefit another person.
- 8.4.15 In terms of the MSCM Regulations of 2005:
- 8.4.15.1 Regulation 3(1) states that the CM of the municipality shall:
- (a) promptly prepare and submit a draft supply chain management (SCM) policy, complying with MSCM Regulation 2 to the Council for adoption
 - (b) at least annually review the implementation of the policy, and
 - (c) when the CM considers it necessary, submit proposals for amendment of the policy to the Council.
- 8.4.16 Regulation 3(2) states that:
- (a) the CM may use any Treasury guidelines determining standards for municipal SCM policies and submit to Council that standard or a modified version thereof, as a draft policy
 - (b) if the CM submits a draft policy to the Council that differs from the (National Treasury's) guideline standard, the CM shall ensure that such draft policy complies with Regulation 2.
 - (c) the CM shall report any deviation from the guideline standard to the National Treasury and the relevant Provincial Treasury.
- 8.4.17 Regulation 3(3) states that when preparing or amending its SCM policy, the municipality shall take account of the need for uniformity in SCM practices, particularly to promote accessibility of SCM systems for small businesses.
- 8.4.18 Regulation 3(4) states that the CM shall in terms of section 62(1)(f)(iv) of the MFMA take all reasonable steps to ensure that the Municipality has and implements a SCM policy as set out in Regulation 2.
- 8.4.19 The CM shall submit deviation reports to Council on a quarterly basis.

8.5 ROLE OF STRATEGIC MANAGEMENT TEAM (SMT)

- 8.5.1 The SMT shall:
 - 8.5.1.1 Monitor and recommend to the CM, scheduled reports received from the CFO and SCM on the implementation of SCM policy and the performance of SCM.
 - 8.5.1.2 Review and approve the SCM structure.
 - 8.5.1.3 Approve consolidated demand management plans.

8.6 ROLE OF THE CHIEF FINANCIAL OFFICER (CFO)

- 8.6.1 In addition to role of the CFO in accordance with section 81 of the MFMA, the CFO shall ensure the establishment of a compliant SCM function for EMM and shall maintain and oversee such SCM office and function within his structure.
- 8.6.2 Shall ensure the development and implementation of a best practice operating model for SCM in the municipality
- 8.6.3 Shall ensure that the municipality has an approved SCM policy, procedures, strategy and SCM IT systems which provides for the execution of a compliant, efficient and cost effective SCM function within EMM.
- 8.6.4 Shall ensure that the SCM function is adequately capacitated, skilled and trained to comprehensively address all SCM needs of EMM.
- 8.6.5 Shall provide advice to the CM, senior managers and other senior officials on SCM matters.

8.7 ROLE OF THE HEAD OF SCM

- 8.7.1 The Head of SCM is responsible for the implementation of SCM policy, procedures, SCM IT systems, operating model and strategy, in the municipality and management of the day-to-day operations of SCM as well as management of SCM staff.
- 8.7.2 Effective demand management and supply chain planning is also one of the primary responsibilities of the Head of SCM.
- 8.7.3 The Head of SCM shall oversee the consolidation of demand management plans and for the submission via the CFO to the SMT for approval.
- 8.7.4 The Head of SCM reports to the CFO on SCM operations and submits reports and management information, as required, to the CFO, CM, Council and to the National and Provincial Treasuries.
- 8.7.5 The Head of SCM shall provide advice on SCM matters to Council, CM, CFO, senior managers and other senior officials.

8.8 ROLE OF HEADS OF DEPARTMENTS

- 8.8.1 Provide inputs for the SCM policy, procedures, delegations and reports.
- 8.8.2 Provide approval to commence with a project through external procurement, where required, for values up to R 200 000 (all applicable taxes included).
- 8.8.3 Approve terms of reference/specification & evaluation criteria and special conditions, per requirement, in consultation with SCM, where required, for values up to R 200 000 (all applicable taxes included).
- 8.8.4 Approve deviation from normal procurement procedures and processes due to emergency. Obtain approval as soon as possible after the event from the AO. Report afterwards as per the emergency reporting requirement.
- 8.8.5 Adjudicate quotations up to R 200 000 (all applicable taxes included) or sub- delegate the function to a senior manager in the department. However, when the highest scorer is not recommended, or where the adjudication structure does not agree with the recommendation of the evaluation structure, the adjudication structure loses its ability to award and the recommendation must go to the HOD or lower threshold BAC for adjudication, as the case may be.
- 8.8.6 The relevant HOD or sub-delegated by the HOD, up to R 200 000 (all applicable taxes included), may draw lots in the event of equal bids to determine who is awarded the bid/quote, provided that the bidders have also scored equal points for the attainment of specified preferential goals.
- 8.8.7 Signing of contracts, above R 2 million up to R 10 million (all applicable taxes included). This must be in line with any conditions imposed by any award structures that adjudicated and approved the award.
- 8.8.8 HOD's may recommend contract variations, amendments, transfer, cession or termination above R 2 million (all applicable taxes included) to the relevant BAC or the CM for approval.

8.9 ROLE OF EMM SENIOR MANAGERS

- 8.9.1 Provide inputs for the SCM policy, procedures, delegations and reports.
- 8.9.2 Adjudicate quotations up to R 200 000 (all applicable taxes included) or sub- delegate the function to a senior manager in the department.

However, when the highest scorer is not recommended, or where the adjudication structure does not agree with the recommendation of the evaluation structure, the adjudication structure loses its ability to award and the recommendation must go to the HOD or lower threshold BAC for adjudication, as the case may be.
- 8.9.3 The relevant HOD or senior manager per department, sub-delegated by the HOD, up to R 200 000 (all applicable taxes included), may draw lots in the event of equal bids to determine who is awarded the bid/quote, provided that the bidders have also scored equal points for the attainment of specified preferential goals.

- 8.9.4 Signing of contracts, up to R 2 million (all applicable taxes included). This must be in line with any conditions imposed by any award structures that adjudicated and approved the award.
- 8.9.5 Senior managers may recommend contract variations, amendments, transfer, cession or termination up to R 200 000 (all applicable taxes included) to the relevant HOD for approval. SECTION 9 BID COMMITTEE SYSTEM

9.1 THE BID COMMITTEE SYSTEM

9.1.1 The committee system for competitive bids shall consist of at least:

- 9.1.1.1 A Bid Specification Committee (BSC)
- 9.1.1.2 A Bid Evaluation Committee (BEC)
- 9.1.1.3 A Bid Adjudication Committee (BAC)
- 9.1.1.4 A Disposal Committee
- 9.1.1.5 An Appeals Committee.

9.1.2 The committee system shall operate within the prescripts of the following legislation and regulations:

- 9.1.2.1 The MFMA
- 9.1.2.2 MSCM Regulations, especially regulations 27, 28 and 29
- 9.1.2.3 The Preferential Procurement Policy Framework Act and its Regulations
- 9.1.2.4 Elements of the Broad-Based Black Economic Empowerment Act, its Strategy and the Codes of Good Practice
- 9.1.2.5 All other legislation, regulations and National Treasury guidelines impacting on SCM.

9.2 BID SPECIFICATION COMMITTEES (BSC's)

9.2.1 ESTABLISHMENT OF BID SPECIFICATION COMMITTEES

9.2.1.1 The CM shall establish and appoint one or more Bid Specification Committee/s on an ad hoc basis, as necessary, to cater for the main requirements of the municipality.

9.2.2 FUNCTIONS OF BID SPECIFICATION COMMITTEES

9.2.2.1 Each bid specification committee shall compile bid specifications/terms of references for the procurement of goods and services in as per their delegations and ensure that the specifications/terms of references is/are in accordance with the IDP.

9.2.3 COMPOSITION OF BID SPECIFICATION COMMITTEES

9.2.3.1 Each Committee shall at least be composed of:

9.2.3.2 The appointed SCM specialist responsible for the goods or services.

9.2.3.3 One or more officials from EMM and preferably from the relevant Technical and Functional department

9.2.3.4 Legal expert

9.2.3.5 SCM Risk and compliance expert

9.2.3.6 A Finance person should be made available when such expertise is crucial in the development of the Terms of Reference.

9.2.3.7 In respect of procurement or sale of property, the Development Facilitation Steering

Committee will constitute the BSC

9.2.3.8 The Committee may, where appropriate, include external specialists/ advisors.

9.2.3.9 No person, advisor or corporate entity involved with the bid specification committee, or director of such a corporate entity, may bid for any resulting contracts.

9.3 BID EVALUATION COMMITTEES (BEC's)

9.3.1 ESTABLISHMENT OF BID EVALUATION COMMITTEES

9.3.1.1 The CM shall establish and appoint one or more Bid Evaluation Committees, as necessary per requirement, to cater for the main requirements of the municipality.

9.3.1.2 In respect of procurement of property, the Growth and Development Technical Cluster may constitute the BEC.

9.3.1.3 Should a member declare a conflict of interest at any stage, the member may not be part of the Bid Evaluation Committee and shall be replaced by a member of suitable expertise.

9.3.1.4 An official may not be a member of the Bid Evaluation Committee and the Adjudication Committee/Award Structure for the same bid.

9.3.1.5 Persons other than members of the Bid Evaluation Committee or the official/s rendering the Secretariat function are allowed to attend the meetings with prior approval of the CM.

9.3.1.6 Attendance may be on a permanent invitee basis or on an ad-hoc basis, as approved by the CM.

9.3.1.7 Such person/s shall subscribe to the rules and regulations applicable to a member of the Committee.

9.3.2 FUNCTIONS OF BID EVALUATION COMMITTEES

9.3.2.1 The Bid Evaluation Committee will evaluate all bids received from above the quotation threshold.

9.3.2.2 The Bid Evaluation Committee shall:

9.3.2.3 Evaluate each bidder's technical and financial ability to execute the contract.

9.3.2.3.1 Check that bids under evaluation are compliant as per the bid document.

9.3.2.3.2 The Risk and Compliance officer attending the meeting shall ensure that evaluations are compliant to policy, procedure and process.

9.3.2.4 The Bid Evaluation Committee will submit a report and recommendations regarding the award of the bid or any other related matter to the relevant Bid Adjudication Committee for consideration and/or approval.

9.3.2.5 Members of the Bid Evaluation Committee may present their reports to the Bid Adjudication Committee to clarify uncertainties. Such members shall not have any voting power on the Bid Adjudication Committee.

9.3.3 COMPOSITION OF BID EVALUATION COMMITTEES

9.3.3.1 A Bid Evaluation Committee should consist of at least three members of which one shall be a senior official.

- 9.3.3.2 The Bid Evaluation Committee should comprise of at least one supply chain specialist, a financial analyst and an official/s from the relevant Department/s.
- 9.3.3.3 If considered necessary, appoint additional officials with suitable expertise from other organs of state with voting rights.
- 9.3.3.4 If considered necessary, appoint additional experts in an advisory capacity only with no voting rights, where such experts are not government officials.
- 9.3.3.5 EMM may appoint alternates to the members appointed in their individual capacities.
- 9.3.3.6 A legal expert may be appointed to provide advisory support to the Committee.
- 9.3.3.7 EMM's Bid Committee Secretariat shall fulfill the professional secretariat function.
- 9.3.3.8 A Risk and Compliance officer shall attend the meeting, but will have no voting rights.
- 9.3.3.9 The CM or delegate shall appoint one of the members of the Bid Evaluation Committee as the chairperson of the Committee. The chairperson shall be a senior official.

9.4 AWARD STRUCTURES

9.4.1 ESTABLISHMENT OF AWARD STRUCTURES

- 9.4.1.1 The CM shall establish the necessary award structures to perform the award/adjudication of quotations and bids as well as for contract variations or amendments.
- 9.4.1.2 The following award structures shall be established:
 - 9.4.1.2.1 A delegated official/s for awards up to the quotation threshold as well as for contract variations, amendments, transfers, cessions or terminations.
 - 9.4.1.2.2 At least one standing Bid Adjudication Committee for awards above R 200 000 up to R 2 million (all applicable taxes included) as well as for contract variations, amendments, transfers, cessions or terminations.
 - 9.4.1.2.3 At least one BAC for awards above R 2 million up to R 10 million and recommendations to the CM for awards above R10 million (all applicable taxes included), as well as for contract variations, amendments, transfers, cessions or terminations.
 - 9.4.1.2.4 The CM is the Award structure for all final awards above R 10 million as well as for all lower value final awards not formally delegated to any other award structure (all applicable taxes included) as well as for contract variations, amendments, transfers, cessions or terminations.
- 9.4.1.3 The award structure for a specific quotation/bid cannot be:
 - 9.4.1.3.1 An official who compiled specifications or performed the evaluation or made a recommendation in respect of that quotation/bid.
 - 9.4.1.3.2 A person who served as member on the Bid Specification Committee or Bid Evaluation Committee, which processed that quotation/bid.
- 9.4.1.4 No advisor or person who assisted the Bid Specification Committee or Bid Evaluation Committee, may form part of the final decision-making process regarding the award of bids.
- 9.4.1.5 A Bid Adjudication Committee should not be established for a period exceeding 2 years should replacement skills be available, with the option to extend each member's individual appointment for a period not longer than another two years.
- 9.4.1.6 Each member shall have an alternate/secundus where feasible in the case of a standing committee.
- 9.4.1.7 Members as well as officials rendering administrative support shall sign an attendance register, an undertaking of confidentiality and impartiality and shall declare any interests.

9.4.2 FUNCTIONS OF BID ADJUDICATION COMMITTEES

- 9421 A Bid Adjudication Committee shall consider reports and recommendations made by the Bid Evaluation Committees.
- 9422 A BAC shall approve, within delegation, BEC reports submitted and award bids, if delegated to do so, through the recording of minutes of the decision and the signing of the evaluation and recommendation reports under the BAC signature section.
- 9423 A BAC shall ensure that:
- 9.4.2.3.1 All bids have been evaluated in a compliant manner
 - 9.4.2.3.2 Disqualifications are justified and that valid and accountable reasons/motivations were furnished for passing over of bids,
 - 9.4.2.3.3 Scoring has been fair, consistent and correctly calculated and applied; and
 - 9.4.2.3.4 Declarations of interest have been taken cognizance of.
- 9424 A BAC shall ensure, before recommending or awarding a bid, that the bid represents the best value available to EMM, in terms of price, functionality, local content and promotion of BEE.
- 9425 If a Bid Adjudication Committee is not delegated to award a specific bid, it shall comment on the recommendations made and forward it together with the report to the higher BAC or to the CM with an alternative recommendation, who shall finally award the contract. They may also refer recommendations back to the BEC if in disagreement.
- 9426 If a bid other than the one recommended in the normal course of implementing the SCM policy is approved, the CM shall within 10 working days, in writing notify the Auditor-General, the Gauteng Provincial Treasury and the National Treasury of the reasons for deviating from such recommendation.
- 9427 BAC's shall also consider and approve/recommend to the higher BAC or CM for approval or alternatively refer back requests to the initiating Department in respect of contract variations or amendments falling within their delegated thresholds.

FUNCTIONS OF OTHER AWARD STRUCTURES

Other award structures shall have similar functions to those described for the Bid Adjudication Committee.

9.4.3 COMPOSITION OF A BID ADJUDICATION COMMITTEE

- 9.4.3.1 The Bid Adjudication Committee shall consist of *at least four senior officials* of EMM and which shall include:
- 9.4.3.1.1 The Chief Financial Officer of EMM or if the CFO is not available, another senior manager designated by the Chief Financial Officer and reporting directly to the CFO.
 - 9.4.3.1.2 At least one senior SCM practitioner, who is an official of EMM.
 - 9.4.3.1.3 A technical expert in the relevant field who is an official of EMM, if EMM has such an expert.

- 9.4.4.2 The CM or delegate shall appoint the chairperson of the Bid Adjudication Committee.
- 9.4.4.3 If the chairperson is absent from the meeting, the members present shall elect a member to preside at the meeting.
- 9.4.4.4 It shall always be ensured that sufficient financial and legal expertise and supply chain expertise are represented on the Bid Adjudication Committee.
- 9.4.4.4.1 Quorum; the BAC cannot undertake business without a quorum, consisting of 50% plus 1 member.
- 9.4.4.4.2 *Alternate/Secondee*; The CM shall appoint an alternate per bid committee member to temporarily replace members that are absent from a meeting/s.
- 9.4.4.4.3 *Attendance register*: Members will be required to sign an attendance register, an undertaking of confidentiality and impartiality and a declaration of interest.
- 9.4.4.4.4 *Conflict of interest*: If a member has a conflict of interest with any item to be considered it shall be recorded in the minutes and the member shall recuse himself/herself from the decision making process.
- 9.4.4.4.5 *Gift register*: No official or other role player involved in SCM may accept any gift, reward, favour, hospitality or other benefits promised directly or indirectly, including to close family members, partner or associate. Where approval is granted for such gift it should be recorded in a gift register.
- 9.4.4.4.6 *Chairperson*: Will preside over a meeting and, in the absence of a chairperson, the vice chairperson will occupy the chair.

9.4.5 CLEARANCE OF MEMEBERS OF THE BAC

- 9.4.5.1 The Head of SCM shall, in conjunction with the CFO, CM and other relevant senior stakeholders, recommend the appropriate members to serve on the Bid Adjudication Committee.
- 9.4.5.2 The selected members shall be senior officials.
- 9.4.5.3 BAC members shall be cleared to the level of “confidential” by the CM on an annual basis.

9.4.6 RESOLUTION OF DISAGREEMENTS ON AWARD OF CONTRACTS

- 9.4.6.1 Where a Bid Adjudication Committee disagrees with the recommendation of the relevant Bid Evaluation Committee on the adjudication of a contract, the request with the recommendation of the Bid Evaluation Committee, the commentary and reasons of the Bid Adjudication Committee are to be submitted to the higher BAC or to the CM for a final decision.
- 9.4.6.2 The CM may obtain advice, including SMT advice, as deemed necessary in regard to any SCM matter under his consideration.
- 9.4.6.3 The CM may:
 - 9.4.6.3.1 After due consideration of the reasons for any deviation described in section 36 of the MSCM Regulations, ratify or reject the decision of the Bid Adjudication Committee. If the decision of the Bid Adjudication Committee is rejected, refer the decision of the Bid Adjudication Committee back to that Committee for consideration.

- 9.4.6.3.2 On reasonable grounds, at adjudication stage of a bidding process, refer any recommendation made by the Bid Evaluation Committee or the Bid Adjudication Committee back to the committee for consideration of the recommendation.
- 9.4.6.4 Should the CM decide to award a bid to a bidder other than the one recommended by the Bid Evaluation or Bid Adjudication Committee and the Bid Evaluation Committee did use the correct process to determine their recommendation, the CM shall, in writing, notify the Auditor-General, the Provincial Treasury and the National Treasury of the reasons for deviating from such recommendation, within 10 working days.

9.5 DISPOSAL COMMITTEES

9.5.1 ESTABLISHMENT OF A DISPOSAL COMMITTEE

- 9.5.1.1 The CM or delegate shall establish and appoint one or more Disposal Committees and its chairperson on an ad hoc basis, as necessary.
- 9.5.1.2 The Disposal Committee should be established on an ad hoc basis for each requirement.
- 9.5.1.3 Once a disposal requirement is identified, the SCM Unit shall recommend the establishment of a Disposal Committee to the CM.

9.5.2 FUNCTIONS OF A DISPOSAL COMMITTEE

- 9.5.2.1 Inspect all items that appear on the disposal certificate.
- 9.5.2.2 All members of the Committee shall objectively evaluate the items that are submitted for disposal.
- 9.5.2.3 Make recommendations for consideration to the CM or delegate on the following issues:
 - 9.5.2.3.1 Whether items should be disposed of.
 - 9.5.2.3.2 The appropriate disposal method.
- 9.5.2.4 The Disposal Committee subsequently convenes on the date previously arranged by the chairperson of the Disposal Committee.
- 9.5.2.5 After the inspection and evaluation of the items the Disposal Committee shall make recommendations, which will be indicated on the disposal certificate.
- 9.5.2.6 The Committee shall ensure that all disposal actions are accounted for in the financial records.
- 9.5.2.7 All the steps in the disposal process shall be recorded on the disposal register.

9.5.3 COMPOSITION OF A DISPOSAL COMMITTEE

- 9.5.3.1 A Disposal Committee should consist of at least three officials.
- 9.5.3.2 The following should be represented on the Committee for movable assets and for which the CM shall appoint the chairperson:
 - 9.5.3.2.1 The relevant commodity manager.
 - 9.5.3.2.2 An official proficient in logistics management.
 - 9.5.3.2.3 The relevant end user of the commodity considered for disposal.
- 9.5.3.3 The following should be represented on the Committee for immovable assets:
 - 9.5.3.3.1 CFO as chairperson
 - 9.5.3.3.2 Senior Official from the SCM directorate
 - 9.5.3.3.3 Senior Official from the Finance directorate

- 9.5.3.3.4 Senior Official from the Legal directorate
- 9.5.3.3.5 An official proficient in logistics management.
- 9.5.3.3.6 The relevant End User/Commodity Manager of the commodity considered for disposal.

9.5.3.4 An official who is in direct control of stores/equipment, which is to be evaluated may not serve as a member of the Disposal Committee, but can assist the Disposal Committee in the evaluation process.

9.6 BID APPEALS COMMITTEE

- 9.6.1 The Bid Appeals Committee (“the Committee”) is constituted, in terms of the Municipal SCM Regulations of 2005, to combat the abuse of the SCM system for the procurement of goods or services by EMM (“EMM”).
- 9.6.2 The EMM shall implement a system of appeal.
- 9.6.3 Disputes, objections, complaints and queries by external providers may be referred to the Bid Appeals Committee.
- 9.6.4 The composition and powers of the committee is contained in the terms of reference of the Bid Appeals Committee.
- 9.6.5 All appeals shall be for the cost of the appellant.

SECTION 10 AUTHORITY TO EXECUTE

10.1 DELEGATION OF AUTHORITY

- 10.1.1 The allocation and disseminated of delegation of authority shall be read in conjunction with the document on the “system of delegation” especially as it pertains to the legislative and governance framework, decision making structures, the various committees, and the flow of information for decision making.
- 10.1.2 SCM activities shall be executed in accordance with pre-established levels of authority through delegations to ensure control and division of responsibility.
- 10.1.3 Delegations shall be in writing to a specific individual or the holder of a post and shall be in line with the CM’s delegated powers and contained in the separate Delegation of Authority Document.
- 10.1.4 A delegation shall be subject to such limitations and conditions as the CM may impose in a specific case.
- 10.1.5 The CM is entitled to confirm, vary or revoke any decision taken in consequence of a delegation, provided that no such variation or revocation of a decision should detract from any rights that may have accrued as a result of the decision.

10.2 DELEGATION OF SCM POWERS AND DUTIES

- 10.2.1 The Council shall delegate such additional powers and duties to the CM so as to enable the CM to:
- 10.2.2 Discharge the legislative SCM responsibilities conferred on the CM in terms of Chapter 8 or 10 of the MFMA and the SCM Policy.
- 10.2.3 Maximise administrative and operational efficiency in the implementation of the SCM policy.
- 10.2.4 Enforce reasonable cost-effective measures for the prevention of fraud, corruption, favoritism and unfair and irregular practices in the implementation of the SCM policy.
- 10.2.5 Comply with responsibilities in terms of Section 115 and other applicable provisions of the MFMA.
- 10.2.6 The Council shall not delegate and the CM shall not sub-delegate any SCM powers or duties to:
- 10.2.7 A person who is not an official of EMM.
- 10.2.8 A committee which is not exclusively composed of officials of EMM.

10.3 SUB-DELEGATIONS

- 10.3.1 The Council shall approve all sub-delegations recommended by the CM.
- 10.3.2 The Council may consider attaching conditions to the sub-delegations approved.
- 10.3.3 The CM may in terms of section 79(3) of the Act sub-delegate any SCM powers and duties, including those delegated by Council to the CM (MSCM Regulation 4.1), subject to restrictions in terms of MSCM Regulations 5.
- 10.3.4 The CM may not sub-delegate the power to make a final award, above R 10 million (all applicable taxes included).
- 10.3.5 The power to make a final award not exceeding R10 million (all applicable taxes included) is sub-delegated in the Delegations of Authority document with certain restrictions, as noted hereunder.
- 10.3.6 The power to make a final award above R2 million (all applicable taxes included), but not exceeding R10 million (all applicable taxes included) may be sub- delegated but only to:
 - 10.3.6.1 The Chief Financial Officer.
 - 10.3.6.2 A senior official
 - 10.3.6.3 A Bid Adjudication Committee of which the Chief Financial Officer or a senior official is a member.
- 10.3.7 The power to make a final award not exceeding R2 million (all applicable taxes included), may be sub-delegated but only to:

- 10.3.7.1 The Chief Financial Officer.
 - 10.3.7.2 A senior official.
 - 10.3.7.3 A manager directly accountable to the Chief Financial Officer or a senior official.
 - 10.3.7.4 A Bid Adjudication Committee.
- 10.3.8 The power to make a final award above R10 million (all applicable taxes included) rests with the CM.

10.4 RESPONSIBILITIES OF OFFICIALS

- 10.4.1 Each official shall carry out its activities within its area of responsibility.
- 10.4.2 Each official shall take appropriate steps to prevent any unauthorised, irregular, fruitless and wasteful expenditure in its area of responsibility.

10.5 PARTICIPATION OF ADVISORS/CONSULTANTS

- 10.5.1 Specialist advisors may assist in the execution of the SCM function.
- 10.5.2 The above services shall be obtained through a competitive process and in accordance with the overall objective as outlined in this policy.
- 10.5.3 No decision-making in terms of any SCM powers and duties shall be delegated to an advisor or consultant.

10.6 ACCOUNTABILITY AND RESPONSIBILITY: DELEGATION OF AUTHORITY

- 10.6.1 Uninterrupted determination of responsibility and accountability should be maintained at all times to ensure that the supply chain system is managed efficiently. It is imperative that the duties and responsibilities of every member of the SCM directorate be clearly defined and delegated.
- 10.6.2 Responsibility
 - 10.6.2.1 Responsibility shall be clearly delegated in writing. Formal acceptance of the delegated duties and responsibilities is also required if it is to be binding.
- 10.6.3 Accountability
 - 10.6.3.1 The delegation of responsibilities and authority creates the obligation and liability to perform duties properly and in accordance with regulations. Delegation to a lower level within the municipality does not diminish the accountability vested in the higher levels within the municipality. It is therefore clear that accountability is created at every level, but can never be delegated.
- 10.6.4 Authority
 - 10.6.4.1 Duties and responsibilities cannot be successfully executed without proper authority. The individual, to whom duties and responsibilities have been delegated, shall have the mandate to give orders and the authority to enforce obedience within the organisational parameters for proper conduct. The person shall therefore be empowered to exercise the rights and to use the discretion assigned to a position.
 - 10.6.4.2 Authority shall therefore be clearly defined and delegated in writing. Formal acceptance

of the delegated authority is also required if it is to be binding.

10.6.5 Influence of expertise on delegations

- 10.6.5.1 A function or task may only be delegated to a qualified and competent official. Accountability cannot be established if it is known that the person to be delegated to is not competent or qualified to execute the task.

SECTION 11 RISK MANAGEMENT

11.1 INTRODUCTION

- 11.1.1 This section shall be read in conjunction with the risk strategy and policy of the EMM.
- 11.1.2 The management of risk is an integral management function. Evaluation of risk management effectiveness is vital to maximise the value created through risk management practices.
- 11.1.3 The MFMA requires the Municipal Manager to effectively manage risk as well as ensure that an effective fraud prevention plan is in place as part of ensuring good governance and effective management of resources of the municipality.
- 11.1.4 The EMM has a low risk appetite for all forms of loss resulting from negligence and wasteful or fruitless expenditure and zero tolerance to fraud and corruption.
- 11.1.5 The SCM division shall establish the risk appetite in the various areas of SCM operations.
- 11.1.6 A systematic risk management framework which shall incorporate a regular assessment of the relevant risks shall be developed.
- 11.1.7 The SCM division shall with regards to risk, be responsible for:
- 11.1.7.1 Applying the risk management processes in their respective functions;
 - 11.1.7.2 Implement an action plans to address the identified risks;
 - 11.1.7.3 Inform management and/ or the Risk Management Office of new risks and significant changes in known risks.
 - 11.1.7.4 The risk identification approach shall focus on the examination of the essential elements of risk such as assets, threats, vulnerabilities, safeguards, consequences and the likelihood of the threats materialising.

11.2 RESPONSIBILITY FOR RISK MANAGEMENT

- 11.2.1 The CM shall ensure that EMM has and maintains an effective system of risk management for the identification, consideration and avoidance of potential risks in the SCM system.
- 11.2.2 Aspects of risk management shall be allocated to the CFO, the SCM practitioners, the bid committees, the internal audit function and the Audit Committee, each of which shall ultimately be accountable to the CM or the Council for the discharge of their responsibilities.

11.3 APPLICATION OF RISK MANAGEMENT IN SCM

- 11.3.1 The CM or delegate shall determine EMM's risk appetite.
- 11.3.2 Risks shall be identified upfront on a case-by-case basis.
- 11.3.3 Risks shall be allocated to the party best suited to manage such risks.
- 11.3.4 EMM shall accept the cost of risks where the cost of transferring the risk is greater than that of retaining such risk and it shall transfer the risk where this is not the case.
- 11.3.5 EMM shall pro-actively manage risks and provide for adequate cover for residual risks.
- 11.3.6 The bid and contract documentation shall clearly and unambiguously state to whom the risk has been allocated and who should take responsibility for managing it.

11.4 GUARANTEES

- 11.4.1 Performance guarantees (also referred to as surety/security) should be commensurate with the degree of contractual risk to which EMM is exposed.
- 11.4.2 Performance guarantees should spread the cost of the risk of failure between the contracting parties and should be set at such a level that all EMM's costs relating to such failure are likely to be recovered.
- 11.4.3 It would be prudent to make adequate provision in all engineering and construction works contracts to ensure that monies are available to rectify defects.
- 11.4.4 Performance bonds in engineering and construction works contracts should be waived in low value, low risk contracts or where a third party carries the risk of failure in an acceptable manner.
- 11.4.5 Performance guarantees may only be accepted from a banking institution registered in terms of the Banks Act, Act No 94 of 1990 or from an insurer registered in terms of the Insurance Act, Act No 27 of 1943. The Financial Services Board may be contacted on 0800110443 to establish whether or not a company is a registered insurer.

11.5 RETENTION

- 11.5.1 Retention is an amount of money retained for a certain period to offset costs which may arise from the contractor's failure to comply fully with the contract.
- 11.5.2 Retention amounts are deducted from the value of the interim amounts inclusive of VAT due to contractors in construction works contracts. (Retention amounts are financial arrangements between the parties to a contract and are therefore not subject to VAT.)

Some forms of contract include the release of retention monies in interim and final payments. Others make these amounts due within a specified time after the employer's agent certifies completion or the end of the defects liability period in terms of the contract.

11.6 INSURANCE

- 11.6.1 EMM shall insure for procurement related physical risks and, where feasible, establish risk management programmes or make advance provision for losses associated with such risks. Suitable arrangements should also be made to ensure that insurance related excesses do not cause the non-participation or failure of emerging small and micro enterprises.

11.7 PROJECT MANAGEMENT

- 11.7.1 To be effective, risk management could be managed as a project where feasible, with written objectives, milestones and resources (people, time, finances, etc.). The following aspects are highlighted:
- 11.7.2 Integrated control is essential to achieve the desired result.
- 11.7.3 The scope, timeframes, cost, other resources shall all be investigated and documented.
- 11.7.4 The quality of the outcome shall also be identified and quantified.
- 11.7.5 Risk management policies, plans and procedures, including duties and responsibilities, shall be effectively communicated to all concerned.
- 11.7.6 All real or potential risks shall be identified.

SECTION 12 DEMAND MANAGEMENT

12.1 DEMAND PLANNING

The demand management system shall ensure that the resources required to support

- 12.1.1 the strategic and operational commitments of EMM, are delivered at the correct time, at the right price and the right location, and that the quantity and quality satisfies the need of EMM. Therefore, demand planning shall be executed.
- 12.1.2 Demand management shall translate the IDP and SDBIP of EMM into current and future needs and to cost and budget for it.
- 12.1.3 Establishment of a Cross-Functional Team
- 12.1.3.1 Demand management or planning shall be a cross-functional exercise that brings the supply chain practitioner closer to the end-user and ensures that value for money is achieved.
- 12.1.3.2 This exercise may involve representatives from finance; SCM representing procurement, logistics and disposal, technical specialists and end-users.
- 12.1.3.2.1 The following cross-functional team should be considered:
- 12.1.3.2.2 Relevant end-user.
- 12.1.3.2.3 Financial expertise
- 12.1.3.2.4 ICT expertise.
- 12.1.3.2.5 SCM official responsible for demand management.
- 12.1.3 Demand management should be co-ordinated by SCM in consultation with end users.
- 12.1.4 Annual Demand Planning Process

- 12.1.4.1 The SCM division shall participate in the annual demand planning process.
- 12.1.4.2 Each user department shall perform an annual needs analysis of strategic objectives and programmes involving SCM and Finance to determine strategic sourcing that will ultimately provide best value for money.
- 12.1.4.3 The outcome of this activity should be a detailed planning document per department that outlines what goods, works or services should be procured, the manner in which they should be procured as well as the timelines to execute the procurement functions.
- 12.1.4.4 The departmental planning documents should then be consolidated by SCM demand management to reflect a final composite annual demand plan for the organisation.
- 12.1.4.5 From the consolidated demand plan, SCM should then develop annual procurement plans for quotes and for bids respectively. These procurement plans will guide the procurement activities of SCM during the course of each year.

12.1.5 PLANNING EXCEPTIONS

- If for any reason the EMM wishes to undertake unplanned procurement not provided for in the approved budgets, such procurement shall be approved as delegated by the CM and as set out herein before implementation. The amended budget would then incorporate this activity, once it is appropriately approved.

12.1.6 Assessment of Current and Future Needs

- 12.1.6.1 The annual procurement plans shall be analysed in terms of goods and services required over the short and medium term.
- 12.1.6.2 The frequency of the needs and the critical delivery dates shall be established to support the SCM processes and the budgetary process.
- 12.1.6.3 The official/s responsible for the demand management function shall coordinate the needs analysis and costing of each and every programme in EMM.

12.1.7 Assessment of Available Assets: Determine the Nett Requirements

- 12.1.7.1 The details of available stock, goods in transit, redundant and obsolete assets, and assets to be renewed as well as current support services has to be determined.
- 12.1.7.2 The following planning should be done
 - 12.1.7.2.1 Obsolescence planning.
 - 12.1.7.2.2 Renewal planning.
 - 12.1.7.2.3 Determining an asset strategy.
- 12.1.7.3 Asset management decisions should be integrated into the IDP and SDBIP planning process. Following an evaluation of lifecycle costs and the benefits and risks associated with each option, the strategy will identify the most appropriate approach for meeting programme delivery needs.

12.1.8 Analysis of Past Expenditure

- 12.1.8.1 An analysis of who the providers of goods and services and their locations should be made.
- 12.1.8.2 The prices paid should be determined.
- 12.1.8.3 The availability of relevant specifications/terms of reference should be established.
- 12.1.8.4 A spend analysis will provide input into sourcing strategies such as consolidated buying and to gain an understanding of historical spend patterns of different items/commodities and services.

- 12.1.9 Analysis of Supplying Industry
 - 12.1.9.1 In analysing the industry considers the following (but not limited to):
 - 12.1.9.2 Determine names of supplier's/service providers for the commodity.
 - 12.1.9.3 Determine the available specifications/terms of reference.
 - 12.1.9.4 Determine the location of goods as well as lead and delivery times.
 - 12.1.9.5 Analysis of pricing

- 12.1.10 Determine Inventory Management Inputs
 - 12.1.10.1 Determine minimum and maximum stock levels per item.
 - 12.1.10.2 Determine safety stock per item.
 - 12.1.10.3 Determine the reorder point per item.
 - 12.1.10.4 Determine the fill rate per item.
 - 12.1.10.5 Determine the economic order item per quantity.

- 12.1.11 Determine the Optimum Methods to Satisfy Needs
 - 12.1.11.1 Calculate the lifecycle cost (LCC) of each commodity.
 - 12.1.11.2 Determine cost saving levers
 - 12.1.11.3 Determine the net present value of each project
 - 12.1.11.4 Make use of economies of scale
 - 12.1.11.5 Determine total cost of ownership (TCO)
 - 12.1.11.6 The optimum method to satisfy needs shall be an evaluation of the procurement principles to determine the optimum method
 - 12.1.11.7 Calculate the lifecycle cost (LCC) of each commodity.

- 12.1.12 Formulation of Budget Inputs
 - 12.1.12.1 The cross-functional team is responsible to give inputs during the preparation step of the following budgets:
 - 12.1.12.1.1 The integrated development plan (3 years).
 - 12.1.12.1.2 The annual budget.
 - 12.1.12.1.3 The service delivery and budget implementation plan (1 year)

- 12.1.13 Procurement Plan/s for Acquisition Management (Procurement)
 - 12.1.13.1 The SCM directorate shall compile a procurement plan/s for acquisition management for the next financial year.
 - 12.1.13.2 The identified requirements in the SDBIP are drawn from and summarised in a procurement plan/s for acquisition for the next financial year.
 - 12.1.13.3 The SMT shall approve the procurement plan/s for acquisition.

- 12.1.14 Ad Hoc Needs Analysis
 - 12.1.14.1 Over and above the planned needs analysis, an ad hoc needs analysis has to be done for unplanned activities during the financial year.
 - 12.1.14.2 The cross-functional team will perform a need analysis on a case-by-case basis as and when required in order to determine a sourcing strategy for the appropriate product or service that will ultimately provide best value for money.
 - 12.1.14.3 The end-user shall establish the need and in the event of an acquisition in excess of the quotation threshold or a term contract, the total value of which exceeds the quotation threshold, perform a needs analysis in conjunction with the cross-functional team. Technical expertise may be co-opted to the team.

- 12.1.15 Promotion of Local Content
- 12.1.15.1 The EMM shall diligently promote local production and content for designated sectors in accordance with National Treasury's directives.

- 12.1.16 Scoping Through a Request for Information (RFI)
- 12.1.16.1 If sufficient information is not readily available with which to draft terms of reference/specifications, a request for information (RFI) process may be followed in order to obtain more market information.
- 12.1.16.2 The information collected in this fashion may not be used to lead to sourcing from one supplier only nor may it be used to write the ultimate specification/terms of reference around just one specific product.
- 12.1.16.3 It shall be clearly stated in the RFI that the result of this process will not lead to an award and does not constitute a commitment.

- 12.1.17 Determining Specifications/Terms of Reference
- 12.1.17.1 The Bid Specification Committee shall draw up clear specifications and terms of reference.
- 12.1.17.2 Include clear evaluation criteria prior to the invitation of the quotation/bid as offers may only be evaluated according to the criteria stipulated in the quotation/bid document.
- 12.1.17.3 It is the responsibility of the end-user through the facilitation of the Cross- functional Team and the Bid Specification Committee to compile detailed, clear and unambiguous specifications with which to source proposals.

- 12.1.18 Compilation of Specifications or Terms of References
- 12.1.18.1 Standards and technical specifications should promote the broadest possible competition, while assuring those critical elements of performance or other requirements for the goods and services being procured are achieved.
- 12.1.18.2 Specifications should be based on relevant characteristics and/or performance requirements. References to brand names, catalogue numbers, or similar classifications should be avoided. If it is necessary to quote a brand name, the words "**or equivalent**" should be added after the reference. The specification should permit the acceptance of offers for goods which have similar characteristics and which provide performance at least equivalent to those specified. The quality required should not be over specified to the extent that it will be impossible for others to offer such a product.

12.2 BILLS OF QUANTITIES

- 12.2.1 BOQ's are the most common form of pricing strategy used where the contractors undertake construction works on the basis of full designs issued by the EMM.
- 12.2.2 A BOQ gives measured or estimated quantities and a brief description of the work to be performed under contract and may be developed for construction and related procurement.
 - 12.2.2.1.1 The total General items
 - 12.2.2.1.2 Construction work materials content
 - 12.2.2.1.3 Overheads

- 12.2.2.1.4 Risk allowances
- 12.2.2.1.5 Profit

12.3 PLANNING FOR PUBLICATION

- 12.3.1 EMM shall ensure that proper planning occurs at the beginning of each year by establishing as far as possible the publication dates for that year and the first dates for the following year.

12.4 STRATEGIC SOURCING

- 12.4.1 Determine Sourcing Strategy
 - 12.4.1.1 The objectives of strategic sourcing are:
 - 12.4.1.1.1 Saving costs (options of lease vs outright purchase; PPP's, BOT (build, operate, transfer) vs BOOT (build, etc.)
 - 12.4.1.1.2 Increase quality of services
 - 12.4.1.1.3 Standardise pricing
 - 12.4.1.1.4 Improve operational efficiency
 - 12.4.1.1.5 Access to new suppliers
 - 12.4.1.1.6 Creating partnership with suppliers.
 - 12.4.2 The advantages of strategic sourcing are:
 - 12.4.2.1 Improve the value to price relationship, by understanding category buying and management processes to identify improvement opportunities.
 - 12.4.2.2 Examine supplier relationships across the organisation by developing and implementing multi-year contracts with standardised terms and conditions
 - 12.4.2.3 Leverage on overall spending, through sharing best practices across the organisation.
 - 12.4.3 Sourcing strategies shall determine where goods and services may be obtained and through which selection mechanism/s.
 - 12.4.4 Sourcing strategies shall address value for money principles and shall be determined per commodity.
 - 12.4.5 Sourcing strategies shall be approved by the SMT or Council of EMM, as appropriate.
 - 12.4.6 For construction and infrastructure related projects, delivery management strategies, contracting arrangements and procurement arrangements shall be established.
 - 12.4.6.1 Delivery management strategies entail:
 - * Gathering of information
 - * Formulation of procurement objectives
 - * Making strategic delivery management decisions
 - * Deciding on delivery mode (project or program)
 - * Packaging of work
 - 12.4.6.2 Contracting arrangements involves:
 - * Allocating risk for work packages
 - * Establishing requirements for outsourced professional services
 - * Packaging of professional service contracts

- * Allocating risks for professional services contracts

12.4.6.3 Procurement arrangements entail:

- * Decide on quality strategies
- * Decide on procurement procedures
- * Decide on targeted procurement strategies
- * Decide on a bid evaluation procedure

12.5 DATABASE MANAGEMENT: ESTABLISHMENT OF A LIST OF ACCREDITED PROSPECTIVE PROVIDERS

12.5.1 Establishment Details

- 12.5.1.1 EMM shall establish and maintain a list of accredited prospective providers (preferred suppliers) per commodity for the purpose of obtaining written or verbal quotations and formal written price quotations.
- 12.5.1.2 EMM shall, at least once a year, through newspapers commonly circulating locally, the website of EMM and any other appropriate ways, invite prospective providers of goods and services to apply for evaluation and listing as accredited prospective providers (preferred suppliers).
- 12.5.1.3 In addition to the evaluation for compliance, EMM shall evaluate applications in respect of their relevance for listing in relation to their field of expertise, ability to deliver or any other criteria deemed critical in service delivery
- 12.5.1.4 The list of accredited prospective providers (preferred suppliers) shall be used effectively to promote BEE through the participation of black-owned enterprises, black empowered enterprises and black women-owned enterprises.
- 12.5.1.5 The listing criteria for accredited prospective providers (preferred suppliers) will be specified in the advertisement/s.
- 12.5.1.6 Prospective providers (preferred suppliers) whose names appear on the National Treasury's database as a person prohibited from doing business with the public sector, or whose names appear on the Register of Tender Defaulters will be disallowed from being listed on the database.

12.5.2 Updating of the List

- 12.5.2.1 The list of accredited prospective providers shall be updated at least quarterly to include additional prospective providers and any new commodities or types of services.
- 12.5.2.2 Prospective providers shall, however, be allowed to submit applications for listing at any time.
- 12.5.2.3 The CM or delegate shall prevent the listing of any prospective provider whose name appears on the National Treasury's database as person prohibited from doing business with the public sector.
- 12.5.2.4 A provider that did not qualify for placement on the list during the first round, may re-apply to be included in the list of accredited prospective providers if their status should change and it is proven that they will conform to the listing requirements.
- 12.5.2.5 Prospective providers may provide their details on a continuous basis for consideration by completing the application form, but they will only be considered for placement on the list on a quarterly basis, with effect from each following next quarter.

12.6 UTILISATION PROCEDURE

- 1261 For the various quotation thresholds, EMM shall invite accredited prospective providers (preferred suppliers), featured on the list of accredited prospective providers (in the relevant commodity, category and regions/areas), to submit a quote.
- 1262 The CM or delegate shall ensure that prospective providers submit a valid tax clearance certificate for all quotations above R 15 000.00 (Inclusive of all applicable taxes).
- 1263 The invitation of price quotations from the provider list (preferred suppliers) shall be done in such a manner that on-going competition amongst providers is promoted and the rotation principle shall be followed where there are sufficient suppliers listed on the database.

12.7 REMOVAL FROM THE LIST OF ACCREDITED PROSPECTIVE PROVIDERS (PREFERRED SUPPLIERS)

- 12.7.1 Accredited prospective providers may be removed from the list in the following instances:
- 12.7.1.1 on request,
 - 12.7.1.2 for non-compliance with relevant legislation,
 - 12.7.1.3 proven non-delivery or
 - 12.7.1.4 proven fraud and/or corruption.

SECTION 13 ACQUISITION MANAGEMENT: SYSTEM AND PROCESS HIERARCHY

13.1 SYSTEM OF ACQUISITION MANAGEMENT

- 13.1.1 Goods and services shall only be procured in accordance with authorised procurement processes.
- 13.1.2 Procurement of goods and services, either through quotations or through a bidding process, shall be within the threshold values as determined by National Treasury.
- 13.1.3 The CM shall not increase the different threshold values as determined by National Treasury, but may lower it.
- 13.1.4 Expenditure on goods and services may only be incurred in terms of an approved budget and within the limits of the amounts appropriated for the different votes in an approved budget.

13.2 HIERARCHY FOR SATISFYING REQUIREMENTS

- 13.2.1 When a requirement becomes known, the noted hierarchy for satisfying requirements shall apply starting first with the hierarchy of processes of obtaining stock from internal sources and then only applying the hierarchy of processes of satisfying requirements from external sources.

13.3 OBTAIN THE REQUIREMENTS FROM PRE-ESTABLISHED SOURCES

- 13.3.1 There are a number of pre-established sources that may be considered:
 - 13.3.1.1 Items in stock
 - 13.3.1.2 Items on pre-established EMM contract
 - 13.3.1.3 List of redundant, obsolete materials and supplies
 - 13.3.1.4 Sourcing from other organs of state
 - 13.3.1.5 Procurement of goods and services under contracts secured by other organs of state

13.4 DIRECTIVES FOR SPECIFIC TYPES OF REQUIREMENTS

- 13.4.1 The specific rules guiding specific circumstances and products shall also be taken into account together with the hierarchies in the choice of processes.

13.5 PUBLIC PRIVATE PARTNERSHIPS (PPP's)

- 13.5.1 A PPP as a contract between a public sector institution/municipality and a private party, in which the private party assumes substantial financial, technical and operational risk in the design, financing, building and operation of a project
 - 13.5.1.1 Two types of PPPs are specifically defined:
 - 13.5.1.1.1 Where the private party performs an institutional/municipal function
 - 13.5.1.1.2 Where the private party acquires the use of state/municipal property for its own commercial purposes a PPP may also be a hybrid of these types.
 - 13.5.1.2 Payment in any scenario involves one of three mechanisms
 - 13.5.1.3 The institution/municipality paying the private party for the delivery of the service, or
 - 13.5.1.4 The private party collecting fees or charges from users of the service, or
 - 13.5.1.4.1 A combination of the above.
 - 13.5.1.4.2 EMM shall ensure that the Municipal PPP Regulations are complied with when goods or services are procured through public private partnerships or as part of a public private partnership.

13.6 BUILDING, ENGINEERING OR CONSTRUCTION WORKS

- 13.6.1 EMM shall apply the Construction Industry Development Board Act, Regulations and standards and instruction notes in respect of building, engineering or construction works projects of the municipality.
 - 13.6.1.1 EMM shall apply the CIDB's register of contractors to its procurement process.
 - 13.6.1.2 Contractor shall not be allowed to undertake, carry out or complete any construction works or portion thereof for EMM contracts, awarded in terms of competitive bids or quotations, unless he or she is registered with the CIDB and holds a valid registration certificate issued by the Board.
 - 13.6.1.3 All construction contracts above the prescribed tender value of R 200 000 (incl. VAT) shall be submitted to the CIDB for recording in the CIDB Contract Register.
 - 13.6.1.4 Part IV of the CIDB regulations prescribe the requirements referred to in section 16 and Part III prescribes the requirements listed in section 22 of the Act. These shall be adhered to by EMM in applicable projects

- 13.6.1.5 When EMM is soliciting competitive bids in the construction industry it shall publish that invitation to bid on the official CIDB website, in accordance with:
- 13.6.1.6 The Municipal SCM Regulations of 2005; and the latest approved CIDB Standard for Uniformity in Construction Procurement.
- 13.6.1.7 The CIDB Best Practice guidelines and instruction notes shall be followed in planning and executing construction projects.
- 13.6.1.7.1 MSCM Regulation 21(a)(iii) prescribes that EMM must take into account the requirements of the CIDB in the case of bid documentation relating to construction, upgrading or refurbishment of buildings or infrastructure.

13.6.2 Review of Major Construction Projects

- 13.6.2.1 The CIDB Infrastructure Gateway System (IGS) should be used to determine whether to proceed to the next stage of implementation.
- 13.6.2.2 The key focus of the review is to determine:

- Deliverability – the extent to which the project is likely to deliver the expected benefits within the declared cost/time/performance
- Affordability – the extent to which the level of expenditure and financial risk involved in a project can be taken up on, given the organisation’s overall financial position
- Value for money – the optimum combination of whole life costs and quality to meet the user’s requirements.

- 13.6.2.3 Furthermore, for engineering and construction works contracts, risk management may necessitate the:

- Identification of preventative measures to avoid or reduce its effects
- Proceeding with a project on a stage-by-stage basis whilst initiating further investigation to reduce uncertainty through better information
- Consideration of risk transfer in contracting and pricing strategies, with attention to the motivational effects, and the control of risk allocation
- Consideration of risk transfer to insurers
- Setting and management of risk allowance in cost estimation, programmes and specifications, and
- Establishment of contingency plans to deal with risks, should they occur.

13.6.3 PROCUREMENT OF BANKING SERVICES

- 13.6.3.1 MSCM Regulation 30 states that:

- (1) A contract for the provision of banking services to a municipality or municipal entity -
 - (a) must be procured through competitive bids;
 - (b) must be consistent with sections 7 or 85 of the Act; and
 - (c) may not be for a period of more than five years at a time.
- (2) The process for procuring a contract for banking services must commence at least nine months before the end of an existing contract.
- (3) The closure date for the submission of bids may not be less than 60 days from the date on which the advertisement is placed in a newspaper in terms of regulation 22(1). Bids must be restricted to banks registered in terms of the Banks Act, 1990 (Act No, 94 of 1990).

13.6.4 PROCUREMENT OF GOODS NECESSITATING SPECIAL SAFETY ARRANGEMENTS

13.6.4.1 MSCM Regulation 33 states that:

(1) A supply chain management policy must restrict the acquisition and storage of goods in bulk (other than water) which necessitates special safety arrangements, including gases and fuel.

(2) Where the storage of goods in bulk is justified, such justification must be based on sound reasons, including the total cost of ownership and cost advantages for the municipality or municipal entity.

13.6.5 PROUDLY SA CAMPAIGN

13.6.5.1 MSCM Regulation 34 states that a supply chain management policy must stipulate to what extent the municipality or municipal entity supports the Proudly SA Campaign.

13.6.5.2 EMM shall ensure that it supports the above campaign in all its procurement activities and as far as possible goods, works or services shall be procured locally.

13.6.6 APPOINTMENT OF CONSULTANTS

13.6.6.1 EMM shall apply the National Treasury's instructions in respect of the appointment of consultants in so far as they apply to consultancy procurement.

13.6.7 DISPOSALS AND RENTALS OR LEASES

13.6.7.1 Bids in these categories are dealt with in the same manner as other bids with the exception that since revenue is applicable; the objective is to receive the highest bidding price.

13.6.8 LONG TERM CONTRACTS

13.6.8.1 In order to improve efficiencies, EMM may in certain circumstances, enter into term contracts with a duration period exceeding one year.

13.6.8.2 Section 33 of the MFMA shall be complied with for all bids that will impose financial obligations on the municipality beyond the three years covered in the annual budget for that financial year.

13.7 PROCURE REQUIREMENTS FROM EXTERNAL SOURCES

13.7.1 RANGE OF PROCURMENT PROCESSES: MONETARY THRESHOLDS

13.7.1.1 The monetary thresholds (all applicable taxes included), are as follows:

13.7.1.1.1 Petty cash transactions up to a monetary value of R 2 000.00 (all applicable taxes included).

13.7.1.1.2 Written quotations above R2 000 and up to R30 000 (all applicable taxes included).

13.7.1.1.3 Formal written price quotations above R30 000 and up to R200 000 (all applicable taxes included).

- 13.7.1.1.4 Competitive bidding processes for:
- 13.7.1.1.5 Procurement above a transaction value of R 200 000 (all applicable taxes included), and.
- 13.7.1.1.6 The procurement of long term contracts.
- 13.7.1.1.7 The CM may lower, but not increase the above thresholds and may direct that: Written quotations be obtained for any specific procurement of a transaction value lower than R 2 000 (all applicable taxes included)
- 13.7.1.1.8 Formal written quotations be obtained for any specific procurement of a transaction value lower than R 30 000 (all applicable taxes included)
- 13.7.1.1.9 A competitive bidding process be followed for any specific procurement of a transaction value lower than R 200 000 (all applicable taxes included).

13.8 REQUIREMENTS FOR LOCAL CONTENT

- 13.8.1 The EMM shall invite, evaluate and award bids for the promotion of local production and content for the designated sectors in accordance with National Treasury's directives.
- 13.8.2 Section 4.3 of this policy shall be taken into account when local content matters are under consideration.

13.9 REQUIREMENTS NOT AVAILABLE FROM A LOCAL SUPPLIER (PROCUREMENT FROM ABROAD)

- 13.9.1 Should a requirement not be available from a local supplier within South Africa, international sourcing may be considered.
- 13.9.2 Services provided only by tertiary institutions can be procured through bidding process. Such institution will be required to submit their B-BBEE status.

13.10 DEVIATION FROM OFFICIAL PROCUREMENT PROCESSES

- 13.10.1 In terms of MSCM Regulation 36(1), the CM may dispense with the official procurement processes established by the policy to procure any required goods or services through any convenient process, which may include direct negotiations, but only:
 - 13.10.1.1 For emergency procurement.
 - 13.10.1.2 If such goods and services are produced or available from a single provider only.
 - 13.10.1.3 For the acquisition of special works of art or historical objects where specifications are difficult to compile
 - 13.10.1.4 Acquisition of animals for zoos, or
 - 13.10.1.5 In any other exceptional case where it is impractical or impossible to follow the official procurement processes. The following will be considered under

13.10.1.5 these is not exhaustive list

- (i) Subscription, includes newspapers on condition they are not acquired through an agent.
- (ii) License software on condition that the original asset was acquired through competitive bidding.
- (iii) Accommodation include workshops, conferences and lekgotla. Source minimum three quotations directly from the venue not through an agent.
- (iv) Maintenance for fleets must be part of the original acquisition of the vehicle on condition that the original vehicle was acquired through competitive bidding.
- (v) Direct advertisement with media houses, on condition that there are no agents. In case of agents follow applicable competitive bidding.
- (vi) Art work, artists, condition that there is a rotation process

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

13.10.3 The CM shall record the reasons for any deviations in terms of sub-regulation 36 (1)(a) and (b) and report them to the next meeting of Council and include it as a note in the financial statements.

13.10.4 EMM may procure the items listed below via a single source route:

13.10.4.1 Library books and magazines may be procured directly from the publisher

13.10.4.2 Newspaper advertisements may be placed directly with the publishing media and not via agents.

13.10.5 Sub-regulation 36(2) does not apply to the procurement of goods and services contemplated in Regulation 11(2).

SECTION 14 ACQUISITION MANAGEMENT: RANGE OF PROCUREMENT PROCESSES AND THRESHOLDS EXCLUDING CONSULTANTS

14.1 PETTY CASH TRANSACTIONS UP TO R2 000 (ALL APPLICABLE TAXES INCLUDED)

14.1.1 In accordance with the petty cash policy, EMM may procure supplies without inviting price quotations or bids up to a transaction value of R2000 (all applicable taxes included).

14.1.2 EMM shall ensure that a petty cash policy and procedures are in place.

14.2 WRITTEN QUOTATIONS ABOVE R 2 000 AND UP TO R30 000 (ALL APPLICABLE TAXES INCLUDED)

14.2.1 At least 3 written quotations shall be obtained, where applicable, preferably from, but not limited to, providers whose names appear on the list of accredited prospective providers in the correct category, provided that if quotations are obtained from

providers not on the list, such providers shall meet the listing criteria required in MSCM Regulation 14(1)(b) and (c).

- 14.2.2 The invitation of written quotations from the provider list (preferred suppliers) shall be done in such a manner that on-going competition amongst providers is promoted and the rotation principle shall be followed where there are sufficient suppliers listed on the database.
- 14.2.3 If it is not possible to obtain at least written three quotations, the reasons shall be recorded and reported quarterly to the CM or to another official designated by the CM.
- 14.2.4 The CM or delegate shall record the names of the potential providers requested to provide such quotations with their quoted prices.
- 14.2.5 An order may be placed only against written confirmation from the selected provider.
- 14.2.6 The delegated official, in conjunction with SCM, shall ensure that all quotation documentation, quotations received from bidders, approvals, letters of award and any other related relevant documentation are maintained in a standardised filing system for proper record keeping purposes.
- 14.2.7 The CM shall take all reasonable steps to ensure that the procurement of goods and services is not abused.

14.3 FORMAL WRITTEN PRICE QUOTATIONS ABOVE R30 000 UP TO R200 000 (ALL APPLICABLE TAXES INCLUDED)

- 14.3.1 Requirements may be procured by inviting formal written price quotations from as many at least three (3) different providers whose names appear on the list of accredited prospective providers of the municipality.
- 14.3.2 The request for quotations shall indicate the closing date and time, the address where it shall be submitted, the validity period and the address where the supplies shall be delivered or the services shall be rendered. The request for quotations shall contain a sufficiently detailed specification. It may also include special conditions of contract if required over and above the normal conditions.
- 14.3.3 The invitation of formal written quotations from the provider list (preferred suppliers) shall be done in such a manner that on-going competition amongst providers is promoted and the rotation principle shall be followed where there are sufficient suppliers listed on the database.
- 14.3.4 Where no suitable accredited providers are available from the list, quotations may be obtained from other possible providers not on the list, provided that such providers meet the provider listing criteria.
- 14.3.5 If it is not possible to receive at least 3 quotations, the reasons shall be recorded and approved by the CFO or delegate.

- 14.3.6 The CM or delegate shall record the names of the potential providers requested to provide such quotations with their quoted prices.
- 14.3.7 The prescripts of the PPPFA and its Regulations shall be applied to all procurement equal to or above R 30 000 (all applicable taxes included).
- 14.3.8 All procurement in excess of R30 000 and up to R200 000 (all applicable taxes included) that are procured by means of formal written price quotations shall also be advertised for at least seven (7) calendar days on EMM's official notice board and on its website, provided that tax clearance certificates shall not apply to procurement up to R 15 000 (all applicable taxes included)
- 14.3.9 A designated/delegated official referred to above shall within three (3) days of the end of each month report to the CFO on any approvals given during that month by that official in terms of that delegation.
- 14.3.10 The CFO shall on a monthly basis be notified in writing of all quotations accepted by an official acting in terms of a sub-delegation.
- 14.3.11 The delegated official, in conjunction with SCM, shall ensure that all quotation documentation, quotations received from bidders, approvals, letters of award and any other related relevant documentation are maintained in a standardised filing system for proper record keeping purposes.

14.4 COMPETITIVE BIDDING: ABOVE R200 000 (ALL APPLICABLE TAXES INCLUDED)

- 14.4.1 Competitive bidding is where open competition exists and the requirement is advertised on a timely basis for all prospective bidders to participate and therefore allowing fair competition.
- 14.4.2 Goods or services above a transaction value of R 200 000 (all applicable taxes included) and long term contracts may be procured by EMM, only through a competitive bidding process.
- 14.4.3 Any invitation to prospective providers to submit bids shall be by means of a public advertisement in newspapers commonly circulating locally, the website of EMM or any other appropriate medium, e.g. EMM notice boards, and may include an advertisement in the Government Tender Bulletin.
- 14.4.4 No requirement for goods or services above an estimated transaction value of R 200 000 (all applicable taxes included)), may deliberately be split into parts or items of lesser value merely for the sake of procuring the goods or services otherwise than through a competitive bidding process.
- 14.4.5 Competitive bidding also includes two-stage bidding, pre-qualifying bidders and the establishment of a list of approved providers.

14.4.6 ESTABLISHMENT OF A LIST OF APPROVED PROVIDERS

- 14.4.6.1 Where goods or services of a specialised nature are required on a recurring basis, a list of approved providers for the supply of the goods or services may be established through the competitive bidding process.
- 14.4.6.2 The intention to establish a list of approved providers shall be published in a local newspaper and on the website of EMM and if so decided; the Government Tender Bulletin and the closing time and date for inclusion in the list of approved providers shall be indicated.
- 14.4.6.3 Once the list of providers has been approved by the relevant award structure, only the successful applicants shall be directly approached, depending on the circumstances, either by requesting quotations (procurement below R200 000) on a rotation basis or according to the limited bidding procedure when goods or services are required, with the exception that the requirement is not advertised again. All other generic regulatory criteria shall be used in evaluation.
- 14.4.6.4 This list of approved providers shall be updated regularly, at least once a year.

14.5 DIRECT NEGOTIATION

- 14.5.1 Direct negotiations shall only be permitted after approval by the CM or the delegate and shall be conducted in such a manner that none of the stakeholders are advantaged or prejudiced.
- 14.5.2 Care shall be taken to ensure that such a process does not allow the bidder concerned a second (unfair) opportunity and is not to the detriment of any other bidder.
- 14.5.3 Direct negotiation must not lead to higher pricing than the bid as submitted
- 14.5.4 Minutes of such negotiations shall be kept for record purposes
- 14.5.5 Direct negotiations may only take place under the following circumstances:
- Owing to a catastrophic event, there is an urgent need for the goods or services (an emergency), making it impractical to use other methods of procurement because of the time involved in using those methods. Proceeding with a project on a stage-by-stage basis whilst initiating further investigation to reduce uncertainty through better information
 - In cases where preferred bidders were identified as preferred bidders through a competitive bidding process. Preferred bidders are shortlisted for specific services where urgent/emergency procurement could be required. Consideration of risk transfer to insurers
 - In the case of competitive negotiation because of the technical character of the goods or construction, or because of the nature of the services, it is necessary for the procuring entity to negotiate with suppliers or service providers. Thus in the aforementioned case the first round of a two-stage bidding process has taken place where inter alia capacity and acceptability was established.

14.6 PROCUREMENT FROM ABROAD

- 14.6.1 EMM may procure from abroad if it can be certified in writing by the requestor and SCM that:
- 14.6.2 The product/service cannot be sourced locally or through local representatives and that no other similar product will serve the purpose.
- 14.6.3 That a local sourcing process has been run without any success, by obtaining approval from the CM or delegate.
- 14.6.4 The prices of the locally available supply/service are exorbitant.
- 14.6.5 The certification must follow a rigorous process
- 14.6.6 EMM must not take excessive currency position where possible

14.7 PROCUREMENT IN RESPECT OF GRANTS FROM DONORS

- 14.7.1 The EMM shall utilise funds in accordance with donors' procurement procedures in cases where technical assistance agreement prescribes them to do procurement according to the donors' procedures.
- 14.7.2 The EMM shall adhere to the prescripts of the PPPFA and its regulations where donors do not require them to do procurement according to donors' procedures.
- 14.7.3 The EMM shall adhere to the prescripts of the PPPFA and its regulations where projects are partially financed from donor funds and in accordance with a technical assistance agreement.

14.8 TERM CONTRACTS

- 14.8.1 A term contract is a contract entered into for the supply of goods, the rendering of services or the disposal of movable assets over a specified period of time for the minimum period of one year. This is regarded as a good sourcing strategy in relevant circumstances to improve efficiencies. Refer to section 22, paragraph 16 of this policy on contract management.
- 14.8.2 A period of time for completion of the contract shall always be prescribed in the relevant bid documents.
- 14.8.3 EMM may enter into specific term contracts, which are arranged for specific repetitive requirements.

14.9 TWO-STAGE BIDDING PROCESS

- 14.9.1 A two-stage bidding process may be followed for -
- 14.9.1.1 large complex projects;
 - 14.9.1.2 projects where it may be undesirable to prepare complete detailed technical specifications; or
 - 14.9.1.3 long term projects with a duration period exceeding three years.
- 14.9.2 In the first stage technical proposals on conceptual design or performance specifications should be invited, subject to technical as well as commercial clarifications and adjustments.
- 14.9.3 In the second stage final technical proposals and priced bids should be invited.

SECTION 15 ACQUISITION MANAGEMENT: RANGE OF PROCUREMENT PROCESSES AND THRESHOLDS

APPOINTMENT OF CONSULTANTS

15.1 INTRODUCTION

- 15.1.1 The normal policy and procedures apply to the appointment of consultants.
- 15.1.2 The CM may, in terms of MSCM Regulation 35(1), procure consulting services provided that any Treasury Guidelines in respect of consulting services are taken into account when such procurements are made.
- 15.1.3 The provision of consultancy services shall be procured through competitive bidding if:
- 15.1.3.1 The value exceeds R 200 000 (all applicable taxes included)
 - 15.1.3.2 The duration exceeds one year.
- 15.1.4 Bidder must furnish the municipality with particulars of:
- 15.1.4.1 All consultancy services provided to an organ of state in the last five years
 - 15.1.4.2 Any similar consultancy services provided to an organ of state in the last five years.
- 15.1.5 The CM or delegate shall ensure that copyright in any document produced, and the patent rights or ownership in any plant, machinery, thing, system or process designed or devised, by a consultant in the course of the consultancy service is vested in EMM.

15.2 MINIMUM REQUIREMENTS WHEN APPOINTING CONSULTANTS

- 15.2.1 When appointing consultants, it is necessary to strive to satisfy the following minimum requirements:
- 15.2.2 Meeting the highest standards of quality and efficiency.
- 15.2.3 Obtaining advice that is unbiased, that is, being delivered by a consultant acting independently from any affiliation, economic or otherwise, which may cause conflicts between the consultant's interests and those of government.
- 15.2.4 Ensuring the advice proposed, or assignment executed, meets the ethical principles of the consultancy professions.

15.3 GENERAL APPROACH

- 15.3.1 The CM or the delegate should be responsible for preparing and implementing the project, for selecting the consultant, awarding and subsequently administering the contract. While the specific rules and procedures to be followed for selecting consultants depend on the circumstances of the particular case, at least the following four major considerations should guide the CM or delegate in the selection process:
 - 15.3.1.1 The need for high-quality services.
 - 15.3.1.2 The need for economy and efficiency.
 - 15.3.1.3 The need to give qualified consultants an opportunity to compete in providing the services.
 - 15.3.1.4 The importance of transparency in the selection process.
- 15.3.2 In the majority of cases, these considerations can best be addressed through competition among firms in which the selection is based both on the quality of the services to be rendered and on the cost of the services to be provided (Quality- and Cost-Based Selection [QCBS]) as described below. However, there are cases when QCBS is not the most appropriate method of selection. For complex or highly specialised assignments or those that invite innovations, selection based on the quality of the proposal alone (Quality-Based Selection [QBS]), would be more appropriate.
- 15.3.3 The method of selection is determined by the scope of the assignment, the quality of the service, the complexity of the assignment and whether assignments are of a standard or routine nature. Other methods of selection and the circumstances in which they are appropriate are outlined below.
- 15.3.4 When appropriate, EMM may include under the special conditions of contract, the following or similar condition:

“A service provider may not recruit or shall not attempt to recruit an employee of the principal for purposes of preparation of the bid or for the duration of the execution of this contract or any part thereof”.
- 15.3.5 CONFLICT OF INTEREST
 - 15.3.5.1 Consultants are required to provide professional, objective and impartial advice and at all times hold the client's interests paramount, without any consideration for future

work and strictly avoid conflicts with other assignments or their own corporate interests. Consultants should not be hired for any assignment that would be in conflict with their prior or current obligations to other clients, or that may place them in a position of not being able to carry out the assignment in the best interest of EMM or the State. Without limitation on the generality of this rule, consultants should not be hired under the following circumstances:

- 15.3.5.1.1 A firm, which has been engaged by EMM to provide goods or works for a project and any of its affiliates, should be disqualified from providing consulting services for the same project. Similarly, a firm hired to provide consulting services for the preparation or implementation of a project and any of its affiliates, should be disqualified from subsequently providing goods or services related to the initial assignment (other than a continuation of the firm's earlier consulting services as described below) for the same project, unless the various firms (consultants, contractors, or suppliers) are performing the contractor's obligations under a turnkey or design-and-build contract.
- 15.3.5.1.2 Consultants or any of their affiliates should not be hired for any assignment, which by its nature, may be in conflict with another assignment of the consultants. As an example, consultants assisting a client in the privatisation or set-up of public assets should not purchase, nor advise purchasers of such assets or become part of the set-up.

SECTION 16 ACQUISITION MANAGEMENT: QUOTATION/BID COMPILATION AND ISSUING

16.1 LANGUAGE OF QUOTATION/BID DOCUMENTS

EMM shall compile all documentation in English.

16.2 CALLING FOR BIDS

- 1621 Bids shall be invited by the SCM directorate unless other groups have been delegated to do so.

16.3 ADVERTISING OF BIDS

- 1631 To ensure exposure to potential bidders, bids must be advertised in a commonly circulated newspaper in the municipal area of jurisdiction, the EMM website, eTender Publication Portal, an official EMM notice board or in any other appropriate way. Bids may also be advertised in the Government Tender Bulletin if deemed appropriate by the CM or delegate.
- 1632 The prescripts of the Construction Industry Development Board (CIDB), require that bids relating to the construction industry be advertised on the CIDB iTender System.
- 1633 All requirements in excess of R 30 000 (all applicable taxes included) that are to be procured by means of formal written price quotations, shall be advertised for at least seven (7) days on the EMM website and on an official EMM notice board.

- 16.34 Other relevant media may be considered to ensure that the target market is reached, if the local newspapers and the EMM website are regarded as not sufficient to reach the target market. Cost shall be a consideration.
- 16.35 The information of a public advertisement shall contain:
- 16.3.5.1 The closing date for the submission of bids, which may not be less than 30 days in the case of transactions over R 10 million (all applicable taxes included), or which are of a long term nature, or 14 days in any other case, from the date on which the advertisement is placed in the media
- 16.3.5.2 A statement that bids may only be submitted on the bid documentation provided by the municipality.
- 16.3.5 The CM or delegate may determine a closing date for the submission of bids which is less than the 30 or 14 days' requirements, 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.
- 16.3.6 Bids submitted shall be sealed. Where bids are requested in electronic format, such bids shall be supplemented by sealed hard copies.

16.4 CLOSING TIME OF BIDS

- 16.4.1 According to the GCC closing time means the latest date and hour specified in the bid documents for the receipt of bids.
- 16.4.2 Bids of EMM normally close at 10:00 on the day indicated in the bid documents or as alternatively indicated in the documentation.
- 16.4.3 The closing of bids shall be strictly observed.

16.5 DETERMINING THE CLOSING PERIOD

- 16.5.1 Normal closing period from the date on which the advertisement is placed in the relevant publications, is not less than:
- 16.5.1.1 30 days in the case of transactions over R10 million (all applicable taxes included) or in the case of transactions of a long term nature.
- 16.5.1.2 14 days in any other case.
- 16.5.1.3 As a minimum requirement, where goods are to be imported, bids will close at least 6 weeks from the date of the publication.
- 16.5.1.4 The CM or delegate may determine a shorter than specified closing date, but only if such shortened period can be justified on the grounds of emergency or any exceptional case where it is impractical or impossible to follow the official procurement process.
- 16.5.1.5 Approval for the shortening or lengthening of the closing period shall be obtained in accordance with the CM's delegated powers. Reasons for the deviation shall be documented and fully motivated.
- 16.5.1.6 The principle of allowing bidders sufficient time to prepare comprehensive bids shall be observed.
- 16.5.1.7 Where a shorter period is involved, care shall be taken that a reasonable time is allowed for the preparation of the bidder's offer.
- 16.5.1.8 A longer closing period may be necessary where a product is to be imported or a complex response is required from bidders. Where complex supply contracts,

particularly those requiring refurbishing of existing works, items or equipment are involved, this period should generally not be less than eight weeks to enable bidders to conduct investigations before submitting their bids. In such cases, pre-bid information meetings for the bidders to seek clarifications and site visits may be necessary. EMM should provide reasonable access to project sites for such visits.

16.6 DETERMINING THE VALIDITY PERIOD

- 16.6.1 The validity period specified in the quote/bid documentation shall allow EMM sufficient time to finalise the evaluation and award of the quotation/bid.
- 16.6.2 The validity period shall be determined before the quote/bid is published and shall be clearly specified in the bid documentation.
- 16.6.3 Generally, validity periods shall be reasonable and shall depend on the item or commodity being procured.
- 16.6.4 Alternatively, quotes shall be valid for at least 21 calendar days and bids shall be valid for at least 90 calendar days from the closing date of the quote/bid. A longer period may be set for bids, if problems with the evaluation are envisioned, but preferably not longer than 120 calendar days. Approval is to be obtained within the CM's delegated powers for periods shorter than 21 or 90 calendar days for quotes and bids respectively.
- 16.6.5 SCM shall ensure that an extension of validity is requested in writing from all bidders before the validity expiry date.
- 16.6.6 The failure of SCM to ensure that the validity of quotes/bids still under evaluation is extended before validity expiry shall amount to negligence on the part of the SCM practitioner and SCM acquisition manager dealing with the quote/bid.

16.7 AVAILABILITY OF BID DOCUMENTS

- 16.7.1 Bid documents shall be ready and available before the requirement is advertised.
- 16.7.2 Bid documents may be collected by or may be e-mailed or posted to prospective bidders.

16.8 SALE OF BID DOCUMENTS

- 16.8.1 EMM shall determine under which circumstances it shall sell its bid documents.
- 16.8.2 All suppliers shall in the relevant circumstances, pay a non-refundable pre-determined sum of money for all bid documents. This sum shall be determined within a predetermined accountable framework. EMM has resolved to charge a fee for bid documents.

16.9 RESPONSES RECEIVED

- 16.9.1 EMM shall maintain a register/list of responses to the advertisement or the individuals/organisations targeted in the case of quotations.
- 16.9.2 The response list shall contain the following information:
- 16.9.2.1 Bid number.
 - 16.9.2.2 Name of the bidder to whom documents were issued to.
 - 16.9.2.3 Name of the person/organisation that collected the bid on behalf of the bidder.
 - 16.9.2.4 Name of the person/organisation on whose behalf the document is collected, the phone number, the fax number and contact person of the prospective bidder.
 - 16.9.2.5 The date and time the document was collected or the date the document was posted/e-mailed.
- 16.9.3 The same particulars as mentioned above, where applicable, shall also be collected where bid documents are requested by phone.

16.10 ELEMENTS FOR INCLUSION IN BID DOCUMENTS

- 16.10.1 EMM shall promote uniformity by standardising bid documents where possible.
- 16.10.2 Bid documentation including the general conditions of bid and contract, shall at least be in accordance with the instructions of National Treasury.
- 16.10.3 Bidders shall all receive the same information in documentation and should be assured of an equal opportunity to obtain additional information on a timely basis to ensure fairness.
- 16.10.4 Where feasible, large requirements may be divided into smaller more manageable requirements to accommodate EMEs.
- 16.10.5 Where feasible, promote subcontracting and joint ventures with EMEs.
- 16.10.6 Bid documentation shall include evaluation and adjudication criteria, including the criteria prescribed in the PPPFA and the BBBEE Act.
- 16.10.7 The CM shall establish the criteria to which bid documentation for a competitive bidding process shall comply.
- 16.10.8 QUOTATION/BID DOCUMENTATION PACK
- 16.10.8.1 The quotation/bid documentation pack shall consist of the following:
 - 16.10.8.2 Covering letter, which should at least include the bid number, description of the requirement, name of the organisation by whom it is required and the closing date and time.
 - 16.10.8.3 Standard bid documents that include, but are not limited to the following:
 - Invitation to Bid, which is the bidders' consent if signed to enter into a contract

under the conditions specified in the bid documents, should the offer be accepted.

- Tax Clearance requirements.
- Relevant pricing schedule.
- Declaration of interest.
- Declaration of Bidder's Past SCM Practices
- Certificate of independent bid determination
- Preference point claim form in terms of the Preferential Procurement Regulations, 2011.
- Specification/TOR.
- General conditions of contract.
- Special contract conditions.
- Copy of the formal contract or service level agreement (SLA) where applicable.

16.10.8.3.1 When functionality will be evaluated the following shall be clearly specified in the invitation to quote/bid:

- Evaluation criteria for measuring functionality
- Weight of each criterion
- Applicable values
- Minimum qualifying score for functionality.

16.10.8.3.2 In terms of the CIDB standard for uniformity in Construction procurement, the following documentation may be used in engineering and construction works:

- General Conditions of Contract for Construction Works (GCC 2004)
- Conditions of Contract for Construction, Conditions of Contract for Plant and Design-Build, Conditions of Contract for FIDIC EPC/Turnkey Projects or short Form of Contract.
- JBCC series 2000 Principal Building Agreement or Minor Works Agreement
- NEC3 Engineering and Construction Short Contract or NEC3 Engineering and Construction Contract.

16.11 PRE-BID INFORMATION SESSIONS

16.11.1 If an information session is held, minutes of the meeting may be provided to all prospective bidders in the case of non-compulsory session and only to those who attended in the case of compulsory sessions. Any additional information, clarification, correction of errors, or modifications of bid documents should be sent to each recipient of the original bid documents in sufficient time before the closing date and time for receipt of bids to enable bidders to take appropriate actions.

16.12 CHANGING OF INFORMATION BEFORE CLOSING TIME

16.12.1 It is preferable to cancel a bidding invitation and to invite fresh bids if conditions or the specification or any other information have to be materially changed before the closing time or if mistakes are discovered in the documents before the closing time.

16.13 POSTPONEMENT OF CLOSING DATE

16.13.1 The closing date may be postponed only if all prospective bidders can be advised of the postponed date in writing before the original closing date.

16.13.2 In the case of an advertised bid invitation, the closing date may be postponed only if the postponed date can be advertised in the Government Tender Bulletin and other

media where applicable, before the original closing date.

SECTION 17 RECEIVING AND OPENING OF RESPONSES

17.1 RECEIVING AND OPENING PROCEDURES FOR QUOTATIONS UP TO R200 000 (ALL APPLICABLE TAXES INCLUDED)

- 17.1.1 A fair and transparent process shall be followed for the closing, receiving, opening and processing of quotations.
- 17.1.2 No person may interfere or tamper with any bids, quotations, or contracts after their submission.
- 17.1.3 WRITTEN QUOTATIONS ABOVE R2 000 UP TO R30 000 (ALL APPLICABLE TAXES INCLUDED)
 - 17.1.3.1 Providers shall be requested to submit quotations in writing.
 - 17.1.3.2 The delegated official shall request and receive the quotations.
 - 17.1.3.3 However, the award shall be approved by a different delegated official at a higher post level than the requestor.
- 17.1.4 FORMAL WRITTEN PRICE QUOTATIONS ABOVE R30 000 AND UP TO R200 000 (ALL APPLICABLE TAXES INCLUDED)
 - 17.1.4.1 Quotations shall be submitted in writing preferably by hand or per mail.
 - 17.1.4.3 Bid box procedures shall be used.

17.2 RECEIVING AND OPENING OF BIDS ABOVE R200 000 (ALL APPLICABLE TAXES INCLUDED)

- 17.1.1 INTRODUCTION
 - 17.1.1.1 A fair and transparent process shall be followed for the closing, receiving, opening and processing of bids.
 - 17.1.1.2 Bidders shall be allowed to submit bids by mail or by courier or by hand.
 - 17.1.1.3 A bid box shall be visible on the premises of EMM and shall be accessible between 08:00 and 16:00 Mondays to Fridays excluding public holidays.
 - 17.1.1.4 Bids may be opened in public.
 - 17.1.1.5 Bids shall be opened at the same time or as soon as possible after the period for the submission of bids has expired.
 - 17.1.1.6 Any bidder or member of the public has the right to request that the names of the bidders who submitted bids before the closing date and time, shall be read out and, if practical, also each bidder's total bidding price.

- 17.1.1.7 The CM or delegate shall:
 - 17.1.1.7.1 Record in a register all bids received before the closing date and time.
 - 17.1.1.7.2 Make the register available for public inspection.
 - 17.1.1.7.3 Publish the entries in the register and the bid results on the website of EMM.
- 17.1.8 Bids shall be date stamped to indicate the date and time of receipt of bids.
- 17.1.9 A lockable facility for the storing of bids shall be available. Bids received by post, courier or similar service should be administratively dealt with and immediately be channeled to the physical address where bids are to be received.
- 17.1.10 Bids received after the closing time at the physical address indicated in the bid document, shall be considered as late and be dealt with accordingly.

17.3 ACCEPTANCE OF QUOTATIONS

- 17.3.1 Written quotations received by facsimile transmitter, telegram, telex, e-mail or similar media may be accepted as valid if received before the closing time.

17.4 ACCEPTANCE OF BIDS

- 17.4.1 Bids received by facsimile transmitter, telegram, telex, e-mail or similar media do not meet the requirements and shall be summarily rejected.
- 17.4.2 Only original bid documents, which are submitted in the prescribed manner and where all the essential forms are originally signed in ink before submission, may be accepted as valid.
- 17.4.3 Bidders shall be allowed to submit bids by mail, by courier or by hand into the bid box or at the physical address of EMM (reception, over the counter at the SCM directorate as applicable) before the closing time of the bids.
- 17.4.4 All bids will then be kept unopened in safe custody until the closing date and time of the bids.
- 17.4.5 CONFIDENTIALITY
 - 17.4.5.1 After public opening of bids, information relating to the examination, clarification and evaluation of bids and recommendations concerning awards should not be disclosed to bidders or other persons not officially concerned with the process, until the successful bidder is notified of the award.
- 17.4.6 BIDS RECEIVED LATE
 - 17.4.6.1 Bids are late if they are received at the address indicated in the bid documents after closing date and time.
 - 17.4.6.2 Bids received late shall not be considered and shall be returned unopened to the bidder.
 - 17.4.6.3 Where no bid or no acceptable bid has been received, the requirement has to be re-advertised.

SECTION 18 EVALUATION PROCESS

18.1 GENERAL

- 18.1 All bids duly lodged shall be taken into consideration and evaluated.
- 18.2 EMM shall base evaluation solely on an examination of the relevant statutory and/or predetermined evaluation criteria.
- 18.3 Evaluation criteria shall promote the areas of finance (commerce), technical compliance/ability and preferential procurement.
- 18.4 Members involved in the evaluation process shall be honest, fair, impartial, and transparent.
- 18.5 Bid Evaluation Committees should be familiar with and adhere to prescribed legislation, directives and procedures in respect of SCM.
- 18.6 All evaluators/members of Bid Evaluation Committees should be cleared at the level of "CONFIDENTIAL" and should be required to declare their financial interest annually.
- 18.7 No person should interfere with the SCM system of EMM; or amend or tamper with any quotation/bid after its receipt.

18.2 COMPLIANCE CHECK PROCEDURES

- 18.2.1 Before actual evaluation the SCM directorate, in conjunction with the relevant user department, shall do a compliance check that the quotation/bid documentation complies with the mandatory conditions and other specific predetermined bid conditions and that all required forms, sureties and information are submitted, completed in full and are legible.

18.3 MANDATORY REASONS FOR REJECTION

- 18.3.1 EMM shall not consider a quotation or bid unless the provider who submitted the quotation or bid
 - 18.3.1.1 Has furnished EMM with that provider's:
 - 18.3.1.2 Full name
 - 18.3.1.3 Identification number or company or other registration number
 - 18.3.1.4 Tax reference number and VAT registration number, if any.
 - 18.3.2 Has authorised EMM to obtain a tax clearance from SARS that the providers tax matters are in order, and
 - 18.3.3 Has indicated:
 - 18.3.3.1 Whether he/she is or has been in the service of the state in the past twelve (12) months
 - 18.3.3.2 If the provider is not a natural person, whether any of its Directors, managers, principal shareholders or stakeholder is or has been in the service of the state in the past twelve (12) months
 - 18.3.3.3 Whether a spouse, child or parent of the provider or of a Director, manager, principal shareholder or stakeholder is or has been in the service of the state in the past twelve (12) months.

- 18.3.4 EMM shall reject any bid from a bidder:
- 18.3.4.1 If any municipal rate and taxes or municipal service charges owed by that bidder or any of its Directors to EMM or to any other municipality or municipal entity are in arrears for more than three (3) months, or
 - 18.3.4.2 Who during the last five years has failed to perform satisfactorily on a previous contract with the municipality or with any other organ of state after written notice was given to that bidder that performance was unsatisfactory.
- 18.3.5 EMM shall reject the bid of any bidder if that bidder, or any of its directors:
- 18.3.5.1 Has abused the SCM system of EMM
 - 18.3.5.2 Has committed any other improper conduct in relation to such system.
 - 18.3.5.3 Has been convicted of fraud or corruption during the past five years
 - 18.3.5.4 Has willfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years.
 - 18.3.5.5 Has been listed in the Register of Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004).
- 18.3.6 Such actions shall be communicated to the National Treasury and the Provincial Treasury.

18.4 SIGNING OF BIDS

- 18.4.1 In order to avoid confusion regarding precisely what shall be signed for a valid bid to ensue, the "Invitation to Bid" or a photocopy thereof, shall be signed in the original in ink by a representative of the bidding entity who is duly authorised to commit the entity to the content of the bid and to bind the bidding entity.
- 18.4.2 Acceptable written proof of such authorisation of the representative by the entity shall be included in the bid document submitted by the entity by the closing date and time.
- 18.4.3 All required declarations shall also be signed in the original to qualify as valid declarations.

18.5 COMPLETENESS OF DOCUMENTATION

- 18.5.1 Normally it should be ascertained whether bids:
- 18.5.1.1 Include original tax clearance certificates
 - 18.5.1.2 Have been properly signed
 - 18.5.1.3 Are accompanied by the required securities
 - 18.5.1.4 Are substantially responsive to the bidding documents, and
 - 18.5.1.5 Are otherwise generally in order.
- 18.5.2 If a bid is not substantially responsive, that is, it contains material deviations from or reservations to the terms, conditions and specifications in the bidding documents, it should not be considered further.
- 18.5.3 The bidder should not be permitted to correct or withdraw material deviations or reservations once bids have been opened.

18.6 CLARIFICATION OR ALTERATIONS OF BIDS

- 18.6.1 Bidders shall not be requested or permitted to alter their bids after the deadline for receipt of bids.
- 18.6.2 The CM shall only allow questions be asked to bidders for clarification needed to evaluate their bids but should not ask or permit bidders to change the substance or price of their bids, after bid opening.
- 18.6.3 Requests for clarification from EMM and the bidder's responses shall be made in writing.

18.7 TAX CLEARANCE CERTIFICATES (TCC's)

- 18.7.1 EMM shall reject any bid from a supplier who fails to provide written proof from SARS that the supplier either has no outstanding tax obligations or has made arrangements to meet outstanding tax obligations.
- 18.7.2 As proof that there are no outstanding tax obligations, a valid Tax Clearance Certificate shall be submitted in the original.
- 18.7.3 If the EMM is in possession of a provider's original, valid Tax Clearance Certificate, it is not necessary to obtain a new Tax Clearance Certificate each time a price quotation or bid is submitted from that specific provider. This provision may be applied only if the closing date of the price quotation or bid falls within the expiry date of the Tax Clearance Certificate that is in the EMM's possession. Whenever this ruling is applied, cross-reference shall be made to the original, valid Tax Clearance Certificate for audit purposes.
- 18.7.4 Prior to the award of a bid, the EMM should verify the Tax Clearance Certificate submitted by a potential contractor at any SARS branch office nationwide. SARS will confirm such verification by electronic mail or per facsimile. Records of all verifications should be kept for audit purposes.
- 18.7.5 Tax clearance certificates shall be valid at the time of closing of bid. In terms of good governance, EMM shall verify validity of the TCC for the duration of doing business with a contractor.

18.8 SUBMISSION AND SIGNING OF DECLARATIONS OR CERTIFICATES

- 18.8.1 In all cases where the relevant preference claim form has to be submitted and a provider had the intention to claim as evidenced by the fact that he did fill in the preference form or gave other indications of wishing to claim preference, the bidder shall be allowed to complete and/or sign the declaration.
- 18.8.2 Recommendations with regard to such matters shall be submitted to the relevant evaluation authority and award structure.

18.9 DECLARATION OF INTEREST

- 18.9.1 A form for the declaration of a provider's position and interest vis-à-vis the evaluating structure, shall be included with the quotation/bid documents.

- 18.9.2 An official who is involved in the evaluation and recommendation process, or who is in any way involved with the procurement process, shall also certify, as part of the recommendation that he/she complies with The Prevention and Combating of Corrupt Activities Act.
- 18.9.3 All officials who can influence the award of a quotation/bid, are seen as officials who are involved in the recommendation process. The register of attendance or disclaimer for the members of the Bid Evaluation Committee and the Bid Adjudication Committee shall contain the following:
- 18.9.3.1 "I declare that I did not purposefully unlawfully favour or prejudice anyone in the decision making process in the recommendation and award of the quotation/bid."
- 18.9.4 All officials who are involved in the decision making process shall sign a similar declaration.

18.10 PROVIDERS' OWN CONDITIONS

- 18.10.1 The conditions as contained in the quotation/bid documents, have precedence. All providers shall accept these conditions. However, it sometimes happens that providers set their own conditions, which might be in conflict with the quotation/bid conditions. Such own conditions set by providers can be recommended for acceptance where it is in the interest of the EMM to do so and where the interests of other providers are not prejudiced.
- 18.10.2 Where the providers' own conditions are not in the best interest of the EMM, the provider shall be requested to withdraw the conditions.
- 18.10.3 If providers are not prepared to withdraw unacceptable or conflicting conditions, reasons why such conditions may be accepted should be submitted to the relevant award structure for approval or alternatively the quotation/bid may be passed over.
- 18.10.4 Declarations by providers regarding interests and past SCM practices shall be considered for materiality and a decision taken on whether to accept the provider's application or not.

18.11 CALCULATION OF SCORES

- 18.11.1 Calculation of scores for equity and price shall be done in line with the PPPFA.

18.12 EVALUATION UP TO R 30 000 (ALL APPLICABLE TAXES INCLUDED)

- 18.12.1 For quotations up to R 30 000 (all applicable taxes included), where the requirement is not technically complex and where there are no major risks involved, formalised Bid Evaluation Committees are not compulsory and the relevant delegated authority may perform the evaluation and submit the recommendation to the relevant award structure.
- 18.12.2 The evaluation shall still be based on an examination of the relevant statutory and/or predetermined evaluation criteria.

18.13 EVALUATION ABOVE R 30 000 AND UP TO R200 000 (ALL APPLICABLE TAXES INCLUDED)

- 18.13.1 For quotations above R 30 000 and up to R200 000 (all applicable taxes included), where the requirement is not technically complex and where there are no major risks involved, formalised Bid Evaluation Committees are not compulsory and the delegated authority shall evaluate quotations received and submit a recommendation regarding the award of the quotations to the relevant award structure.
- 18.13.2 The evaluation and award structures should be composed of different members to ensure that a transparent review of the evaluation is undertaken.
- 18.13.3 Quotations are to be evaluated against the predetermined criteria in the quotation document. The criteria to be taken into account are inter alia:
- 18.13.3.1 Compliance with specification/TOR and conditions of quote
- Functionality
 - Price
 - Preferential procurement
- 18.13.3.2 Capability / ability of the bidder to execute the contract.
- 18.13.3.3 Respondents that have achieved the minimum qualification score for functionality shall be evaluated further on price and preference points.
- 18.13.3.4 Respondents that did not achieve the minimum qualification score for functionality shall be eliminated from further evaluation.
- 18.13.4 EMM may not make any award from R 15 000 (all applicable taxes included) and above to a person whose tax matters have not been declared by SARS to be in order.

18.14 BID EVALUATION COMMITTEE FOR PROCUREMENT ABOVE R 200 000 (ALL APPLICABLE TAXES INCLUDED)

- 18.14.1 Above R 200 000 (all applicable taxes included), a Bid Evaluation Committee shall evaluate bids received and submit a recommendation regarding the award of the bids to the Bid Adjudication Committee.
- 18.14.2 Bids shall be evaluated against the predetermined criteria in the bid document. The criteria to be taken into account are inter alia:
- 18.14.2.1 Compliance with the specification/TOR and conditions of the bid
- 18.14.2.2 Functionality and/or local content.
- 18.14.2.3 Price
- 18.14.2.4 Preferential procurement
- 18.14.2.5 Capability/ability of the bidder to execute the contract:
- 18.14.2.6 National Industrial Participation Programme (NIPP) requirements, if specified in the bid document.
- 18.14.2.7
- 18.14.3 Bidders that have achieved the minimum qualification score for functionality shall be evaluated further on price and the preference point.
- 18.14.4 Bidders that did not achieve the minimum qualification score for functionality shall be eliminated from further evaluation.

18.15 CONFIRMATION OF PRICES

- 18.15.1 A legal contract cannot be concluded by the acceptance of an offer where it is obvious to any reasonable person that a price is out of line with other market prices and/or previous quoted prices. Confirmation of whether the price is correct or not, shall be obtained from the provider in such cases.
- 18.15.2 Only confirmation of the correctness of the price is involved and not negotiation for a better price.

18.16 ALLOCATION OF PREFERENCES

- 18.16.1 Bidders who qualify as Exempted Micro Enterprises (EME's) in terms of the Broad Based Black Economic Empowerment Act, shall either submit a certificate issued by a registered auditor, AO as contemplated in the Close Corporation Act, or an accredited verification agency.
- 18.16.2 Bidders other than EME's shall submit their original and valid B-BBEE status level verification certificate or a certified copy thereof, substantiating their B- BBEE rating.
- 18.16.3 The submission of such certificates shall comply with the requirements of instructions and guidelines issued by the National Treasury and shall be in accordance with notices published by the Department of Trade and Industry in the Government Gazette.
- 18.16.4 The B-BBEE status level attained by the bidder shall be used to determine the number of points out of the 20/10 points for preferential procurement. The points shall be awarded as follows:

Table 5

B-BBEE Status Level of Contributor	Procurement up to R1 000 000 (all taxes incl.) Number of points	Procurement above R1 000 000 (all taxes incl.) Number of points
1	20	10
2	18	9
3	16	8
4	12	5
5	8	4
6	6	3
7	4	2
8	2	1
Non-compliant contributor	0	0

- 18.16.5 The point obtained above shall be added to the point for price to determine the total score per bidder.
- 18.16.6 A trust, consortium or joint venture will qualify for points for their B-BBEE status level as a legal entity, provided that the entity submits their B-BBEE status level certificate.
- 18.16.7 A trust, consortium or joint venture will qualify for points for their B-BBEE status level as an unincorporated entity, provided that the entity submits their consolidated B-BBEE scorecard as if they were a group structure and that such a consolidated B-BBEE

scorecard is prepared for every bid.

- 18.16.8 A person shall 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 such a bidder qualifies for, unless the intended sub-contractor is an exempted micro enterprise that has the capability and ability to execute the contract.
- 18.16.9 EMM shall act against any bidder or person, when it was detected that the B- BBEE status level of contribution was claimed or obtained on a fraudulent basis.

18.17 DETERMINING POINTS FOR PRICE

- 18.17.1 The point for price shall be determined by the following formula:

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

Where

P_s = Points scored for comparative price of bid or offer under consideration
 P_t = Comparative price of bid or offer under consideration
 P_{min} = Comparative price of lowest acceptable tender or offer.

- 18.17.2 Points shall be rounded off to the nearest 2 decimal places.

18.18 COMBINING PRICE AND PREFERENCE POINTS

- 18.18.1 The points scored by a bidder in respect of the level of B-BBEE contribution shall be added to the points scored for price as calculated.
- 18.18.2 The contract shall be awarded to the bidder who scores the highest total number of points unless objective criteria justify the award to another bidder.

18.19 PRESENTATIONS HELD BY BIDDERS

- 18.19.1 All or only the short-listed bidders may be invited for presentations to the Bid Evaluation Committee after the evaluation of functionality, if the bid document provided for this option. The score obtained during the presentation may only influence the functional score.

18.20 AMENDMENT OF PRICES PRIOR TO LAPSE OF VALIDITY

- 18.20.1 An amendment of a quoted price during the original validity period is not allowed.

18.21 EXTENSION OF VALIDITY PERIOD

- 18.21.1 Extension of validity shall be finalised while the quotations/bids are still valid.
- 18.21.2 If a bidder should reduce his quoted price as a result hereof, the reduction may be considered only if the provider would have been the successful contractor irrespective of the reduction. In other words, the case is evaluated at the original quoted price and if successful, it is accepted at the reduced price.
- 18.21.3 In cases where the quoted price is increased when the validity period expires and the quotation/bid concerned is either no longer recommended for acceptance or is recommended for acceptance at the higher price, the disadvantageous or incremental costs shall be reported to the Council annually.

18.22 NEW AND UNPROVEN PRODUCTS

- 18.22.1 A bid may not be rejected summarily simply because the bidder or the product which he offers is unknown.

18.23 COUNTRY OF ORIGIN

- 18.23.1 There is no embargo on the purchase of products from any foreign market.
- 18.23.2 However, the quality of products, which are imported, particularly of unknown or new products, is not always known and this must be rigorously tested for acceptability.

18.24 DEVIATIONS FROM SPECIFICATIONS

- 18.24.1 Quotations/bids with acceptable deviations from specification may be recommended for acceptance, provided that the competitiveness of another provider is not adversely affected.

18.25 ALTERNATIVE OFFERS

- 18.25.1 Regardless of whether the provider also submits offers conforming strictly to specification, alternative offers may be considered and accepted provided that the other providers are not prejudiced. If the alternative offer does not meet the specification requirements, in that it is lower than the specified requirements and the deviations are acceptable, the other providers shall be approached in cases where they might possibly be prejudiced, with a view to obtaining offers for the delivery of a product or service with the same or similar acceptable deviations. Such cases shall be submitted to the relevant Bid Evaluation Committee for consideration and the relevant award structure for approval.

18.26 IMPROVEMENT ON SPECIFICATIONS

- 18.26.1 A quotation/bid which obtains the highest score and which represents an improvement on the requirements of the specifications may be recommended for acceptance.
- 18.26.2 A quotation/bid which does not obtain the highest score and which represents an improvement on the requirements of the specifications may be recommended for acceptance by the relevant evaluation authority provided that all competitive providers

are approached beforehand but are not able to offer such an improved product at a lower price.

- 18.26.3 Any such actions should not lead to the unfair treatment of any other bidder in the process.

18.27 EQUAL OFFERS

- 18.27.1 When offers are equal in all respects on a comparative basis, thus scoring equal total points, the successful provider shall be the one scoring the highest number of preference points for B-BBEE.
- 18.27.2 However, 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 successful bid shall be the one scoring the highest score for functionality.
- 18.27.3 Should two or more offers still be equal in all respects, the award shall be decided by the drawing of lots in accordance with the delegated powers.
- 18.27.4 Where bid prices for a portion of a series of sub-items are equal and it is necessary for these items to be obtained from the same bidder, then the lowest overall bid may be recommended for acceptance.

18.28 ADDITIONAL QUANTITIES

- 18.28.1 Before an award has been made, additional quantities may be accepted up to the maximum percentage provided for in the delegated powers.
- 18.28.2 All providers concerned shall be approached for offers for the larger quantities.
- 18.28.3 Where the additional quantities are more than the percentage provided for in the delegated powers, a fresh or a supplementary bid shall be invited.

18.29 SAMPLES

- 18.29.1 Notwithstanding the requirement that samples shall be submitted not later than the date and time specified in the bidding documents, samples may be received up to the time that they are required for evaluation. The recommendation of a bid shall, however, not be delayed because a sample, which was received late, still has to be evaluated.

18.30 COMPARISON OF QUOTED PRICES

- 18.30.1 The quoted prices of all items shall be brought to a comparative basis, where applicable, by deducting preferences and other benefits, and adding implied contract price adjustments in the case of non-firm prices and delivery and other costs where applicable.
- 18.30.2 Where purchases are accompanied by a maintenance contract and the future costs of the maintenance are known, the discounted present value of all the future costs shall be added to the purchase cost in order to calculate a comparative price. Where these costs are not known, a typical scenario shall be set in the quotation/bid document and

priced by each provider in order to obtain comparative prices.

- 18.30.3 The quoted prices of providers who are not registered in terms of the VAT Act, shall for purposes of comparison be accepted as being inclusive of VAT. EMM shall do price comparisons on these quoted prices and any transaction as a result of acceptance of such quoted prices will under no circumstances be subject to the levying of an additional tax.

18.31 COMPARATIVE PRICES: BIDS FOR CONTRACTS WITH DURATION OF MORE THAN THREE FINANCIAL YEARS

- 18.31.1 Where bids for contracts with duration of more than three years are received, comparative prices, where necessary, shall be calculated on the basis of the discounted net present values of the various offers.
- 18.31.2 A specific escalation rate determined by the market factors should form part of the bid. This rate will then be used to calculate the tariffs for each of the future years.

18.32 CONFIDENTIALITY

- 18.32.1 After public opening of bids, information relating to the evaluation process may not be disclosed to interested parties or other persons not officially concerned with the process, until the successful bidder is notified of the award.

18.33 SUBCONTRACTING AND JOINT VENTURES

- 18.33.1 From a risk mitigation perspective, it is incumbent upon EMM to take reasonable care that:
- 18.33.1.1 Subcontractors and partners in joint ventures are engaged in fair and reasonable conditions of contract.
- 18.33.1.2 Secured payment options to sub-contractors may only be considered where it can be justified and where written consent is obtained from all parties to do so.

18.34 CANCELLATION AND RE-INVITATION OF BIDS

- 18.34.1 In the event that, in the application of the 80/20 or 90/10 preference point system as stipulated in the bid documents, all bids received exceed the estimated Rand value for the stipulated preference point, the bid invitation shall be cancelled by the BEC and the relevant award structure will be notified and provided with reasons for such cancellation.
- 18.34.2 If one or more of the acceptable bids received are within the prescribed threshold for the stipulated preference point, all bids shall be evaluated according to the preference point stipulated in the bid document.

18.35 BEC RECOMMENDATION REPORT

- 18.35.1 The EMM departmental project manager is responsible for the compilation of the recommendation report, which shall be vetted for correctness by the BEC appointed to conduct that specific evaluation and for compliance by the SCM

practitioner and the acquisition manager before submission to the relevant bid committee/s.

18.36 CONSIDERATION OF ADDITIONAL INFORMATION

- 18.36.1 Information received after the closing date, may only be taken into consideration if it would not influence the original recommendation made, which shall be based on the original information received from providers.
- 18.36.2 During the consideration of quotations/bids, communication by EMM with providers may take place only with the express prior approval of the relevant award structure.

18.37 CANCELLATION OF QUOTATIONS/BIDS

- 18.37.1 Should it be determined through the evaluation process that no acceptable quotations/bids were received; a recommendation to cancel the quotation/bid shall be submitted for approval as part of the evaluation report.
- 18.37.2 The reasons why no acceptable quotations/bids were received by the closing date and time shall be investigated before a decision is made what alternative process shall be followed to satisfy the requirements.
- 18.37.3 The requirement may now be re-advertised / re-invited or a specific number of pre-identified service providers may be targeted.
- 18.37.4 The evaluation report shall contain the request for cancellation accompanied by the perceived reasons determined through the investigation as well as a recommendation on the alternative process to be followed to satisfy the requirements.
- 18.37.5 The relevant award structure shall approve all cases where quotations/bids:
 - 18.37.5.1 Are to be cancelled.
 - 18.37.5.2 New quotations/bids are to be solicited because of the cancellation.
 - 18.37.5.3 Negotiations with the preferred bidder are to take place to determine a reduction in the scope and/or a reallocation of risk and responsibility. A substantial reduction in the scope or modification to the bidding documents may require re-bidding.
 - 18.37.5.4 Where bids are cancelled a notice of such cancellation shall be published on the eTender Publication Portal on the same day, or at the latest, the day after the bid has been cancelled.
 - 18.37.5.5 In addition to the notice on the eTender Publication Portal, all bidders shall be informed of the cancellation of quotations/bids in writing or the cancellation shall be advertised in the media as outlined in paragraph 16.3.1 of this policy.
- 18.37.6.1 EMM may cancel a bid, prior to the award if:
 - 18.37.6.2 Due to changed circumstances, there is no longer a need for the service, works or goods requested.

- 18.37.6.3 Funds are no longer available to cover the total envisaged expenditure; or
- 18.37.6.4 No qualifying quotations/bids were received.

18.38 NEGOTIATIONS

- 18.38.1 The CM may negotiate the final terms of a contract with bidders identified through a competitive bidding process as preferred bidders, provided that such negotiation:
 - 18.38.1.1 Does not allow any preferred bidder a second or unfair opportunity.
 - 18.38.1.2 Is not to the detriment of any other bidder.
 - 18.38.1.3 Does not lead to a higher price than the bid as submitted.
- 18.38.2 Minutes of such negotiations shall be kept for record purposes.

18.39 CLEARANCE OF PROVIDERS PRIOR TO THE AWARD OF A CONTRACT

- 18.39.1 TAX CLEARANCE CERTIFICATE
- 18.39.2 Prior to the award of a bid, EMM should verify the Tax Clearance Certificate submitted by a potential contractor at any SARS branch office nationwide. SARS will confirm such verification by electronic mail or per facsimile.
- 18.39.3 Records of all verifications should be kept for audit purposes.

18.40 RESTRICTED PERSONS

- 18.40.1 EMM shall check the National Treasury database prior to awarding any contract to ensure that no recommended bidder, nor any of its directors, is listed as companies, directors or persons prohibited from doing business with the public sector.

18.41 BID DEFAULTERS

- 18.41.1 This list of restricted persons and checking of prohibition status is managed and maintained by the SCM Office within the National Treasury.

18.42 NATIONAL INDUSTRIAL PARTICIPATION PROGRAMME

- 18.42.1 EMM shall obtain clearance for a recommended bidder from the Department of Trade and Industry in respect to contracts which are subject to the National Industrial Participation Programme of that Department.

18.43 DEALING WITH UNSOLICITED BIDS

- 18.43.1 EMM is in terms of Section 113 of the MFMA not obliged to consider unsolicited bids received outside a normal bidding process. However, if EMM decides to consider unsolicited bids, it may do so, only if:
 - 18.43.1.1 The product or service offered in terms of the bids is proven a unique innovative concept that will be exceptionally beneficial to or have exceptional cost advantages for EMM.
 - 18.43.1.2 The person who made the bid is the sole provider of the product or service.

- 18.43.1.3 The reasons for not going through the normal biddings processes are found to be sound by the CM.
- 18.43.1.4 The need for the product or service by EMM has been established during its multi-year business planning and budgeting process.
- 18.43.1.5 The CM decides to consider an unsolicited bid; the decision shall be made public in accordance with section 21A of the Municipal Systems Act.

SECTION 19 AWARDS

19.1 AWARD STRUCTURES

- 19.1.1 The Bid Evaluation Committee and the Bid Adjudication Committee/s or equivalent structures for a specific requirement shall be composed of different members to ensure that a transparent review of the evaluation is undertaken.

19.2 AWARD STRUCTURES UP TO R 200 000 (ALL APPLICABLE TAXES INCLUDED)

- 19.2.1 The official/s delegated the adjudication and award functions, shall finalise the award/s.
- 19.2.2 All quotations up to R 200 000 (all applicable taxes included) not specifically delegated, shall be finally adjudicated and awarded by the Bid Adjudication Committee/s or the CM or as delegated.

19.3 POWERS OF THE AWARD STRUCTURES UP TO R 200 000 (ALL APPLICABLE TAXES INCLUDED)

- 19.3.1 The official/s acting as the Award Structure/s assesses if the specific procurement processes followed, are in line with the approved policy and procedures, that the evaluation is fair and sound, the procurement is acceptable and in EMM's best interest, and then approves/rejects the recommendation.
- 19.3.2 The function shall be carried out in line with the award functions stipulated under the roles and responsibilities section.
- 19.3.3 Any decision regarding the adjudication and award of a contract is final.

19.4 AWARD STRUCTURES ABOVE R 200 000 (ALL APPLICABLE TAXES INCLUDED)

- 19.4.1 The Bid Adjudication Committees shall be the Award Structures who will finally award bids above the monetary value of R 200 000 (all applicable taxes included) and up to their delegated authority.
- 19.4.2 Above the delegated authority of each Bid Adjudication Committee, the Bid Committees endorse the recommendations and the CM finally awards the bids as the highest level award structure.

- 19.4.3 Above R 200 000 (all applicable taxes included), the Bid Adjudication Committees shall carry out the adjudication and award of bids unless the recommendation is referred back for justifiable reasons or unless there are circumstances in which the report with recommendations and comments should be forwarded to the CM for final adjudication and award.

19.5 POWERS OF THE AWARD STRUCTURES ABOVE R 200 000 (ALL APPLICABLE TAXES INCLUDED)

- 19.5.1 The Chairperson of the Bid Evaluation Committee shall present the Bid Evaluation Committee's recommendation report to the relevant Bid Adjudication Committee for consideration.
- 19.5.2 The function shall be carried out in line with the award functions stipulated under the roles and responsibilities section.
- 19.5.3 The relevant Bid Adjudication Committee assesses if the specific procurement process followed, is in line with the approved policy and procedures, that the evaluation is fair and sound, the procurement is acceptable and in EMM's best interest, and then approves/rejects the recommendation or make a final recommendation to the CM for final award, if the Bid Adjudication Committee is not delegated to make a final- award. The Bid Adjudication Committee may make another recommendation to the CM on how to proceed with the relevant procurement.
- 19.5.4 Where the Bid Adjudication Committee finds that the recommendation is not correct or not in the EMM's best interest, the reasons for not supporting the review are submitted to the CM for finalisation of the adjudication and award.
- 19.5.5 Members of the Bid Evaluation Committee may present their reports to the relevant Bid Adjudication Committee and clarify any uncertainties.
- 19.5.6 The Bid Adjudication Committees and the CM has the power to amend or cancel concluded agreements, depending on their thresholds, if delivered goods and services do not conform to specifications.
- 19.5.7 Any decision regarding the adjudication of a contract is final.

19.6 AWARDS BASED ON POINTS

- 19.6.1 The award of a quote/bid shall be awarded to the respondent/ bidder who scored the highest total number of points for price and B-BBEE contribution level combined.
- 19.6.2 Should a quote/bid not be awarded to the highest scorer, EMM should, within 7 working days, in writing, notify the Auditor-General and the National Treasury, of the reasons for the deviation.

19.7 REASONS FOR REJECTION

- 19.7.1 EMM shall reject a proposal for the award of a contract if the recommended bidder has committed a proven corrupt or fraudulent act in competing for the particular contract.
- 19.7.2 The CM shall ensure that irrespective of the procurement process followed, no award may be given to a person:
- 19.7.2.1 Who is in the service of the state?
- 19.7.2.2 If that person is not a natural person, of which any director, manager, principal shareholder or stakeholder is a person in the service of the state.
- 19.7.2.3 A person who is an advisor or consultant contracted with EMM.
- 19.7.2.4 Awards of more than R2 000 to a person who is a spouse, child or parent of a person in the service of the state shall be disclosed in the note of the annual financial statement indicating:
- The name of the person
 - The capacity in which that person is in the service of the state
 - The amount of the award.

19.8 CONTRACTS WITH FUTURE BUDGETARY IMPLICATIONS

- 19.8.1 In terms of Section 33 of the MFMA, EMM may enter into contracts which will impose financial obligations beyond a financial year but if the obligation extends beyond the three years covered in the annual budget, it may only do so if:
- 19.8.2 The City Manager, at least 60 days before council, made public the draft contract, and invite the local community or representation to submit comments;
- 19.8.2.1 The Council has taken into account the projected financial obligation, the impact on future tariffs and revenue, comments from the community, and views and recommendations of National Treasury, the relevant local government or national department.
- 19.8.2.2 Council has to take into account:
- 19.8.2.2.1 The projected financial obligation for the contract for each financial year
The impact of the financial obligation on future tariffs and revenue
- 19.8.2.2.2 Comments from the local community or interested parties
- 19.8.2.2.3 Views and recommendations by National Treasury, relevant national departments or local government.
- 19.8.2.3 The municipal council has adopted a resolution after determining that significant investment or financial benefit will be derived and approves such contract.

19.9 NIP PROGRAMME

- 19.9.1 As per the requirements of the DTI's National Industrial Participation Programme (NIPP), the EMM shall, within 5 working days after the award of a contract that is in excess of R10 million (all applicable taxes included), submit details of such an award to the relevant section of the DTI.

SECTION 20 CONTRACTUAL COMMITMENTS

20.1 CONCLUSION OF CONTRACTS

- 20.1.1 The SCM directorate shall finalise the adjudication by issuing the letter of acceptance, the contract form, including the service level agreement and formal contract, where applicable.
- 20.1.2 The acceptance of a successful bid shall be in writing and shall be sent by registered/certified mail or as indicated in a special condition; the principle being that there shall be a mechanism of proof of delivery.
- 20.1.3 Up to a predetermined monetary value for quotations, the official with the necessary delegated authority shall sign orders or other necessary documentation to commit EMM.
- 20.1.4 Up to a predetermined monetary value for quotations, the official with the authority to award may be the official who contractually commits EMM.
- 20.1.5 Above the predetermined monetary value, an official with the necessary delegated authority to contractually commit EMM, shall sign the letters of acceptance and contract form or other necessary documentation to commit EMM.
- 20.1.6 The official with the necessary delegated authority to commit EMM, shall be satisfied that all the necessary contractual conditions have been included prior to signing.
- 20.1.7 City of Ekurhuleni's contract documents shall promote uniformity across the entity.
- 20.1.8 Both/all parties to the contract shall sign the contract form or formal contract.
- 20.1.9 Legal copies shall be kept in a safe place for judicial reference.

20.2 FORMAL CONTRACTS

- 20.2.1 The formal contract shall form part of the quotation/bid documents, if required to be signed.
- 20.2.2 Formal contracts are concluded only where this is stated as a requirement in the quotation/bid document.
- 20.2.3 If a formal contract is concluded, an order shall still be placed with the successful provider.

20.3 SERVICE LEVEL AGREEMENTS

- 2031 A service level agreement (SLA) may be compiled and signed if required. A service level agreement (SLA) is a document, which defines the relationship between two parties, namely the contractor and the client and spells out services and activities to be executed, due dates and turnaround times.
- 2032 A SLA may not contradict any terms or conditions of the contract.
- 2033 When a SLA is included in a contract, both documents shall be submitted to Legal for review and finalisation.
- 2034 As with a contract, the SLA shall be signed by all the contracting parties and should be used to enforce performance and delivery against agreed terms and conditions.
- 2035 All contracting parties shall be in possession of the SLA.

20.4 CONTRACTS PROVIDING FOR COMPENSATION BASED ON TURNOVER

- 2041 If a service provider acts on behalf of EMM to provide any service or act as a collector of fees, service charges or taxes and the compensation payable to the service provider or the amount collected, the contract between the services and EMM shall stipulate:
- 2042 A cap on the compensation payable to the service provider.
- 2043 That such compensation shall be performance based.

20.5 TIME OF CONCLUSION

- 2051 The contract is concluded at the time that the letter of acceptance is posted even if the contract form and formal contract is only signed at a later date, unless stated otherwise in the quotation/bid documents. The acceptance of a bid shall be in writing and shall be sent by registered/certified mail or as indicated in a special condition, the principle being that there shall be a mechanism of proof of delivery. Therefore, once the letter of acceptance has been sent, a contractual commitment has been made and it becomes effective. The relevant date stamp of the Post Office serves as proof of the time.
- 2052 If the letter of acceptance is handed over, ensure a mechanism of proof of delivery and keep the proof on file to ensure it is documented that a contractual commitment was established before the validity expired.
- 2053 The signing of the contract form or formal contract, where applicable, serves to enhance the contract established.

SECTION 21 ACCESS TO BIDDING INFORMATION

21.1 INFORMATION ACCESS

- 21.1.1 All bidding information remains strictly confidential.
- 21.1.2 Every bidder shall be informed of final bid results.
- 21.1.3 The information of one bidder shall not be disclosed to any other bidder, except as provided for in the bid opening section of this policy.

21.2 INFORMING THE SUCCESSFUL BIDDER/S

- 21.2.1 Subject to paragraph 21.5.1 below, the successful bidder shall be notified in writing by registered or certified mail of the acceptance of their bid within the original validity period of the bid.
- 21.2.2 The information of other bidders will not be disclosed to the successful bidder.

21.3 INFORMING THE UNSUCCESSFUL BIDDER/S

- 21.3.1 On written request, any bidder should be provided with the reasons why his / her own bid was unsuccessful.
- 21.3.2 Each bidder, on request, is entitled to feedback concerning its own bid.
- 21.3.3 When an unsuccessful bidder requests reasons why the bid was unsuccessful, the bidder shall be requested to forward the request in writing to EMM.
- 21.3.4 Once the written request is received, the reasons why the bid was unsuccessful shall be provided in writing. It is therefore imperative that proper reasons be recorded in the evaluation and recommendation report so that it may be used to provide the bidder with justifiable reasons.
- 21.3.5 Should the bidder not be satisfied with the explanation given after consultation with EMM, the bidder may refer the matter to the National Treasury, the Public Protector or a court of law.

21.4 DISCLOSURE OF INFORMATION

- 21.4.1 Bids are not available for perusal by the public.
- 21.4.2 According to sections 36 of the Promotion of Access to Information Act, Act No 2 of 2000, a public body shall refuse a request for access to a record of the body if the record contains:
 - 21.4.2.1 Trade secrets of a third party.
 - 21.4.2.2 Financial, commercial, scientific or technical information, other than trade secrets, of a third party, the disclosure of which would be likely to cause harm to the commercial or financial interest of the third party.
- 21.4.3 Information supplied in confidence by a third party, the disclosure of which could reasonably be expected:
 - 21.4.3.1 To put that third party at a disadvantage in contractual or other negotiations.
 - 21.4.3.2 To prejudice that third party in commercial competition.

- 21.4.3.3 Personal information about a third party, including a deceased individual.
- 21.4.3.4 When divulging information, a balance shall be struck between one party's right to access of information and the right to confidentiality of the other party.
- 21.4.3.5 Where no bid has been accepted, particulars of the bids received are not made public.
- 21.4.3.6 The EMM can withhold information if the release or publication of the information:
 - 21.4.3.6.1 Will impede law enforcement; or
 - 21.4.3.6.2 Will be contrary to the public interest; or
 - 21.4.3.6.3 Will harm the legitimate interests of the EMM; or
 - 21.4.3.6.4 Will hinder fair competition between providers by revealing any proprietary information of any bidder. When divulging information, a balance shall be struck between one party's right to access of information and the right to confidentiality of the other party.

21.5 PUBLICATION OF AWARDS

- 21.5.1 Awards shall be published in the eTender Publication Portal within seven (7) working days of being made.
- 21.5.2 The publication shall comprise the following information:
 - 21.5.3 Names of the successful bidder(s) and preference points claimed;
 - 21.5.4 Contract price(s);
 - 21.5.5 Contract period;
 - 21.5.6 Contact details;
 - 21.5.7 Names of directors; and
 - 21.5.8 Date of completion/award.
- 21.5.9 In addition to the eTender Publication Portal, the above information shall also be published in the media outlined in paragraph 16.3.1 of this policy.
- 21.5.10 Within the same time frame set out in paragraph 21.5.1 above, the names and contact details of unsuccessful bidders shall be published on the eTender Publication Portal.

21.6 BIDS RELATING TO THE CONSTRUCTION INDUSTRY

- 21.6.1 Bids shall be registered on the CIDB Register of Projects on award and progressively be updated until project completion for the promotion, assessment and evaluation of best practices on construction projects.

SECTION 22 CONTRACT/PROJECT MANAGEMENT

22.1 GENERAL RESPONSIBILITIES

- 22.1.1 A contract or agreement procured through the SCM system of EMM shall:
 - 22.1.1.1 Be in writing.
 - 22.1.1.2 Stipulate the terms and conditions of the contract or agreement which shall include provisions providing for:
 - 22.1.1.3 Be terminated in the case of non- or under performance.
 - 22.1.1.4 Contain dispute resolution mechanisms to settle disputes between the parties.
- 22.1.2 A periodic review of the contract or agreement shall be done once every three years in the case of a contract or agreement for longer than three years.

- 22.1.3 The relevant user group takes responsibility for day-to-day management and monitoring of a contract in line with the contractual conditions.
- 22.1.4 The SCM directorate takes responsibility for maintaining original contract documentation and monitoring contracts in terms of renewals, transfers, terminations, amendments and price adjustments.

22.2 MANAGING CONTRACTS

- 22.21 The CM shall take all reasonable steps to ensure that a contract or agreement procured through the SCM Manual of EMM is properly enforced. It shall be insured that contracts are properly and duly managed and executed.
- 22.22 The nature of the responsibility will determine who manages the specific contractual aspect.

22.3 CORRECTION OF AN INCORRECT ACCEPTANCE

- 22.31 Mistakes in the letter of acceptance, contract form and/or formal contract shall be reported immediately to the official in charge of the SCM directorate.
- 22.32 Every effort shall be made without delay to recover the original letter of acceptance, contract form and/or formal contract from the contractor.
- 22.33 Where it is not possible to recover the original, all particulars of the incorrect acceptance shall be reported to the relevant award structure together with a recommendation regarding the corrective steps that are envisaged.

22.4 PLACING ORDERS

- 22.41 Placing orders is the sole responsibility of EMM.
- 22.42 Orders are to be placed in accordance with the contract and in accordance with the instructions of the financial policy.

22.5 PLACING ORDERS NEAR THE END OF A CONTRACT PERIOD

- 22.51 Placing orders near the end of the financial year in order to only spend unused funds in the budgets are not allowed.
- 22.52 Where, for a given period of time, no valid contract exists goods, services or works shall be obtained in accordance with the delegated powers.
- 22.53 The obtaining of requirements shall be restricted to what is absolutely necessary.

22.6 CONTRACT MONITORING

22.6.1 MONITORING

- 22.6.1.1 The CM or delegate shall monitor on a monthly basis the performance of the contractor under the contract or agreement.
- 22.6.1.2 The CM shall regularly report to the Council on the management of the contract or agreement and the performance of the contractor.
- 22.6.1.3 Constant monitoring is essential to ensure that contractual obligations are met and that contracts run with as little disruption as possible.
- 22.6.1.4 The SCM directorate is responsible for notifying the user department and especially the relevant project manager of any term contract expiry that will allow the user sufficient time to decide whether to renew the contract.
- 22.6.1.5 The user shall ensure that the contractor performs according to the stipulations of the contract in delivering the goods or services on time, in the correct quantity and to the required standard.

22.7 TRADEMARK / BRAND NAME

- 22.7.1 If a bid is accepted for a particular trademark/brand name, that trademark/brand name shall appear on the product and substitute products shall not be accepted.
- 22.7.2 TESTING AND INSPECTION OF SUPPLIES
 - 22.7.2.1 In cases where an SABS or CKS specification for a product exists, or where a specification is drawn up by the SABS at the request of EMM, the contract form and the contract circular shall indicate whether the supplies are subject to consignment inspections, sample testing or the approval of pre-production samples, as the case may be. The SABS or the appointed testing organisation shall be advised accordingly.
 - 22.7.2.2 Inspections are carried out on whichever items the Bid Specification Committee considered it to be necessary as indicated in the contract established.
 - 22.7.2.3 The inspection of supplies can be carried out either before consignment at the contractor's premises or after receipt.
 - 22.7.2.4 Where a contract is awarded on the grounds of evaluation of a representative sample, such sample is kept for the contract period and is regarded as the contract sample. Deliveries are then compared with it in order to ensure that the quality does not deteriorate
 - 22.7.2.5 Samples kept by EMM for control purposes may be accepted as partial execution of the contract, in which case the contractor shall be requested to deliver only the balance. If a sample is not accepted as partial delivery, the contractor shall be requested to collect it after termination of the contract.

22.8 COSTS OF TESTING

- 22.8.1 All pre-bid testing will be for the account of the bidder.
- 22.8.2 The costs of testing in connection with specific term contracts and ad hoc contracts are the responsibility of EMM.
- 22.8.3 Where a test indicates that a consignment or sample complies with the requirements, EMM carries the cost of the tests.

22.9 RETENTION FEES

- 22.9.1 With regards to construction and related contracts, EMM shall impose a system of retention fees as per guidelines approved by Council from time to time
- 22.9.2 Retention fees are fees retained for a certain period by the EMM to offset costs which may arise from the contractor's liability for defects or failure to comply fully with the contract.
- 22.9.3 This matter is further discussed under the section on Risk Management in this policy.

22.10 LONG TERM CONTRACT REVIEW

- 22.10.1 EMM shall perform a periodic review of the contract of agreement once every three years in the case of a contract or agreement for longer than 3 years.

22.11 BIDS RELATING TO THE CONSTRUCTION INDUSTRY

- 22.11.1 Contracts registered on the CIDB Register of Projects shall be updated progressively until project completion for the promotion, assessment and evaluation of best practices on construction projects.

22.12 NON-CONTRACTUAL PURCHASES

- 22.12.1 Small quantities of supplies or minor services may be procured outside of the contract in the following circumstances:
 - 22.12.1.1 In cases of emergency; or
 - 22.12.1.2 When the contractor's point of supply is not situated at or near the place where the supply or service is required; or
 - 22.12.1.3 If the contractor's supplies or services are not readily available.
- 22.12.2 Purchases outside the contract shall be restricted to requirements that are absolutely necessary to satisfy the immediate requirement and the action shall always be justifiable against the contract conditions.
- 22.12.3 Acquisition procedures shall in all instances be followed when procuring outside of existing contracts.

22.13 PAYMENTS

- 22.13.1 Under normal circumstances payment is made for supplies in accordance with the contract conditions only after they have been delivered and, where applicable, installed, in good working order.
- 22.13.2 Payments shall be executed within 30 days of receipt of.

22.14 OVER/UNDER-DELIVERIES

22.14.1 Over- or under-deliveries may be accepted in accordance with the CM's delegated powers.

22.15 DISCOUNTS ON INVOICES

22.15.1 In cases where a discount is not a contract condition and a contractor indicates a discount on his invoice, this discount shall be utilised if possible, for instance by making payment within the time limit specified on the invoice. However, orders shall at all times be placed in accordance with the contract conditions, i.e. non-contractual discounts shall not be taken into consideration when placing orders.

22.16 INSOLVENCY, LIQUIDATION, DEATH, SEQUESTRATION OR JUDICIAL MANAGEMENT OF CONTRACTORS

22.16.1 In terms of the general conditions of contract, EMM has certain options, which it may exercise in the case of insolvency.

22.16.2 The risk to EMM is the determining factor and the choice with the smallest degree of risk is preferred.

22.16.3 Insolvency or bankruptcy is the failure/inability to meet financial obligations.

22.16.4 Sequestration is firstly to place an insolvent debtor's estate in the hands where the Master decides on the estate and thereafter it rests with the trustee that distributes the assets (money) among the creditors or, secondly where the court determines insolvency.

22.16.5 Liquidate is to determine and settle/wind up the liabilities of a firm or an estate and to mete out the assets to creditors or inheritress.

22.17 TRANSFER AND CESSION OF CONTRACTS

22.17.1 The contractual conditions should stipulate the conditions under which transfers/cessions shall be considered and the process to be followed in such circumstance.

22.17.2 Applications for the transfer/cession of contracts shall be completed and signed by both the transferor and the transferee and countersigned by two witnesses. Full reasons for the transferring of the contract shall be provided and the transferee's ability to carry out the contract shall be established and reported to the Accounting Authority or the delegate.

22.18 TRANSFER OF CONTRACT PAYMENTS

22.18.1 Transfer of payments may be considered in cases where a contractor makes application on an official letter signed by the CEO, or any other authorised person, for monies due to the contractor, to be paid to another person or organisation, such as a bank or supplier of materials.

22.18.2 Contract payments may be transferred on the recommendation of EMM and with the relevant award structure's approval only.

- 22.18.3 Written confirmation shall be obtained from the contractor as requests for transfer of payment received from another person or organisation cannot be considered favourably.
- 22.18.4 Every application shall be dealt with on its own merits. Favourable consideration will result only where it is not to the detriment of the EMM.
- 22.18.5 Although the transfer of payments is regarded as undesirable, every application shall be dealt with on its own merits. Favourable consideration will result only where it is not to the detriment of EMM.
- 22.18.6 In the case of certain commodities and services, such as rented equipment, transfer of payment is often required because the contract has been discounted to a bank, sometimes without the knowledge or approval of the client concerned. Such action is unauthorised and is tantamount to a breach of contract. EMM is not compelled to honour such a transfer of payment.

22.19 CONTRACT EXTENSIONS/VARIATIONS

22.19.1 GENERAL

- 22.19.1.1 The General Conditions of Contract (as amended from time to time) is applicable to all contracts and shall be adhered to.

22.20 EXTENSION OF CONTRACTS

- 22.20.1 As a general rule, the municipality may not extend a contract:

- 22.20.1.1 More than once.

- However, a contract may also be extended for a second time. In such circumstances, clear and justifiable reasons must be provided to the relevant approval authority, proving that such additional extension is beneficial to the municipality. Any such extension may not have approved, if the purpose is to circumvent the competitive bidding mechanisms of the procurement policy.

- 22.20.1.2 For a period exceeding the duration of the original agreement

- 22.20.1.3 The value of the extension may not exceed the original approved value of the contract.

- 22.20.1.4 The provisions of section 33 of the MFMA shall be considered for contracts that impose financial obligations on the municipality beyond the three years covered in the annual budget for that financial year

- 22.20.1.5 Where applicable the provisions of regulation 36 shall be applied subject to paragraph 22.20.3.6 below.

22.20.2 VARIATION OF CONTRACTS

- 22.20.2.1 The municipality may not vary a contract: -
- 22.20.2.1.1 For a period exceeding the duration of the original agreement; and 22.20.2.1.2 For an amount exceeding twenty [20] percent of the original contract value for construction related goods, services and/or infrastructure projects and 15% for all other goods and/or services of the original value of the contract.
- 22.20.2.1.3 Contracts may be amended/varied/modified according to EMM's delegated powers to achieve the original objective of the contract.
- 22.20.2.1.4 Amendments may not materially alter the original objective; as such amendments should form part of a new bid invitation.
- 22.20.2.1.5 All contractual parties shall agree to the amendment in writing.
- 22.20.2.1.6 No contract can be amended after the original contract has ceased to exist.

22.20.3 EXTENSION OF CONTRACT PERIODS

- 22.20.3.1 Approval for the extension of contracts shall be obtained from the delegated structure that approved the original award of bid.
 - 22.20.3.2 The extension of a contract shall be requested and finalised before the expiry date of the current contract.
 - 22.20.3.3 Where prices are amended for the extended period, the reasonableness of the prices shall be established and approved by the delegated structure referred to above.
 - 22.20.3.4 Where justifiable reasons are provided for extending a contract, the relevant application may be considered favourably and contractors may be approached with the request to indicate whether they are prepared to extend the contract period.
 - 22.20.3.5 Contracts may not normally be extended beyond the period as determined by the CM's delegated powers.
- 22.20.4 Notice of all awards through variations and extensions of existing contracts shall be published on the eTender Publication Portal within seven (7) working days after the award has been made. EXTENSION OF DELIVERY PERIODS

- 22.20.4.1 Delivery periods may be extended according to the CM's delegated powers.
- 22.20.4.2 Motivated applications for the extension of delivery periods in respect of ad hoc and specific term contracts may be considered favourably, but are subject to the restriction that no price adjustments, which arise during the extended period, will be considered. However, price adjustments during the extended period may be considered favourably if EMM requested the extended delivery period, or when delayed deliveries are caused by the actions of EMM.

22.20.5 AMENDMENT OF SPECIFICATIONS

- 22205.1 Where a binding contract has been concluded, an amendment of the specification whether initiated by the contractor or by EMM, can be made only after negotiation between the contractor and EMM and through the approval of the relevant award structure.
- 22205.2 Each case for the amendment of specifications shall be dealt with on its own merits, especially as amendments may be required due to legislative changes in the specific environment.

22.20.6 CONTRACTUAL PRICE ADJUSTMENTS

- 22.20.6.1 The contractual conditions shall stipulate the circumstances under which price adjustments shall be considered, the intervals for adjustment, the base date for adjustments as well as the price adjustment formula and the process to be followed in such circumstances.
- 22.20.6.2 In cases of term contracts, price adjustments may be considered on a quarterly basis but this condition shall be as indicated in the bid documents.
- 22.20.6.3 Price adjustments should not be considered for a contract period less than twelve (12) months.
- 22.20.6.4 The below prescribed formula shall be used for adjustment of prices due to the fluctuation of the indices.
- 22.20.6.5 Indices compiled by Statistics South Africa may be used for price adjustments.
- 22.20.6.6 Rate of Exchange (ROE) fluctuations shall only be allowed on the imported content of the commodity.
- 22.20.6.7 The following formula is applicable if adjustments of prices are allowed:

Equation 1

$$Pa = (1 - V)Pt \left(D1 \frac{R1t}{R1o} + D2 \frac{R2t}{R2o} + Dn \frac{Rnt}{Rno} \right) + VPt$$

Where:

- P_a = The new escalated price to be calculated.
- $(1-V)P_t$ = 85% of the original bid price. Note that P_t shall always be the original bid price and not an escalated price.
- D_1, D_2 = Each factor of the bid price eg. labour, transport, clothing, footwear, etc. The total of the various factors $D_1, D_2...$ etc. shall add up to 100%.
- R_{1t}, R_{2t} = Index figure obtained from new index (depends on the number of factors used).
- R_{1o}, R_{2o} = Index figure at time of bidding.
- V_{Pt} = 15% of the original bid price. This portion of the bid price remains firm i.e. it is not subject to any price escalations.

22.20.6.7.1 Price adjustments due to fluctuation in the rate of exchange.

22.20.6.7.2 The price adjustments based on ROE fluctuations, may be allowed only on the imported content of the commodity to meet only the suppliers' additional costs of the imported content.

22.20.6.7.3 Where the whole or a portion of the bidding price may be affected by the revaluation of currencies or any fluctuation in the ROE, the bidder shall, in accordance with the bidding requirements, state in his bid response, the amount to be paid in foreign currencies or to be remitted abroad, as well as the rate of exchange applied in the conversion of that amount into South African currency in calculating the bid price.

22.20.6.7.4 All rate of exchange claims shall be accompanied by proof from the bank of the relevant exchange rate.

22.20.7 NON-CONTRACTUAL ADJUSTMENT OF PRICES

22.20.7.1 Non-contractual adjustment of prices is normally not allowed. For example, when contractors suffer a loss as a result of their own negligence, price adjustments not covered by the contract are not favourably considered. However, where a contractor suffers loss as a result of circumstances beyond his control, or as a result of incorrect action by EMM and particularly when such loss might cause his downfall, non-contractual price adjustments may be considered by EMM. Such adjustments are to the disadvantage of EMM and the necessary CM or the delegate approval shall therefore be obtained.

22.21 REDUCTION OF PRICES

22.21.1 EMM shall accept price reductions after award of a contract where this is advantageous to EMM, unless the acceptance of the price reduction amounts to breach of contract.

22.22 UNSATISFACTORY PERFORMANCE

22.22.1 UNSATISFACTORY PERFORMANCE: EMM'S ROLE

22.22.1.1 General

22.1.1.1.1 Unsatisfactory performance shall be communicated to contractors in writing compelling the contractor to perform according to the contract and thus to rectify or to restrain from unacceptable actions.

22.1.1.1.2 Unsatisfactory performance occurs when performance is not in accordance with the contractual conditions. Directives regarding action in such cases should appear in the general conditions of contract.

22.1.1.1.3 Before action is taken in terms of the general conditions of contract or any other special contract condition applicable, EMM shall warn the contractor by registered mail that action will be taken in accordance with the contract conditions unless the contractor complies with the contract conditions and delivers satisfactory supplies or services within a specified reasonable time. If the contractor still does not perform satisfactorily despite a final warning, the SCM directorate may make a recommendation to the CM or the delegate for the appropriate penalties to be introduced or make a recommendation to the CM for the cancellation of the contract concerned.

22.1.1.1.4 When EMM has to satisfy its need through another provider (for the contractor's expense), the loss to EMM shall always be restricted to the minimum since it is difficult to justify the recovery of unreasonable additional costs from the contractor.

22.22.2 GUARANTEES, WARRANTEES SECURITIES AND SURETIES

22222.1 If, during the warranty period, goods do not comply with the requirements because of faulty material used during manufacture, or faulty finishing, or any deficiency, latent or otherwise, the contractor shall be requested without delay, by registered mail, to replace or repair the goods depending on the circumstances. Supplies replaced or repaired or services rendered shall be warranted for the same period as the original supplies or services. See the general conditions of contract in connection with warrantees.

22222.2 Guarantees of an insurance company or bank and retention monies required in engineering and construction contracts shall be in accordance with the provisions of the CIDB Standard for Uniformity in Construction Procurement – refer to Best Practice Guideline A2: *Applying the procurement prescripts of the CIDB in the Public Sector* dated December 2007: Edition 5 for the Minimum levels of securities generally provided for in engineering and construction contracts.

22.22.3 CLAIMS AGAINST CARTAGE CONTRACTORS

22223.1 Where contracts are concluded on the basis of "F.O.R. despatch station", consignments, when delivered at the final destination or taken into receipt at the receiving station, shall be carefully inspected. If there are no external signs of damage and the quantities are correct, the receipt may be signed.

22223.2 Where contracts are concluded on the basis of "F.O.R. "delivered into stores", the contractor is responsible for shortages, damage or loss, and claims shall therefore be initiated without delay if consignments show signs of damage or the number of containers is not correct on receipt.

22.22.4 LATE DELIVERIES

22.22.4.1 The general condition of contract should state that delivery of supplies shall be made in accordance with the conditions specified in the contract.

22.22.5 PENALTIES FOR LATE DELIVERY

22225.1 Penalties are not intended as a source of income for City of Ekurhuleni, but serve as an incentive to the contractor to perform within the contractual conditions.

22225.2 Where an unreasonable delay occurs, City of Ekurhuleni shall address a written warning to the contractor by registered mail, setting a cut-off date (usually three weeks from date of warning) and warn him that the penalty clause will be applied if the order is not executed before the cut- off date. If he does not heed the warning, the penalty clause shall be applied and the action reported to the Accounting Officer.

22225.3 In the following cases penalties for late delivery **shall** be imposed:

- Where deliveries within a particular time period (service) were a specific contract condition and where delays caused serious damage, loss or inconvenience to City of Ekurhuleni.
- Where a firm delivery period (supply) was a contract condition and where delays caused serious damage, loss or inconvenience to City of Ekurhuleni.

22.22.6 LEGAL REMEDIES IN THE CASE OF INCORRECT PREFERENCES

22226.1 If a contractor should win a contract on the basis of wrong information which was supplied regarding the preferences which he has claimed, and it is shown later that the information is incorrect, then the Accounting Officer has the power to:

- Recover any costs or damage which City of Ekurhuleni might have suffered as a result of the conclusion of the contract; and/or
- Terminate the contract and to recover any loss which City of Ekurhuleni may suffer as a result of having to make less favourable arrangements; and/or
- Deduct from the contract price, as a penalty, a sum calculated on the delivered price of the delayed goods or unperformed services using the current prime interest rate calculated for each day of the delay until actual delivery or performance. A written notice to the effect shall be issued to the contractor by registered mail.

22.22.7 The National Treasury shall be informed when such cases come to light so that they may decide on suitable action.

22.23 RESTRICTION

22.23.1 EMM may in terms of Treasury Regulations 16A9.2:

- Disregard the bid of any bidder if that bidder, or any of its directors-
 - Have abused EMM's SCM system;
 - Have committed fraud or any other improper conduct in relation to such system; or
 - Have failed to perform on any previous contract; and
 - Shall inform the National Treasury of any action taken in terms of the aforementioned paragraph.

22.23.2 In terms of The Prevention and Combating of Corrupt Activities Act, only the National Treasury is empowered to impose restrictions on providers who were found guilty by a court of law for criminal offences related to public sector bids.

22.24 CONTRACT TERMINATION

22.23.3 EMM shall cancel a contract awarded to a supplier of goods of services:

22.24.1.1 If the supplier committed any proven corrupt or fraudulent act during the bidding process or the execution of that contract.

22.24.1.2 If any official or other role player committed any proven corrupt or fraudulent act during the bidding process or the execution of that contract that benefited the supplier.

22.24.1.3 Termination of a contract may be considered for a variety of reasons, as stipulated in the general conditions of contract, such as delayed deliveries, failing to perform any other contractual obligation or if the supplier has engaged in corrupt and fraudulent practices and insolvency.

22.24.1.4 Contract termination may be effected if allowed for in the contractual conditions and if both parties agree to the termination in writing.

22.25 OBJECTIONS AND COMPLAINTS

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

22.26 RESOLUTION OF DISPUTES, OBJECTIONS, COMPLAINTS AND QUERIES

22.26.1 The CM shall appoint an independent and impartial person, not directly involved in the SCM processes EMM.

- 22.26.2 The CM, or another official designated by the CM, is responsible for assisting the appointed person to perform his or her functions effectively.

SECTION 23 LOGISTICS MANAGEMENT

23.1 REQUISITION

- 23.1.1 No issuing of store items or the commencement of the procurement process may take place without a properly completed requisition form.

23.2 ORDER ADMINISTRATION

- 23.2.1 An order shall be placed based on the existence of a valid contract, bid or quotation (whichever is applicable) after the procurement process.
- 23.2.2 Each order shall be appropriately authorised by the delegated person.
- 23.2.3 Only orders created via the official EMM mechanism will be deemed valid by EMM.
- 23.2.4 A procurement file detailing the contract, bid, quotations, the conditions and a history of execution shall supplement each contract.

23.3 STORES MANAGEMENT

- 23.3.1 The store function is the receiving, storing as well as the issuing of inventory.
- 23.3.2 Equipment or stock shall be stored in such a way that the possibility of loss, damage, exposure, deterioration or perishing thereof is minimised or eliminated completely. By lack of a physical store, the function shall still be performed.
- 23.3.3 Stores and equipment may not be received or issued unless the necessary documentation is available for such transactions and is duly signed.
- 23.3.4 Duplicate keys of all lockers, cabinets, padlocks and other storage areas should be readily available and shall be controlled by a responsible delegated official.

23.4 PROCEDURE FOR THE RECEIPT OF GOODS

- 23.4.1 Items shall be delivered to the official responsible for the receiving function of a specific item at the relevant department.
- 23.4.2 Check items for quality, quantity and if delivered according to specification.

23.5 CODING OF ITEMS

- 23.5.1 All fixed assets are to be classified in terms of a unique identifying item number and description.
- 23.5.2 All items shall be classified as either a non-consumable or consumable item for accounting purposes.

23.6 INVENTORY MANAGEMENT

- 23.6.1 In cases where storage space is very expensive or not available, the just-in-time delivery principle shall be used.

23.6.2 Minimum and maximum inventory levels for all store items shall be determined based on the usage, the lead and delivery times.

23.7 ASSET MANAGEMENT

23.7.1 An asset record shall be kept per office to determine which assets and quantities have been issued to a specific asset controller/holder.

23.7.2 Asset controllers shall be appointed in writing.

23.7.3 All assets on asset records shall be marked with a unique identifying asset number.

23.8 FIXED ASSET REGISTER

23.8.1 A central fixed asset register of all applicable assets or groups of assets of EMM shall be maintained at the finance division.

23.9 STOCKTAKING

23.9.1 All assets shall be kept on record on an asset record are to be subjected to a stock take at least once every financial year.

23.9.2 A stock take programme shall be compiled.

23.9.3 A stock take report shall be produced.

23.10 HANDING AND TAKING OVER PROCEDURES

23.10.1 Uninterrupted determination of responsibility and accountability shall be maintained at all times. To ensure continuity, formal handing and taking over should take place whenever there is a change in personnel.

23.10.2 All stores and equipment discrepancies shall be properly recorded, investigated and records adjusted accordingly, when handing and taking over are effected between officials.

23.11 DISCREPANCIES

23.11.1 Discrepancies are to be investigated as it is identified.

23.11.2 The investigation report with recommendations shall be submitted to the CM or delegate to decide whether identified losses are recoverable or irrecoverable. Losses or damages suffered by EMM because of an act committed or omitted by a person working for EMM, shall be recovered from such a person, if such a person is liable by law.

SECTION 24 DISPOSAL MANAGEMENT

24.1 SYSTEM OF DISPOSAL MANAGEMENT

24.1 The disposal management system shall provide for the disposal or letting of assets, including unserviceable, redundant or obsolete assets, subject to Section 14 of the MFMA.

24.2 OBSOLESCENCE PLANNING

24.2.1 An obsolescence plan shall be determined for each asset to ensure that when the asset can no longer be maintained or used for its original purpose, that there is a plan to replace it.

24.2.2 In addressing obsolescence risks, it should be remembered that obsolescence in an item is not a problem for users until the item is required to be repaired or replaced. Action to eliminate the obsolete item need only be taken when the stock level threatens the availability of the equipment.

24.2.3 Once identified, each obsolescence risk needs to be assessed to determine its criticality point. This is based on the impact of the risk to both capability and cost. What is crucial to the assessment of obsolescence risk is not the time at which a unit or component goes obsolete, but when as a result of the obsolescence, equipment availability will be threatened, the factors are:

24.2.4 Criticality point

24.2.4.1 This is the point in time at which availability of the equipment is threatened by lack of parts and/or spares, i.e. the point at which the risk goes critical. Identifying this point provides a benchmark against which all mitigation options can be considered.

24.3 COST IMPACT

24.3.1 This is determined by the expected costs that would be incurred to solve the problem if no action is taken until the time of occurrence of the obsolescence.

24.4 PRIORITISATION

24.4.1 Prioritise all current obsolescence risk by order of the point of criticality and in order of cost. The items can then be ranked in terms of risk, so that those items with the shortest time to threatened availability and the highest cost impact are most significant. The most critical will then need to be considered further for resolution of the specific problems.

24.4.2 For each obsolescence risk, it needs to be decided what technology option is to be adopted, the support which is to be provided, the contracting arrangements needed, the maintenance policy which is implied and the identification of any consequential risks.

24.5 RENEWAL PLANNING

- 24.5.1 A renewal plan shall be determined for assets that have reached the end of its useful life.
- 24.5.2 The asset renewal-planning phase involves the assessment of existing assets and planned acquisitions against service delivery requirements.
- 24.5.3 All assets currently being used to deliver the service under consideration need to be identified and registered. How effectively these assets support service requirements also have to be determined.

24.6 DISPOSAL STRATEGY

- 24.6.1 EMM shall establish a disposal strategy to determine the best mechanism of disposal for each asset.
- 24.6.2 Immovable property may be sold only at market related prices except when the public interest or the plight of the poor demands otherwise.
- 24.6.3 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 EMM.
- 24.6.4 In the case of the free disposal of computer equipment, educational institutions shall first be approached to indicate within 30 days whether any of the local educational institutions are interested in the equipment. If there is no need, computer equipment may be disposed of by another approved disposal mechanism.
- 24.6.5 In the case of the disposal of firearms, the national Conventional Arms Control Committee has to approve any sale or donation of firearms to any person or institution within or outside the Republic.
- 24.6.6 Immovable property is let at market related rates except when the public interest or the plights of the poor demands otherwise.
- 24.6.7 All fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property are annually reviewed.

24.7 ALTERNATIVES TO DISPOSAL

- 24.7.1 Where assets have been identified as under-performing, or no longer functionally suited to programme delivery needs, consideration should be given to possible alternatives to disposal e.g. by adapting the asset to another function or using it in another programme; refurbishment or an upgrade of the asset may also be viable.

24.8 METHODS OF DISPOSAL

- 24.8.1 EMM may:
 - 24.8.1.1 Transfer an asset to another organ of state in terms of a provision of the MFMA enabling the transfer of assets, or
 - 24.8.1.2 Transfer an asset to another organ of state at market related value or, when

appropriate, free of charge, or

- 24.8.1.3 Donate
- 24.8.1.4 Sell the asset, or
- 24.8.1.5 Destroy the asset
- 24.8.1.6 EMM shall ensure that where assets are traded in for other assets, the highest possible trade-in price is negotiated.

24.9 DISPOSAL DECISION

- 24.9.1 Asset disposal decisions are to be made within an integrated, service and financial planning framework. To make a disposal decision, the following documents are important:
- The obsolescence plan
 - The renewal plan
 - The list of unserviceable items
 - The list of obsolete items
 - The list of redundant items.

24.10 DISPOSAL PROCESS

- 24.10.1 As soon as it has been established that stores/equipment are unserviceable, obsolete and/or redundant, and that they should be disposed of, it shall be reported.
- 24.10.2 Once the decision is made to dispose of items, the disposal process dictates different procedures for obsolete or redundant items and unserviceable items.
- 24.10.3 The disposal certificate and disposal register shall be completed.

24.11 DISPOSAL OF CAPITAL ASSETS

- 24.11.1 EMM may not transfer ownership as a result of a sale or other transaction or otherwise permanent dispose of a capital asset needed to provide the minimum level of basic municipal services.
- 24.11.2 EMM may transfer ownership or otherwise dispose of a capital asset other than one mentioned above, only after the Council of EMM, in a meeting open to the public made certain determinations.

SECTION 25 SUPPLY CHAIN PERFORMANCE MEASUREMENT, RECORDING AND REPORTING

25.1 INTRODUCTION

- 25.1.1 EMM shall submit to the National Treasury, Provincial Treasury and the Auditor-General such SCM information as they may require and in such format and at such intervals as specified.
- 25.1.2 EMM will implement a system of performance measurement, recording and, reporting to facilitate the above and to promote good governance.

25.2 ASSESSMENT/MEASUREMENT OF SUPPLY CHAIN PERFORMANCE

- 25.2.1 Performance Management depicts the final element in the SCM cycle but should not be seen in isolation as the monitoring processes often occur concurrently with all the other elements in the SCM cycle. The process consists of a retrospective analysis to determine whether the proper process was followed and whether the desired outcomes were achieved.
- 25.2.2 The EMM shall establish and implement an internal monitoring system in order to determine the basis of a retrospective analysis whether the authorized Supply Chain Management processes were followed and whether the objectives of this Policy were achieved.
- 25.2.3 Performance monitoring include, to:
- 25.2.3.1 Measure performance in terms of achievement of SDM goals;
 - 25.2.3.2 Measure compliance with norms and standards;
 - 25.2.3.3 Determine savings generated;
 - 25.2.3.4 Determine cost variance per item to indicate the premium paid for promoting preferential objectives;
 - 25.2.3.5 Identify any breach of contract;
 - 25.2.3.6 Determine cost efficiency of the acquisition process;
 - 25.2.3.7 Determine whether SCM objectives are consistent with Government's broader policy focus;
 - 25.2.3.8 Determine whether the principles of co-operative governance as expounded in the Constitution are observed;
 - 25.2.3.9 Evaluate whether the reduction of regional economic disparities is promoted;
 - 25.2.3.10 Establish any non-compliance with contractual conditions and requirements; and
 - 25.2.3.11 Assess the efficiency of stores.
- 25.2.4 The performance management system shall accordingly focus on, amongst others:
- 25.2.4.1 An effective SCM Performance Management System should be developed and implemented in accordance with departmental policies and procedures and applicable legislative requirements. Broadly speaking, SCM Performance can be measured in terms of the following:
 - Suppliers of goods and services

- The SCM Unit
- Service Delivery Realisation and or Value for money

25.2.4.2 The Monitoring of Suppliers

25.2.4.3 The monitoring of suppliers should form the basis of Contract Management activities where certain aspects should be monitored and reported on. These reporting elements include but are not confined to the following:

25.2.4.3.1 A database of contracts awarded, conclusion of Service Level Agreements

25.2.4.3.2 Monitoring of the supplier according to the stipulations of the SLA,

25.2.4.3.3 Documenting any deviation or non-performance by the supplier,

25.2.4.3.4 It is also recommended that at the completion stage of each project, an assessment of the supplier/service provider (including consultants where applicable) be undertaken and that this assessment be available for future reference i.e. Close out Report with final payment made to supplier.

25.2.4.3.5 A review of the relationship with suppliers and the improvements needed to enhance efficiencies across the supply chain.

25.2.5 MONITORING OF THE SCM UNIT

25.2.5.1 The various elements of the SCM Cycle should be monitored for adherence to the relevant legislative requirements and internal departmental policy and procedure. The SCM Unit should further be monitored for key requirements under the following elements:

25.2.5.2 Monitoring and evaluation of SCM policy and its delegations, training obligations, the constitution of bid committees and all relevant statutory requirements;

25.2.5.3 Planning and budgeting for all procurement and service delivery needs;

25.2.5.4 Compliance to SCM policy and prescripts in respect of acquisitions; logistics; disposal and contract management;

25.2.5.5 Reporting requirements to key stakeholders

25.2.5.6 Service Delivery Realisation and or Value for money

25.2.6 MONITORING OF PROCUREMENT FOR:

25.2.6.1 The extent to which the objectives of the organisation were met through procurement activities i.e. Socio-economic targets, financial targets etc.

25.2.6.2 Adherence to the five pillars of procurement especially value for money, which is defined as the best available outcome when all relevant costs and benefits over the acquisition period is considered.

25.3 RECORD KEEPING

25.3.1 ARCHIVING OF PREDETERMINED TARGETS

25.3.1.1 EMM shall gather as much information as possible on a continuous basis to adapt to the changing environment and Government's reporting requirements pertaining to

SCM.

25.3.1.2 Keeping complete records pertaining to SCM will assist EMM in their performance monitoring and reporting role.

25.3.1.3 Apart from records, EMM should also maintain a proper filing system per case.

25.3.2 RECORD KEEPING STRUCTURE

25.3.2.1 The necessary information, to satisfy the internal and external reporting requirements, has to be kept in an orderly manner. The gathering of information and recording system shall provide for the type of information required, deadlines and the allocation of duties and responsibilities.

25.3.2.2 Please note that record keeping does not replace the normal filing system that contains the hard copy of each case.

25.3.2.3 The necessary records can be maintained either manually or electronically and does not have to be a formal register. As such a list or spread-sheet will suffice. Information can be incorporated into a single record where possible. The consolidation of the required returns and forwarding thereof has to be allocated to the responsible person or section.

25.3.3 RECORDS TO BE KEPT

25.3.3.1 Record of verbal and written quotations and formal written quotations

25.3.3.2 Verbal and written quotations:

25.3.3.3 Formal written price quotations

25.3.3.4 List of bid documents issued

25.3.3.5 Record of ad hoc bids

25.3.3.6 Record of Specific Term Contracts

25.3.3.7 Record of deviation processes

25.3.3.8 Record of complaints received from bidders or contractors

25.3.3.9 Record of declaration of interest

25.3.3.10 Record of gifts received

25.3.3.11 Record of instances of fraud or corruption

25.3.3.12 Record of irregular, fruitless and wasteful expenditure

25.3.3.13 Record of circulars distributed within EMM

25.4 AD HOC REPORTING OBLIGATIONS

25.4.1 The CM of EMM shall submit to the Council, the Gauteng Provincial Treasury, the National Treasury, the Department for Local Government in the Province or the Auditor-General such information, returns, documents, explanations and motivations as may be prescribed or as may be required.

Table 6

REPORTING OBLIGATION	REPORT TO
<input type="checkbox"/> If the CM is unable to comply with any of the responsibilities in terms of the MFMA, he/she shall promptly report the inability, together with reasons.	<input type="checkbox"/> Council
<input type="checkbox"/> The CM of EMM shall report any deviations between this SCM Manual and the guideline standard.	<input type="checkbox"/> Council
<input type="checkbox"/> If EMM procures goods or services as contemplated in section 110(2) of the MFMA, they shall make public the fact that it procures such goods or services otherwise than through its SCM system, including: <ul style="list-style-type: none">▪ The kind of goods or service.▪ The name of the supplier.	<input type="checkbox"/> Shall make public

REPORTING OBLIGATION	REPORT TO
<input type="checkbox"/> If a bid other than the one recommended in the normal course of implementing the SCM policy is approved, the CM shall within 10 working days , in writing, notify the role players of the reasons for deviating from such recommendation.	<input type="checkbox"/> Auditor-General <input type="checkbox"/> Gauteng Provincial Treasury <input type="checkbox"/> National Treasury <input type="checkbox"/>
<input type="checkbox"/> If EMM disagrees with comments from SITA in terms of MFMA Regulation 31(4), the comments and the reasons for rejecting or not following such comments shall be submitted to the role players.	<input type="checkbox"/> Council <input type="checkbox"/> National Treasury <input type="checkbox"/> Provincial Treasury <input type="checkbox"/> Auditor-General
<input type="checkbox"/> The CM shall record the reasons for any deviations from the procurement processes and report them to the next meeting of the Council.	<input type="checkbox"/> The Council <input type="checkbox"/>
<input type="checkbox"/> If EMM decides to consider an unsolicited bid, EMM shall make its decision public and once EMM has received written comments on this issue, it shall submit such comments, including any responses from the unsolicited bidder, to the role players for comment. <ul style="list-style-type: none"> ▪ If any recommendation of the Council, the CM shall submit within 7 days, to the role players the reasons for rejection or not following those recommendations. 	<input type="checkbox"/> National Treasury <input type="checkbox"/> Gauteng Provincial Treasury <input type="checkbox"/> Council
<input type="checkbox"/> The CM shall inform the role players in writing of any actions taken in terms of MFMA Regulation 38(1)(b)(ii), (e) or (f) (system abuse, fraud and corruption and contract cancellation).	<input type="checkbox"/> Council <input type="checkbox"/> National Treasury <input type="checkbox"/> Gauteng Provincial Treasury
<input type="checkbox"/> Officials or role players shall report to the CM any alleged irregular conduct in the SCM system which that person may become aware of, including: <ul style="list-style-type: none"> ▪ Any alleged fraud, corruption, favouritism or unfair conduct. ▪ Any alleged contravention of MFMA regulation 47(1) (gifts/rewards). ▪ Any alleged breach of the code of ethical standards. 	<input type="checkbox"/> CM

REPORTING OBLIGATION	REPORT TO
<input type="checkbox"/> The CM shall promptly report any alleged contravention of MFMA Regulation 47(1) and (2).	<input type="checkbox"/> National Treasury
<input type="checkbox"/> The CM promptly discloses any sponsorship promised, offered or granted to EMM.	<input type="checkbox"/> National Treasury <input type="checkbox"/> Gauteng Provincial Treasury
<input type="checkbox"/> On discovery of any irregular expenditure or any fruitless and wasteful expenditure, the CM shall inform the Council, who shall promptly report, in writing, to the role players: <ul style="list-style-type: none"> ▪ Particulars of the expenditure. ▪ Any steps that have been taken: <ul style="list-style-type: none"> → To recover the expenditure. → To prevent a recurrence of the expenditure. 	<input type="checkbox"/> The Council <input type="checkbox"/> The Mayor and the Municipal Manager <input type="checkbox"/> Auditor-General
<input type="checkbox"/> The Council shall promptly report any: <ul style="list-style-type: none"> ▪ Irregular expenditure that may constitute a criminal offence. ▪ Other losses suffered by EMM which resulted from suspected criminal conduct 	<input type="checkbox"/> Council <input type="checkbox"/> Auditor-General <input type="checkbox"/> SAPS (if criminal offence)

25.5 MONTHLY REPORTING

REPORTING OBLIGATION	REPORT TO
<input type="checkbox"/> The CM or delegate shall report monthly on the following aspects: <ul style="list-style-type: none"> ▪ Total procurement spend. ▪ Percentage of total spend directed towards BEE against target. ▪ Targeted percentage spend to be directed towards BEE ▪ All declarations of interest by the CM shall be made to the Council. ▪ Process disputes. ▪ Unsolicited bids considered and accepted with consent of other role players. ▪ The CM shall, on a monthly basis report on the management of contracts or agreements and the performance of the relevant contractors. 	<input type="checkbox"/> Council

REPORTING OBLIGATION	REPORT TO
<input type="checkbox"/> An official or Bid Adjudication Committee to which the power to make final awards has been sub-delegated shall within 5 days of the end of each month submit a written report containing particulars of each final award made by such official or committee during that month, including: <ul style="list-style-type: none"> ▪ The amount of the award. ▪ The name of the person to whom the award was made. ▪ The reason why the award was made to that person. 	<input type="checkbox"/> The official referred to in MFMA Regulation 5(4)
<input type="checkbox"/> A written report referred to in MFMA Regulation 5(3) shall be submitted: <ul style="list-style-type: none"> ▪ To the CM, in the case of an award by: <ul style="list-style-type: none"> → The chief financial officer. → A senior official. → A Bid Adjudication Committee of which the chief financial officer or a senior official is a member. ▪ The chief financial officer or the senior official responsible for the relevant bid, in the case of an award by: <ul style="list-style-type: none"> → A manager referred to in MFMA Regulation 5(2)(c)(iii). → A Bid Adjudication Committee of which the chief financial officer or a senior official is not a member. <input type="checkbox"/> MFMA Regulation 5(3) and (4) does not apply to procurement out of petty cash.	<input type="checkbox"/> CM <input type="checkbox"/> CFO
<input type="checkbox"/> Each manager shall however forward a monthly reconciliation report on petty cash purchases detailing at least: <ul style="list-style-type: none"> ▪ Total amount of petty cash purchases for that specific month. ▪ Receipts and appropriate documents for each purchase. 	<input type="checkbox"/> CFO
<input type="checkbox"/> If it is not possible to obtain at least three formal written price quotations, the reasons shall be recorded and approved by the CFO or an official designated by the CFO. The CM or delegate shall record the names of the potential providers and their written quotations. The official designated by the CFO shall within 3 days of the end of each month report to the CFO on any approvals given during that month.	<input type="checkbox"/> CFO
<input type="checkbox"/> The CM or CFO shall be notified in writing of all written or verbal quotations and formal written price quotations accepted by an official acting in terms of a sub-delegation.	<input type="checkbox"/> CM or CFO
<input type="checkbox"/> The appointed person who deals with disputes, objections, complaints and queries shall submit a report on the status of these issues.	<input type="checkbox"/> CM

25.6 QUARTERLY REPORTING

Table 7

REPORTING OBLIGATION	REPORT TO
<input type="checkbox"/> The CM shall within 10 days after the end of each quarter submit implementation reports on the SCM policy.	<input type="checkbox"/> The Council
<input type="checkbox"/> If it is not possible to obtain at least 3 written or verbal quotations, the reasons shall be recorded and reported.	<input type="checkbox"/> CM or another official designated by the CM

25.7 ANNUAL REPORTING

25.7.1 The CM shall at least annually within 20 days of the end of the financial year, submit reports on the implementation of the SCM policy as contained in the SCM Manual to the Council within 30 days of the end of the financial year.

25.7.2 The CM of EMM shall at least annually review the implementation of the SCM policy as contained in the SCM Manual, inform the Council of its correctness and applicability and, if necessary; submit proposals for the amendment of the Manual to the Council.

25.7.3 Disclose particulars of non-compliance with the MFMA from a SCM perspective.

Table 8

REPORTING OBLIGATION	REPORT TO
<input type="checkbox"/> The CM shall at least annually within 20 days of the end of the financial year , submit reports on the implementation of the SCM policy as contained in the SCM Manual to the Council within 30 days of the end of the financial year .	<input type="checkbox"/> Council
<input type="checkbox"/> The CM of EMM shall at least annually review the implementation of the SCM policy as contained in the SCM Manual, inform the Council of its correctness and applicability and, if necessary, submit proposals for the amendment of the Manual.	<input type="checkbox"/> The Council
<input type="checkbox"/> The notes to the annual financial statements of EMM shall:	

REPORTING OBLIGATION	REPORT TO
<ul style="list-style-type: none"> ▪ Disclose particulars of any award of more than R2 000 to a person who is a spouse, child or parent of a person in the service of the state, or has been in the service of the state in the previous twelve months, including: <ul style="list-style-type: none"> → The name of that person. → The capacity in which that person is in the service of the state. → The amount of the award. ▪ Disclose the reasons for any deviations from the procurement processes. ▪ Disclose particulars of any material losses and any material irregular or fruitless and wasteful expenditure that occurred during the financial year and whether these are recoverable. ▪ Disclose particulars of any criminal or disciplinary steps taken as a result of such losses or such irregular or fruitless and wasteful expenditures. ▪ Disclose particulars of non-compliance with the MFMA from a SCM perspective. 	

25.8 REPORTING TO NATIONAL TREASURY

25.8.1 SCM IMPLEMENTATION

25.8.1.1 EMM shall continue to report to National Treasury on their progress in the implementation of SCM if there are any changes from year to year.

25.8.2 CONTRACTS REPORTING QUESTIONNAIRE

25.8.2.1 EMM shall submit reports electronically (on the National Treasury PCI system) to National Treasury in respect of each contract above the value of R100 000 (all applicable taxes included) concluded during that month within 15 days of the end of each month.

25.8.3 IRREGULAR EXPENDITURE REPORTING

25.8.3.1 Report all irregular expenditure immediately to the National Treasury

25.8.4 RESTRICTIONS IMPOSED BY EMM

25.8.4.1 Report all restrictions imposed by EMM immediately to the National Treasury.

25.8.5 UNSOLICITED PROPOSALS

25.8.5.1 Upon receipt of an unsolicited proposal, EMM shall (in writing) notify the National Treasury contact person within ten (10) working days of such receipt.

25.9 REPORT TO THE DTI

- 25.9.1 EMM shall, within 5 working days after the award of a contract that is in excess of R 10 million, submit details of such a contract to the NIPP section of *the DTI*.

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