

EMNAMBITHI/LADYSMITH



SUPPLY CHAIN

MANAGEMENT

POLICY

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DEFINITIONS

In this policy, unless the context indicates otherwise, the following definitions are applied –

‘Accounting Officer’ means the Municipal Manager for the Municipality within the meaning of Section 82 of the Municipal Structures Act, 1998 (Act No.117 of 1998);

‘the Act’ means the Local Government Municipal Finance Management Act 2003 (Act No. 56 of 2003)

‘Bid’ means a written offer in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of services, works or goods. This replaces ‘tender’ used in previous policies;

‘CFO’ means Chief Financial Officer;

‘Close family member’ means: (i) a member of the same household (including someone residing on the premises), (ii) parent (including adoptive parent), (iii) parent-in-law, (iv) son (including adoptive son), (v) son-in-law, (vi) daughter (including adoptive daughter), (vii) daughter-in-law, (viii) step-parent, (ix) step-son, (x) step-daughter, (xi) brother, (xii) sister, (xiii) grandparent, (xiv) grandchild, (xv) uncle, (xvi) aunt, (xvii) nephew, (xviii) niece, (xix) the spouse or unmarried partner in any of (i) to (xii) above;

‘Contract’ means the agreement that results from the acceptance of a bid or quotation by the Municipality;

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

‘In the service of the state’ means to be –

(a) a member of –

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

'long-term contract' means a contract with a period exceeding one year;

'MCM' means Management Committee

'MFMA' means the Municipal Finance Management Act (Act No. 56 of 2003);

'Quotation' means a stated price that a supplier expects to receive for the provision of specified services, works or goods;

'Relevant head of department' means the head of the department for which the goods or services are being procured; and

'Senior Manager' is defined in terms of Section 56 of the Municipal Structures Act as "a manager directly accountable to the Municipal Manager".

'Supply Chain Management Practitioners' include the Chief Financial Officer, Deputy Chief Financial Officer, Senior Accountant Assets and SCM, and the Supply Chain Manager.

'Supply Chain Management Unit' comprises of the Supply Chain Manager and the Storeman – Buyer.

'Treasury guidelines' means any guidelines on supply chain management issued by the Minister in terms of section 168 of the MFMA.

1. Objectives

To provide a policy in which the accounting officer can institute and maintain a supply chain management system that:

- (a) Is transparent, efficient, equitable, competitive, and cost effective for the municipality,
- (b) Applies the highest ethical standards,
- (c) Promotes local economic development.
- (d) Assists in the delivery of quality service to the municipality's customers
- (e) Promotes interest and confidence in the municipality's procurement processes and other related processes
- (f) Gives effect to and complies with relevant legislation, regulations and standards

By adopting this policy the council undertakes to observe all applicable national legislation (including amendments and regulations) notably the:

- (a) Preferential Procurement Policy Framework Act No. 5 of 2000;
- (b) Broad Based Black Economic Empowerment Act No 53 of 2003
- (c) Municipal Finance Management Act No. 56 of 2003

This policy is designed to supplement legal prescriptions, and the main provisions are either annexed to this policy or available in the relevant Acts, Regulations and Frameworks.

2. Supply chain management policy

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

- (a) gives effect to –
 - (i) section 217 of the Constitution; and
 - (ii) Part 1 of Chapter 11 and other applicable provisions of the Act;
- (b) is fair, equitable, transparent, competitive and cost effective;
- (c) complies with –
 - (i) the Regulations; and
 - (ii) any minimum norms and standards that may be prescribed in terms of section 168 of the Act;

- (d) is consistent with other applicable legislation;
- (e) does not undermine the objective for uniformity in supply chain management systems between organs of state in all spheres; and
- (f) is consistent with national economic policy concerning the promotion of investments and doing business with the public sector.

(2) This Policy applies when the municipality –

- (a) procures goods or services;
- (b) disposes goods no longer needed;
- (c) selects contractors to provide assistance in the provision of municipal services otherwise than in circumstances where Chapter 8 of the Municipal Systems Act applies; or
- (d) selects external mechanisms referred to in section 80 (1) (b) of the Municipal Systems Act for the provision of municipal services in circumstances contemplated in section 83 of that Act.

(3) This Policy, except where provided otherwise, does not apply in

respect of the procurement of goods and services contemplated in section 110(2) of the Act, including –

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

3. Amendment of the supply chain management policy

(1) The accounting officer must –

- (a) at least annually review the implementation of this Policy; and
- (b) when the accounting officer considers it necessary, submit proposals for the amendment of this Policy to the council

(2) If the accounting officer submits proposed amendments to the council that differs from the model policy issued by the National Treasury, the accounting officer must –

- (a) ensure that such proposed amendments comply with the Regulations; and
- (b) report any deviation from the model policy to the National Treasury and the relevant provincial treasury.

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

4. METHODS AND PROCESS OF PROCUREMENT

4.1 Procedures for Procurement

The relevant department will prepare the request for quotations.

All requests for the procurement of goods and services will be submitted to Management Committee for prior approval and documentation available:

- (a) clearly specifying the nature and quantity/duration of the goods and services required. Specifications should be prepared in an unbiased manner and in sufficient detail to enable meaningful evaluation of quotes and bids.
- (b) For requirements above R10 000 include the selection criteria which the quote will be evaluated against, noting that the Preferential Procurement Policy Framework and Regulations will apply above R30 000.
- (c) Certified by the department's official responsible for financial management that there is sufficient budget provision in their relevant for the procurement.
- (d) Signed by the head of department or official designated by them for this purpose
- (e) Provided in sufficient time to allow for the lead time involved to procure the goods or services in accordance with this policy

The municipality is not obliged to accept any quotation or bid received. For a quotation or bid to be considered it must be substantially meet the specifications for the procurement and meet the needs of the municipality. If no quotation or bid is substantially to specification, the evaluation authority may either:

1. call for new bids, or
2. recommend acceptance of the bid nearest to specification provided the evaluation authority is satisfied it offers acceptable value for money, will meet the needs of the municipality, and the head of the department being procured for concurs with the decision.

4.2 Petty cash purchases to an estimated value of R2 000

Petty cash purchases up to a value of R2 000 (VAT inclusive) may be procured by obtaining 1 verbal quote provided a registered supplier is used and the Head of Department is satisfied that the procurement is cost effective and fair.

All petty cash purchases will be approved by the Head of Department prior to purchase and limited to a total of R 10 000 per month per department. The Accounting Officer will determine if certain types of expenditure may be excluded from petty cash purchases.

The Head of Department must supply monthly reports on petty cash purchases in accordance with Section 14 'Reporting'.

4.3 Purchases to an estimated value of R 10 000

Goods and services with a value to R10 000 (VAT inclusive & other than petty cash purchases above) may be procured by obtaining 3 verbal quotations (from the list of prospective suppliers in the first instance when the database is available). All quotes are to be inclusive of VAT and the relevant officer will record the name of each potential provider and their quoted prices. The supplier will provide written confirmation of price and goods for placement of an order.

All prospective suppliers must meet the listing requirements of Section 13 (a), (b) and (c) of the Supply Chain Management Regulations.

Quotes to R10 000 will be evaluated by the designated officials in each department and reported to Management Committee for approval.

The designated official in each department will record the names of potential provider in a centralised department procurement register. If it is not possible to obtain 3 quotes, the reasons should be documented by the relevant officer and reported quarterly to the Accounting Officer.

4.4 Purchases to an estimated value of R 200 000

Procurement for requirements from R10 001 to R 200 000 (VAT inclusive) will be by inviting written price quotations (from the list of prospective suppliers in the first instance, when available).

The quotation is required:

- (i) To be in writing, and signed by a person with the necessary authority to act on behalf of the prospective supplier;
- (ii) Substantially comply with the specifications set out in the quotation notice;
- (iii) Accompanied by a certificate issued by the relevant municipality which is not more than 3 months old and confirms that municipal rates, taxes and service charges are up to date.

Quotations can be sought from unlisted providers when there are no suitable providers for the commodity or service, provided the suppliers meet the following listing criteria of the Supply Chain Management Regulations.

The provider who submitted the quotation:

- (a) has furnished the municipality with that provider's –
 - (i) full name;
 - (ii) identification number or company or other registration number; and
 - (iii) tax reference number and VAT registration number, if any;
- (b) has authorised the municipality to obtain a tax clearance certificate from the South African Revenue Services that the provider's tax matters are in order; and
- (c) has indicated –
 - (iv) whether he or she is in the service of the state, or has been in the service of the state in the previous twelve months;
 - (v) if the provider is not a natural person, whether any of its directors, managers, principal shareholders or stakeholder is in the service of the state, or has been in the service of the state in the previous twelve months; or
 - (vi) whether a spouse, child or parent of the provider or of a director,

manager, shareholder or stakeholder referred to in subparagraph (ii) is in the service of the state, or has been in the service of the state in the previous twelve months.

For quotations above R30 000:

- (a) The request will be displayed on the municipality's notice board provided for the purpose, and on the website. Quotation notices will give at least 7 days notice and indicate the closing date for submissions.
- (b) They will be subject to the requirements of the Preferential Procurement Policy Framework Act and Regulations.

The designated official in each department will record the names of potential providers and their quotations and for quotes between R10 001 and R200 000 evaluate against the determined selection criteria. The Adjudication Committee will adjudicate on these quotations acting on the written report and recommendation of the designated department official.

Where it is not possible to obtain 3 quotes, the reasons will be documented by the relevant officer and approved by the Adjudication Committee and reported quarterly to the Accounting Officer.

4.5 Procurement above an estimated value of R 200 000 and long-term contracts

Procurement requisitions per case above R200 000 (VAT inclusive) and long-term contracts will be by tender invitation. The request for tenders will be prepared by the Specification Committee and provided to the Supply Chain Management Unit to:

- (a) Display on the municipality's notice boards created for this purpose
- (b) Place on the Municipality's website
- (c) Advertise in a commonly circulated local newspaper for at least 14 days from the date the advertisement is placed for requirements not above a transaction value of R10 million and for 30 days for requirements in excess of R10 million
- (d) Include the requirement that bids can only be submitted on the bid documentation provided by the municipality
- (e) Include the date, time and location of any site meeting or briefing session

(f) Include the closing date and opening time of the bid.

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

The Specification Committee may decide to extend the public invitation to other means such as the Government Tender Bulletin and the National Press.

For a bid to be considered it must comply with the requirements of Section 13 (a), (b) and (c) of the Regulations, and Section 5 of the policy, 'General Conditions and Procedures'. The Municipality may charge an unrefundable deposit for provision of bid documents. Bids from 'Prohibited Bidders' in terms of Section 43 and 44 of the Regulations will not be considered.

The Evaluation Committee will evaluate tenders above R200 000 in accordance with the principles of adjudication of this policy and make recommendations to the Adjudication Committee.

4.6 Summary of Procurement

Purchase Value	Required Process
Petty Cash to R2 000	<ul style="list-style-type: none"> • 1 verbal quote from database of suppliers • Approved by Head of Department • Reported to MCM monthly
R0 to R10 000	<ul style="list-style-type: none"> • At least 3 verbal quotations by the 'end user' department (on a rotational basis from the database of suppliers when available). • Expenditure approval by MCM
R10 001 to R30 000	<ul style="list-style-type: none"> • At least 3 verbal quotations by the 'end user' department (on a rotational basis from the database of suppliers when available). • Expenditure approval by MCM
R30 001 to R200 000	<ul style="list-style-type: none"> • At least 3 written quotations (from the database of suppliers when available) • BBBEE - 80/20 Preference Point System applies • Expenditure approval by MCM

R200 001 to R500 000	<ul style="list-style-type: none"> • Formal tender required. • Recommendation by Evaluation Committee • Preferential Procurement Act and Regulations - 80/20 Preference Point System applies • Approval by Adjudication Committee
Above R500 000	<ul style="list-style-type: none"> • Formal tender required. • Recommendation by Adjudication Committee • Preferential Procurement Act and Regulations – 90/10 Preference Point System applies • Approval by Adjudication Committee

4.7 Principles of Adjudication

4.7.1 Adjudication of Bids from R 30 000 to R500 000

For all quotations and bids with an estimated value between R30 000 and R500 000 preference points will be allocated as follows:

	POINTS
Price	80
Specified Goals	<u>20</u>
Total	<u>100</u>

The following formula will be used to calculate the points for price in respect of competitive bids/prices quotations with a Rand value from R30 000 to R500 000.

$$Ps = 80 \left(1 - \frac{(Pt - P_{min})}{P_{min}} \right)$$

Where

Ps = Points scored for price of bid/offer under consideration

Pt = Rand value of offer/bid consideration

Pmin = Rand value of low est acceptable bid/offer

The following is used to calculate the points for specific goals in accordance with the Preferential Procurement Policy Framework Act, 2000 and Regulations, 2001, and Council's adopted Procurement Policy.

Preference Claimed	Points Awarded < R500 000
Tendered Price	80
Equity Ownership	10
Local Contractor/Supplier	4
Gender (Woman Equity Ownership)	4
Disabled Persons (Equity Ownership)	2

4.7.2 Adjudication of Bids above R500 000

For all tenders with an estimated value above R500 000 preference points will be allocated as follows:

	POINTS
Price	90
Specified Goals	<u>10</u>
Total	<u>100</u>

The following formula must be used to calculate the points for price in respect of competitive bids/prices quotations with a Rand value above R500 000.

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

Where

P_s = Points scored for price of bid/offer under consideration

P_t = Rand value of offer/bid consideration

P_{min} = Rand value of low est acceptable bid/offer

The following is used to calculate the points for specified goals in accordance with the Preferential Procurement Policy Framework Act, 2000 and Regulations, 2001, and Council's adopted Procurement Policy.

Preference Claimed	Points Awarded >R500 000
Bid Price	90
Equity Ownership	5
Local Contractor/Supplier	2
Gender (Woman Equity Ownership)	2
Disabled Persons (Equity Ownership)	1

Prior to the award of a bid, the Municipality may cancel the bid process.

4.8 Supply Chain Management Unit

A Supply Chain Management Unit will be established in the Budget and Treasury Office of the Finance Department to implement this policy. This Unit will report to the Chief Financial Officer (or delegate) in terms of section 82 of the Act.

4.9 Negotiations with preferred bidders

- (1) The Accounting Officer may negotiate the final terms of a contract with bidders identified through a competitive bidding process as preferred bidders, provided that such negotiation –
 - (a) Does not allow any preferred bidder a second or unfair opportunity;
 - (b) Is not to the detriment of any other bidder; and
 - (c) Does not lead to a higher price than the bid as submitted.
- (2) Minutes of such negotiations must be kept for record purposes.

4.10 Advising of Results

All approved quotations and bids will be listed on the municipality's website and relevant notice boards in the week following their approval for a period of 7 days. In addition, the Supply Chain Management Unit will notify successful bidders in writing of the awarding of the contract subject to the time period for appeal by unsuccessful bids.

4.11 Compilation of a List of Prospective Suppliers

- 1) The Accounting Officer (or delegate) will-
 - a) compile a list of prospective suppliers to be used in procurement requirements in terms of Section 2.2, 2.3 and 2.4 above.
 - b) at least once a year through commonly circulated local newspapers, the municipality's website and any other appropriate ways, invite prospective suppliers of goods or services to apply for evaluation and listing as accredited prospective suppliers.
 - c) Specify the listing criteria for accredited prospective providers; and

- d) Disallow the listing of any prospective provider whose name appears on the National Treasury's database as a person prohibited from doing business with the public sector.
- 2) The list should be used to promote participation of Black-owned Small, Medium and Micro Enterprises (SMME's).
- 3) The list must be updated at least quarterly to include any additional prospective providers and any new commodities or types of services.
- 4) Suppliers who wish to be included in the list of prospective suppliers without waiting for the next invitation may approach the Supply Chain Management Unit for inclusion, provided they supply the necessary documentation and information for evaluation. Once these requirements have been satisfied, the Supply Chain Management Unit will evaluate the supplier and provide a response within 14 days.
- 5) The list must be compiled per commodity and per type of service.
- 6) To be eligible for listing all prospective suppliers must meet the criteria of Section 13 (a), (b) and (c) of the Regulations

4.12 Two-stage Bidding Process

- (1) A two-stage bidding process may be used for
 - (a) large complex projects;
 - (b) projects where it may be undesirable to prepare complete detailed technical specifications in advance, and
 - (c) long term projects with a duration period exceeding 3 years.
- (2) The first stage will invite technical proposals on the basis of conceptual design or performance specifications, subject to adjustments and technical and commercial clarifications.
- (3) The second stage will require amended bidding documents, and the submission of final technical proposals and priced bids.

4.13 Unsolicited bids

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

(2) The accounting officer may decide in terms of section 113(2) of the Act to consider an unsolicited bid, only if –

- (a) the product or service offered in terms of the bid is a demonstrably or proven unique innovative concept;
- (b) the product or service will be exceptionally beneficial to, or have exceptional cost advantages;
- (c) the person who made the bid is the sole provider of the product or service; and
- (d) the reasons for not going through the normal bidding processes are found to be sound by the accounting officer.

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

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

(4) The accounting officer must submit all written comments received pursuant to subparagraph (3), including any responses from the unsolicited bidder, to the National Treasury and the relevant provincial treasury for comment.

(5) The adjudication committee must consider the unsolicited bid and may award the bid or make a recommendation to the accounting officer, depending on its delegations.

(6) A meeting of the adjudication committee to consider an unsolicited bid must be open to the public.

(7) When considering the matter, the adjudication committee must take into account –

- (a) any comments submitted by the public; and
- (b) any written comments and recommendations of the National Treasury or the relevant provincial treasury.

(8) If any recommendations of the National Treasury or provincial treasury are rejected or not followed, the accounting officer must submit to the Auditor

General, the relevant provincial treasury and the National Treasury the reasons for rejecting or not following those recommendations.

(9) Such submission must be made within seven days after the decision on the award of the unsolicited bid is taken, but no contract committing the municipality to the bid may be entered into or signed within 30 days of the submission.

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

(1) The accounting officer may procure goods or services under a contract secured by another organ of state, but only if –

- (a) the contract has been secured by that other organ of state by means of a competitive bidding process applicable to that organ of state;
- (b) there is no reason to believe that such contract was not validly procured;
- (c) there are demonstrable discounts or benefits to do so; and
- (d) that other organ of state and the provider have consented to such procurement in writing.

(2) Subparagraphs (1)(c) and (d) do not apply if –

- (a) a municipal entity procures goods or services through a contract secured by its parent municipality; or
- (b) a municipality procures goods or services through a contract secured by a municipal entity of which it is the parent municipality.

4.15 Proudly SA Campaign

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

- Firstly – suppliers and businesses within the municipality or district;
- Secondly – suppliers and businesses within the relevant province;
- Thirdly – suppliers and businesses within the Republic.

5. DEVIATIONS FROM THE PROCUREMENT PROCESS

- (1) The Accounting Officer may -
 - (a) deviate from the processes established by this policy and procure through any convenient process, which may include direct negotiations, but only:
 - (i) In an emergency
 - (ii) If such goods or services are produced or available from a single supplier only

- (iii) For the acquisition of special works of art or historical objects where the specifications are difficult to compile
 - (iv) Acquisition of animals for zoos and/or nature and game reserves; or
 - (v) In any other exceptional case where it is impractical or impossible to follow the official procurement processes; and
- (b) ratify any minor breaches of the procurement processes by an official or committee acting in terms of delegated powers or duties which are purely of a technical nature.
- (2) The Accounting Officer must record the reasons for any deviations in terms of subparagraphs (1), (a) and (b) of this policy and report them to the next meeting of the Council and include as a note to the Annual Financial Statements.
- (3) Subparagraph (2) does not apply to the procurement of good and services, including –
- (a) Water from the Department of Water Affairs or a public entity, another municipality or a municipal entity; and
 - (b) Electricity from Eskom or another public entity, another municipality or a municipal entity.

6. SUPPLY CHAIN COMMITTEES

6.1 Specification Committee

The Accounting Officer will appoint members to the specification committee to compile the specifications for procurement of goods or services by the municipality.

Specifications should be:

- (1) prepared in an unbiased manner to allow all potential suppliers to offer their goods or services;
- (2) in sufficient detail to enable meaningful evaluation of quotes and tenders;
- (3) take into account any accepted standards such as those issued by Standards South Africa, the International Standards Association or an authority accredited

- or recognised by the South African National Accreditation System with which the equipment or material or workmanship should comply;
- (4) where possible be described in terms of performance required rather than in terms of descriptive characteristics for design;
 - (5) may not create trade barriers in contract requirements in the forms of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labelling of conformity certification;
 - (6) may not refer to any particular trade mark, name, patent, design, type, specific origin or producer unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work in which case such reference must be accompanied by the words "equivalent";
 - (7) must indicate each specific goal for which points may be awarded in terms of the points system in the Preferential Procurement act and Regulations; and
 - (8) must be approved by the Accounting Officer prior to advertisement of the bid.

The bid Specification Committee will be composed as follows:

- o a Supply Chain Management Official
- o a Municipal legal advisor
- o an official from the 'end user' department
- o other officials as necessary and, when appropriate external specialist advisors.

No person, advisor or corporate entity involved with the bid specification committee may bid for any resulting contracts.

6.2 Evaluation Committee

The Accounting Officer will appoint members to the evaluation committee to undertake the evaluation of bids.

- (1) The Bid Evaluation Committee will -
 - (a) Evaluate bids in accordance with
 - (i) The specifications for a specific procurement
 - (ii) The points system set out in Section 2.7 of this policy

- (b) Ensure bids are compliant with the requirements of the Supply Chain Management Framework and this policy;
 - (c) Evaluate each bidder's ability to execute the contract;
 - (i) Check in respect of the recommended bidder whether municipal rates and taxes and municipal services charged are not in arrears.
 - (d) Submit to the adjudication committee, within 14 days of the closing date of tenders, a report and recommendations regarding the award of the bid or any other related matter.
- (2) The bid Evaluation Committee will be composed as follows –
- o a Supply Chain Management official
 - o a Budget Office official
 - o an official from the 'end user' department
 - o other officials as necessary
- (3) The Evaluation Committee will reject any bidder who:
- (a) fails to provide proof from SARS that the bidder has no outstanding tax obligations, or has made arrangements to meet outstanding tax obligations,
 - (b) has municipal rates, taxes and charges in arrears by more than three months,
 - (c) has committed a corrupt or fraudulent act in competing for the contract, or has been convicted of fraud or corruption in the last five years
 - (d) has abused the Supply Chain Management System or committed any improper conduct in relation to the system,
 - (e) has wilfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years.
- (4) Within 14 days of the closing of tenders the Evaluation Committee will provide to the Adjudication Committee a report and recommendations regarding the award of the bid or any other related matter.

6.3 Adjudication Committee

- (1) The Accounting Officer will appoint members to the Adjudication Committee to perform the adjudicating functions of this policy. The committee must consist of at least 4 Senior Managers and will be composed as follows:
 - (a) At least 3 Senior Managers who are not head of the department being procured for.
 - (b) The Chief Financial Officer or if unavailable another manager in the Budget and Treasury Office reporting directly to the Chief Financial Officer and designated by the Chief Financial Officer.
 - (c) At least one Senior Supply Chain Management practitioner who is an official of the Municipality
 - (d) A technical expert in the relevant field, who is an official, if such an expert exists (and who was not part of the Evaluation committee).
- (2) The Accounting Officer will appoint the chairperson of the committee and when the appointee is absent, the members of the committee who are present will elect one of them to preside at the meeting.
- (3) The bid adjudication committee will –
 - (a) For bids with a value of R5 000 000 or less, make a final award or a recommendation to the Accounting Officer to make the final award.
 - (b) For bids with a value greater than R5 000 000, make recommendation to the Accounting Officer how to proceed with the relevant procurement.
- (4) The Adjudication Committee will effectively meet as a sub-committee of the Management Committee with the exclusion of the Accounting Officer and Department Heads or staff members with an interest in the bid, or who have been part of the Evaluation Committee for the bid. The quorum is the chairperson and three members.
- (5) The minutes of the Adjudication Committee meeting as the sub-committee of the Management Committee will serve as the written report, required to be submitted to the Accounting Officer by Section 5 (3) of the Regulations.

- (6) (a) If the bid adjudication committee decides to award a bid other than the one recommended by the bid evaluation committee, the bid adjudication committee must prior to awarding the bid –
- (i) Check in respect of the preferred bidder whether that bidder's municipal rates and taxes and municipal service charges are not in arrears, and
 - (ii) Notify the accounting officer
- (b) The Accounting Officer may –
- (i) After due consideration of the reasons for the deviation, ratify or reject the decision of the bid adjudication committee referred to in (a); and
 - (ii) If the decision of the bid adjudication committee is rejected, refer the decision of the adjudication committee back to that committee for reconsideration.
- (7) The Accounting Officer may at any stage of a bidding process, refer any recommendation made by the evaluation committee or the adjudication committee back to that committee for reconsideration of the recommendation.
- (8) The Accounting Officer must comply with section 114 of the Act within 10 working days in terms of notifying the required parties if a tender other than the one recommended is approved.

7. GENERAL CONDITIONS AND PROCEDURES

7.1 General Directives

- (1) The following general conditions and procedures contained in this document are applicable to all , orders and contracts, unless otherwise approved by the Accounting Officer prior to the invitation of the tender.
- (2) Where applicable, special conditions or procedures are also laid down by the Accounting Officer to cover specific supplies or services.
- (3) Where such special conditions or procedures are in conflict with the general conditions and procedures, the special conditions or procedures shall apply.

- (4) The bidder shall satisfy himself/herself with the conditions and circumstances of the bid. By bidding, the bidder shall deem to have satisfied himself/herself as to all the conditions and circumstances of the tender.
- (5) Formal contracts are concluded with the contractors only where this requirement is stated in the bid invitation.
- (6) The written acceptance of bid shall be posted to the bidder or contractor concerned by registered or certified mail.

7.2 Invitation of bids

Invitations to bid indicate the conditions of purchase, preference point system to be used, specifications, delivery schedules, closing dates, contact person and other necessary information.

- (1) Unless otherwise indicated in the bid documents, the Municipality shall not be liable for any expenses incurred in the preparation and submission of bids on behalf of the bidder.
- (2) Unless approved by Supply Chain Manager, notifications of bid invitations are published in the media as determined by this policy for at least 14 days from the date the advertisement is first placed. Proof of advertisement will be submitted in the bid report to the Adjudication Committee.
- (3) The bid number must not appear on any envelope unless the envelope contains the bid itself.
- (4) The Municipality shall in the bid document indicate the preference point system to be applied in the adjudication of bids.
- (5) Bidders are required to:
 - (a) Make use of the official Emnambithi/Ladysmith Municipality's bid documents.
 - (b) Insert bid prices and other required information in the appropriate spaces on the prescribed form.
 - (c) Furnish all further information called for in the bid documents and to supply pamphlets, samples, etc., where required.

- (d) *Submit an Original Tax Clearance Certificate, failure to do so will invalidate the tender.*
- (e) To complete a declaration that:
- (i) The information provided is true and correct.
 - (ii) The signatory is duly authorised to sign the tender document.
 - (iii) Bids containing bidders own specified conditions may result in the bid being declared invalid if the bidder fails to renounce such conditions when called upon to do so.
- (7) Bid deposit, which is not refundable, must be paid in at the cashier of the Municipality on Line Item number: 11 115 9168
- (8) A fully explanatory site inspection, where applicable, must be conducted before the close of bids to ensure that bidders understand the scope of the project and that they comply with the conditions and requirements.

If applicable, attendance of this meeting will be compulsory and a site inspection attendance register completed and signed.

- (9) Bids close at 11:00 on the closing date indicated in the bid documents. Unless the Accounting Officer decides otherwise, bids close at least two weeks after the date of publication.

Extension of closing date may be granted only with the approval of the Accounting Officer upon recommendation of the Chief Financial Officer. This will only be considered if circumstances justify the extension. The closing is normally extended only if there is sufficient time to publish an amending notification, before the original closing date.

- (10) The bid shall remain valid for the number of the calendar days indicated in the bid documents and is calculated from the date and time of bid closure endorsed on the front cover of the bid document.
- Should the bid validity expire on a Saturday, Sunday or Public holiday, the bid shall remain valid and open for acceptance until the closure of business on the following working date.

- (11) Bids shall be lodged not later than the closing time specified for their receipt at the address and in accordance with the directives in the bid documents.

Each bid shall be addressed in accordance with the directives in the bid documents and shall be lodged in a separate sealed envelope with the name and address of the bidder, the bid number and the closing date indicated on the envelope.

The envelope shall not contain documents relating to any bid other than that shown on the envelope.

No submission via telephone, telex, telegram or telefax will be considered.

- (12) Bids are late if they are received at the address indicated in the bid documents after the closing date and time. A late bid shall not be admitted for consideration and where practicable shall be returned unopened to the bidder accompanied by an explanation.

- (13) Bids are opened in public as soon as practicable after closing date. Upon bid closing time, the tender box will be unlocked and opened by an official from the Supply Chain Management Unit, an official from the Governance and Administration Department and an officer from the relevant Department (if present) in the presence of the bidders or other interested parties.

The official opening the bids shall in each case read out the name of the bidders and the amount of the bid. In instances of bulk bid amounts which are too time consuming to read out, only those requested by bidders will be read, and a complete schedule provided as soon as is practical.

The bid shall be stamped with the official stamp of the Municipality and endorsed with the signatures of the person opening it and of the person in whose presence it was opened.

The Supply Chain Management Unit keeps a copy of the bids and a summary list, and the relevant Department official holds the original documents.

The Supply Chain Manager will ensure tender boxes are sealed until the time of their official opening, and that they are properly secured.

7.3 Consideration of bids

- (1) The Municipality takes all bids duly admitted into consideration.
- (2) The Municipality reserves the right to accept or reject any bid.
- (3) The decision by the Municipality regarding the awarding of a contract shall be final and binding.
- (4) Where a contract has been awarded on the basis of information which, after the conclusion of the relevant agreement, is proved to have been incorrect, the Municipality may, in addition to any other legal remedy it may have:
 - (a) Recover all costs, losses or damages it has incurred or suffered as a result of the award of the contract.
 - (b) Cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellations.
 - (c) Impose a financial penalty more severe than the theoretical financial preference associated with the claim which was made in the bid.
 - (d) Restrict the contractor, its shareholders and directors from obtaining business from the Municipality for a period not exceeding ten (10) years.
- (5) The Municipality will adjudicate acceptable bids using the BBBEE Balanced Scorecard preference point system which awards points on the basis of:
 - (a) The bid price, and
 - (b) Meeting specific goals

The Municipality will normally award the contract to the bidder obtaining the highest score, but will not bind itself to do so.
- (7) Only a bidder who has completed and signed the declaration part of the bid documentation may be considered for preference points.
- (8) The Municipality may, before a bid is adjudicated or at any time, require a bidder to substantiate claims it has made with regard to preference.
- (9) In the event that different prices are bid for different periods of a contract, the price for each period must be regarded as a firm price if it conforms to the definition of a "firm price".
- (10) Points scored will be rounded off to the nearest 2 decimal.
- (11) In the event that two or more bids have scored equal total points, the successful bid must be the one scoring the highest number of preference points for specified goals. Should two or more bids be equal in all respects, the award shall be decided by the drawing of lots.

- (12) The preference points in respect of equity ownership will be equated to the percentage of an enterprise or business owned by individuals or, in respect of a company, the percentage of a company's shares that are owned by individuals, who are actively involved in the management of the enterprise or business and exercise control over the enterprise, commensurate with their degree of ownership at the closing date of the bid.
- (13) Where the percentage of ownership contemplated in paragraph (12) changes after the closing date of the bid, the bidder must immediately notify the Municipality so that preference points can be adjusted accordingly.
- (14) Preference points may not be claimed in respect of individuals who are not actively involved in the management of an enterprise or business and who do not exercise control over an enterprise or business commensurate with their degree of ownership.
- (15) All claims made for equity ownership will be considered according to the following criteria:
 - (a) Equity within private companies must be based on the percentage of equity ownership.
 - (b) Preference points must not be awarded to public companies and tertiary institutions.
 - (c) Equity claims for a Trust shall not be allowed in respect of those persons who are both trustee and beneficiaries and who are actively involved in the management of the Trust.
 - (d) Documentation to substantiate the validity of the credentials of the trustees contemplated in paragraph (c) shall be submitted to the Municipality.
- (17) A Consortium or Joint Venture shall, based on the percentage of the contract value managed or executed by their black members, be entitled to equity ownership.
- (18) A person awarded a contract as a result of preference for contracting with, or providing equity ownership, shall not sub-contract more than 25% of the value of the contract to a person who is not black or does not qualify for such preference.
- (19) Bidders submitting two or more offers without declaring interest will be disqualified.

7.4 Administration of Contracts

7.4.1 Settlement of disputes

Should any dispute arise between a bidder/supplier and the Municipality as to an interpretation of the conditions of a bid, contract or order, the decision of the Municipality shall be final, but execution of a contract or order shall not be delayed pending such decision.

Orders

Supplies shall be delivered and services rendered only upon a written official order from the Municipality, and accounts shall be rendered as indicated on the official order or in the contract, as the case may be.

Packing, packing material and containers

The contractor/supplier is responsible for packing supplies at his/her own cost and in such a manner as to ensure that there is no loss or damage in transit.

Where provision is expressly made in a contract for the return of packing material or containers, such packing material or containers shall be returned at the contractor's expense.

Guarantee

Unless the contract stipulates otherwise, the contractor shall guarantee for a period of twelve months that no faulty material or workmanship was used in the manufacture of goods or in the execution of services and that the finish product is not defective. Should the guarantee not be complied with, the Municipality may, without prejudice to any other rights it may have, demand that the supplies are replaced and the services repaired without cost to the Municipality.

Payment for supplies and services

Subject to any instructions issued with a contract or order, a contractor shall be paid for supplies delivered and services rendered in accordance with the following provisions:

- a) On the basis of delivery into store or to another nominated destination, only after receipt of a detailed account and after delivery has been effected.
- b) On the basis of delivered and erected, installed, etc., only after receipt of a detailed account supported by a certificate of satisfactory execution issued by a Municipality agent.
- c) Payment will normally be effected within 30 days after receipt of statement and required documentation, which should be correct in every respect. Should a contractor indicate a special discount on his/her account provided payment is made within a certain time, every effort shall be made to take advantage of such discount.
- d) As a rule, payment is made to the contractor only. When payment is claimed by another party the latter must produce a written transfer, power of attorney or authorisation and, before payment is made, the contractor must confirm that the transfer, power of attorney or authorisation has been given by him/her and that payment may be claimed in terms thereof.

Remedies in the case of death, sequestration, liquidation or judicial management

In the event of the death of a contractor or the provision or final sequestration of his/her estate or of his/her cession or transfer of a contract without the approval of the Municipality or of the surrender of his/her estate or of his/her reaching a compromise with his/her creditors or of the provisional or final liquidation of a contractor's company or the placing of its affairs under judicial management, the Municipality may, without prejudice to any other rights it may have, exercise any of the following:

- (a) Cancel the contract and accept any of the bids, which were submitted originally with that of the contractor or any offer subsequently received to complete the contract. In such a case the estate of the contractor shall not be relieved from liability for any claim which has risen or may arise against the contractor in respect of supplies not delivered or work not carried out by him/her under the contract, and the Municipality shall have the right to hold and retain all or any of the securities and retention moneys held by it at the date of the aforesaid occurrences until such claim has been satisfied; or

- (b) Allow the executor, trustee, liquidator or judicial manager, as the case may be, for and on behalf of and at the cost and expenses of the estate of the contractor to carry on with and complete the contract.

Contractor's liability

In the event of the contract being cancelled by the Municipality in the exercise of its rights in terms of these conditions, the contractor shall be liable to pay to Municipality any losses sustained and/or additional costs or expenditure incurred as a result of such cancellation and Municipality shall have the right to recover such losses, damages or additional costs by means of set-off from moneys due or which may become due in terms of the contract or any other contract, or from a guarantee provided for the due fulfilment of the contract and, until such time as the amount of such losses, damages or additional costs have been determined, to retain such moneys or guarantee or any deposit as security for any loss which the Municipality may suffer or have suffered.

The contractor may be held responsible for any consequential damages and loss sustained which may be caused by any defect, latent or otherwise, in the supply or service rendered or if the supply or service as a result of such defect, latent, otherwise, does not conform to any condition or requirement of the contract.

Transfer of contracts

The contractor shall not abandon, transfer, assign or sublet a contract or part thereof without the written permission of the Municipality.

8. DISPOSAL MANAGEMENT

8.1 Disposal and letting of the Municipality's Assets

- (1) The accounting officer must establish an effective system of disposal management for the disposal or letting of assets, including unserviceable, redundant or obsolete assets, subject to sections 14 and 90 of the Act.
- (2) The disposal of assets must –
- (a) be by one of the following methods –

- (i) transferring the asset to another organ of state in terms of a provision of the Act enabling the transfer of assets;
 - (ii) transferring the asset to another organ of state at market related value or, when appropriate, free of charge;
 - (iii) selling the asset; or
 - (iv) destroying the asset;
- (b) provided that –
- (i) immovable property may be sold only at market related prices except when the public interest or the plight of the poor demands otherwise;
 - (ii) movable assets may be sold either by way of written price quotations, a competitive bidding process, auction or at market related prices, whichever is the most advantageous;
 - (iii) in the case of the free disposal of computer equipment, the provincial department of education must first be approached to indicate within 30 days whether any of the local schools are interested in the equipment; and
 - (iv) in the case of the disposal of firearms, the National Conventional Arms Control Committee has approved any sale or donation of firearms to any person or institution within or outside the Republic;
- (c) furthermore ensure that –
- (i) immovable property is let at market related rates except when the public interest or the plight of the poor demands otherwise; and
 - (ii) all fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property are annually reviewed; and
- (d) ensure that where assets are traded in for other assets, the highest possible trade-in price is negotiated.

8.2 Evaluation of Offers/Bids for Disposal and Letting of Assets

The same procedures for disposal and letting of assets apply as for procurement under this policy including application of the Preferential Procurement Policy Act and Regulations.

Bids for assets with a value less than R30 000 will be evaluated by the Supply Chain Management Unit in conjunction with the relevant department and adjudicated by the MCM. The municipality reserves the right not to accept any bids offered.

When land and buildings are to be sold at market value, a registered valuator will determine the market value. Sale of assets through competitive bidding or auction will follow the same communication process prescribed for tenders. In addition, advice will be given about where prospective buyers / bidders may view the assets and any notification of auction will advise the date, time and venue of the auction.

Disposal and letting of assets with a value between R30 000 and R500 000 will be evaluated and adjudicated on in accordance with this policy. Preference points will be allocated as follows:

	POINTS
Price	80
Specified Goals	<u>20</u>
Total	<u>100</u>

The following formula will be used to calculate the points for price in respect of competitive bids with a Rand value from R30 000 to R500 000.

$$Ps = 80 \left(1 + \frac{Pt - Ph}{Ph} \right)$$

Where

Ps = Points scored for price of bid under consideration

Pt = Rand value of bid under consideration

Ph = Rand value of highest acceptable bid

The points allocated for Specified Goals are in accordance with Council's Procurement Policy and are detailed in Section 2.7.1 of this Policy.

Disposal and letting of assets with a value above R500 000 will be evaluated and adjudicated on in accordance with this policy. Preference points will be allocated as follows:

	POINTS
Price	80
Specified Goals	<u>20</u>
Total	<u>100</u>

The following formula will be used to calculate the points for price in respect of competitive bids with a Rand value above R1 000 000.

$$Ps = 90 \left(1 + \frac{Pt - Ph}{Ph} \right)$$

Where

Ps = Points scored for price of bid under consideration

Pt = Rand value of bid under consideration

Ph = Rand value of highest acceptable bid

The points allocated for Specified Goals are in accordance with Council's Procurement Policy and are detailed in Section 2.7.2 of this Policy.

9. SPECIALISED PROCUREMENT

9.1 Annual Supply Contracts

In the case of materials and goods which are required on a continuous basis throughout the year, annual tenders are invited each year to cater for the needs for the following year. Bids for Annual Supply Contracts should generally be restricted to requirements for bulk supplies, and not used for day-to-day requirements. The Accounting Officer may prescribe restrictions on the use of Annual Supply Contracts for procurement.

Schedules of items are to be compiled by the appropriate Specification Committee in conjunction with the Head of Department and provided to the Supply Chain Manager by 1 April each year. Once the schedules of items have been received they will follow the usual tender process for evaluation and award.

9.2 Procurement of Banking Services

Banking services are to be procured through competitive bids for a period of not more than five years and must be consistent with Section 7 or 85 of the Act. Bids will be restricted to banks registered in terms of the Banks Act 1990. (Act No. 94 of 1990)

The process for procuring a contract for banking services will commence at least 9 months before the end of an existing contract. The request for tenders will be in

accordance with Section 2.5 of this policy but the closure date for submission will be at least 60 days from the date the advertisement is placed.

9.3 Procurement of IT related goods and services

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

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

The accounting officer must notify SITA together with a motivation of the IT needs if –

- (a) the transaction value of IT related goods or services required in any financial year will exceed R50 million (VAT included); or
- (b) the transaction value of a contract to be procured whether for one or more years exceeds R50 million (VAT included).

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

9.4 Procurement under Contracts by Other Organs of State

Goods or services may be procured under a contract secured by another organ of state provided:

- The contract was secured by a competitive bidding process and the municipality has no reason to believe the contract was not validly procured
- There are demonstrable discounts or benefits to the municipality
- The organ of state and the provider have consented to the procurement in writing

9.5 Procurement of Goods Requiring Special Safety Arrangements

Procurement for goods that require special safety arrangements such as gasses and fuel should be restricted to minimum requirements for the municipality. Storage of such goods will be justified on sound reasons including the total cost of ownership and cost advantages to the municipality, and environmental impact and must be approved by the Accounting Officer.

9.6 Appointment of Consultants

Consultants should be appointed by means of a competitive bidding process and must take into account any National Treasury guidelines. If the consultant contract exceeds R200 000 (VAT included) or the duration period exceeds 1 year, it must be procured through competitive bids.

Bidders must provide particulars of all consultancy services provided to an organ of state in the last 5 years, or any similar consultancy services provided to an organ of state in the last five years

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

9.7 Leasing of Property, Plant and Equipment

The process to be followed when procuring for Municipal requirements in terms of external leasing of property, plant and equipment is the same as is required for procurement of goods and services detailed in Section 2 of this policy.

10. RESOLUTION OF DISPUTES, COMPLAINTS & ENQUIRIES

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

Suppliers who are dissatisfied with the decision of the municipality in regard to a quotation or tender may appeal in writing to the Accounting Officer, provided such appeal is lodged with the municipality as follows:

- (a) For quotations, within 5 working days of the date when the approved quotation is first listed in terms of Section 9 above,
- (b) For tenders, within 14 working days of the date on when the approved tender is first listed in terms of Section 9 above.

Suppliers should provide details of the reasons for their appeal including any non-compliance with this policy, the MFMA and related legislation. The Accounting Officer

will provide written acknowledgement of the appeal to the appellant and endeavour to finalise appeals within 10 working days of their receipt. Where this is not possible, the Accounting Officer will advise the appellant in writing of the delay.

The Accounting Officer will decide if an appeal constitutes grounds for delay of procurement from the approved supplier, and if a delay is practical. If the Accounting Officer determines there are grounds for delay, the approved supplier will be advised in writing of the reasons for the delay. When a ruling on an appeal has been made, the Accounting Officer will advise the appellant in writing of the outcome.

- (1) The accounting officer must appoint an independent and impartial person, not directly involved in the supply chain management processes –
 - (a) to assist in the resolution of disputes between the municipality and other persons regarding –
 - (i) any decisions or actions taken in the implementation of the supply chain management system; or
 - (ii) any matter arising from a contract awarded in the course of the supply chain management system; or
 - (b) to deal with objections, complaints or queries regarding any such decisions or actions or any matters arising from such contract.
- (2) The accounting officer, or another official designated by the accounting officer, is responsible for assisting the appointed person to perform his or her functions effectively.
- (3) The person appointed must –
 - (a) strive to resolve promptly all disputes, objections, complaints or queries received; and
 - (b) submit monthly reports to the accounting officer on all disputes, objections, complaints or queries received, attended to or resolved.
- (4) A dispute, objection, complaint or query may be referred to the relevant provincial treasury if –
 - (a) the dispute, objection, complaint or query is not resolved within 60 days; or
 - (b) no response is forthcoming within 60 days.
- (5) If the provincial treasury does not or cannot resolve the matter, the dispute, objection, complaint or query may be referred to the National Treasury for resolution.
- (6) This paragraph must not be read as affecting a person's right to approach a court at any time.

11. BID DOCUMENTATION

All bid documentation must include following:

- (a) The requirement for bids to be submitted in Rand
- (b) The requirement for bidders to furnish their tax reference number, VAT registration number and their identification or company registration number
- (c) For procurement in excess of R15 000 provide an indication from SARS that the bidders tax matters are in order
- (d) Require the bidder to disclose if the bidder or their family has any declared interest in terms of Section 20 (f) of the Regulations
- (e) The requirement for site meetings or briefing sessions, if application
- (f) Evaluation and adjudication criteria including any criteria stated in the Preferential Procurement Policy Framework Act and Regulations
- (g) Screening processes and security clearance procedures for contractors on tenders above R500 000
- (h) Where the value of the transaction is expected to exceed R10 million, furnish the documents and information required by Section 20 (g) of the Regulations
- (i) The requirement for compulsory disclosure of any conflict of interest a prospective contractor may have and the exclusion of that contractor from the those tenders or bids
- (j) The requirement for exclusion of persons under Section 112 (1) (l) of the MFMA including those persons convicted of fraud or corruption, who have failed to honour a government contract, or whose tax matters have not been cleared by the South African Revenue Service
- (k) Stipulate that disputes will be settled by means of mutual consultation, mediation (with or without legal representation) or when unsuccessful, in a South African court of law
- (l) Contract management processes and procedures including provision for the Accounting Officer to cancel the contract for unsatisfactory performance
- (m) Other matters and documentation as may be required by the Municipal Financial Management Act, The Supply Chain Management Framework, the Municipality's policy and procedures for Supply Chain Management and any National Treasury supply chain management guidelines
- (n) General conditions of contract

- (o) The requirements of the Construction Industry Development Board in the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure.

12. CONTRACT MANAGEMENT

Once the Adjudication Committee has awarded a contract, the responsibility for managing that contract rests with the Department who initiated the need for that contract. Each department will develop and review the necessary performance management systems including appropriate record keeping to ensure contracts are managed in an effective and efficient manner. The appropriate department will manage contracts which procure goods or services for more than one department.

The provision for cancellation of a contract for unsatisfactory performance and the appropriate mechanisms to undertake the cancellation will be included in the relevant contract documentation.

The Accounting Officer will cancel a contract awarded to a person if:

- (a) That person committed any corrupt or fraudulent act during the bidding process or the execution of the contract
- (b) An official or any other role player committed any corrupt or fraudulent act during the bidding process or the execution of the contract that benefited that person.

13. TRAINING OF OFFICIALS

The municipality will provide resources or opportunities for the Accounting Officer and all other relevant officials involved in the implementation of this policy to undertake training to meet the competency levels required under the Act in the form of the SAQA Level 6 Module in Supply Chain Management which forms part of the Certificate in Municipal Financial Management. Officials will comply with these competency standards from 1 July 2006 or a later date as determined by National Treasury.

14. PREVENTING SUPPLY CHAIN MANAGEMENT ABUSE

The Accounting Officer will take all reasonable steps to prevent abuse of the Supply Chain Management System, investigate any reasonable allegations of abuse or failure to comply with this system, and when justified take appropriate action against officials or other role players.

No provider or prospective provider of goods or services to the municipality, or recipient or prospective recipient may directly or indirectly offer or grant any reward, gift, favour or hospitality to any official or other role player involved in the implementation of the Supply Chain Management Policy. The Accounting Officer will report any alleged contraventions to National Treasury for consideration of inclusion in their database of persons prohibited from doing business with government.

15. DELEGATIONS AND PRESCRIPTIONS

The council hereby delegates such additional powers and duties to the accounting officer so as to enable the accounting officer to—

- (a) discharge the supply chain management responsibilities conferred in terms of:
 - (i) Chapter 8 or 10 of the Act; and
 - (ii) the supply chain management policy;
- (b) maximise administrative and operational efficiency in the implementation of the supply chain management policy;
- (c) enforce reasonable cost-effective measures for the prevention of fraud, corruption, favouritism and unfair and irregular practices in the implementation of the supply chain management policy; and
- (d) comply with his or her responsibilities in terms of section 115 and other applicable provisions of the Act.

The Accounting Officer is responsible for ensuring that this policy is implemented and enforced.

The Council or accounting officer may not delegate or sub delegate any supply chain management powers or duties to a person who is not an official of the municipality or to a committee, which is not exclusively composed of officials of the municipality.

The Accounting Officer will provide written delegated authority to the Adjudication Committee to award bids to the value of R1 000 000. Above this value the Accounting Officer will award bids following consideration of the Adjudication Committees recommendations.

15.1. Subdelegations

(1) The accounting officer may in terms of section 79 or 106 of the Act subdelegate any supply chain management powers and duties, including those delegated to the accounting officer in terms of this Policy, but any such subdelegation must be consistent with subparagraph (2) of this paragraph and paragraph 4 of this Policy.

(2) The power to make a final award –

(a) above R10 million (VAT included) may not be subdelegated by the accounting officer;

(b) above R2 million (VAT included), but not exceeding R10 million (VAT included), may be subdelegated but only to –

(i) the chief financial officer;

(ii) a senior manager; or

(iii) a bid adjudication committee of which the chief financial officer or a senior manager is a member; or

(c) not exceeding R2 million (VAT included) may be subdelegated but only to –

(i) the chief financial officer;

(ii) a senior manager;

(iii) a manager directly accountable to the chief financial officer or a senior manager; or

(iv) a bid adjudication committee.

(3) An official or bid adjudication committee to which the power to make final awards has been subdelegated in accordance with subparagraph (2) must within five days of the end of each month submit to the official referred to in subparagraph (4) a written report containing particulars of each final award made by such official or committee during that month, including–

(a) the amount of the award;

(b) the name of the person to whom the award was made; and

(c) the reason why the award was made to that person.

- (4) A written report referred to in subparagraph (3) must be submitted –
- (a) to the accounting officer, in the case of an award by –
- (i) the chief financial officer;
- (ii) a senior manager; or
- (iii) a bid adjudication committee of which the chief financial officer or a senior manager is a member; or
- (b) to the chief financial officer or the senior manager responsible for the relevant bid, in the case of an award by –
- (i) a manager referred to in subparagraph (2)(c)(iii); or
- (ii) a bid adjudication committee of which the chief financial officer or a senior manager is not a member.
- (5) Subparagraphs (3) and (4) of this policy do not apply to procurements out of petty cash.
- (6) This paragraph may not be interpreted as permitting an official to whom the power to make final awards has been subdelegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in paragraph 26 of this Policy.
- (7) No supply chain management decision-making powers may be delegated to an advisor or consultant.

Where the procurement will have future budgetary implications, Section 33 of the MFMA regarding contracts will be complied with. Following Council adoption of this policy, Section 33 (1) will not apply to contracts valued at below R200 000 per annum or to Contracts for the following:

- Radio or vehicles licences
- Office equipment & maintenance contracts
- The aerodrome licence
- Grass cutting & maintenance of the Klip River

16. REPORTING

16.1 Petty Cash

Within 10 days of the end of the month, each Head of Department will provide to the Chief Financial Officer a reconciliation of all petty cash purchases which includes the total amount of petty cash purchases for the month and receipts and appropriate documents for each purchase.

16.2 Quarterly Reporting

Within 10 days of the end of the quarter the Chief Financial Officer will submit a report to the Accounting Officer the list of procurements where 3 quotations were not obtained and the appropriate explanation.

Within 10 days of the end the quarter the Accounting Officer will submit a report to the Mayor on the implementation of the Supply Chain Management Policy. This report will be made public by notification in a locally distributed newspaper, placed on The Municipality's website, and displayed on The Municipality's public notice board.

16.3 Annual Reporting

Within 60 days of the end of the financial year, the Accounting Officer will submit a report to Provincial Treasury regarding the municipality's supply chain management in a format to be determined by National Treasury.

16.4 Other Reporting

Goods or services procured under Section 110 (2) of the Act from another organ of state to which this policy does not apply will be made public as part of the annual budget or a separate process. The publication notification will include the kind of goods or services and the name of the supplier.

Where there has been a deviation from the requirement for inviting competitive bids the accounting officer will report the reasons to the next Council meeting and include as a note to the Annual Financial Statements.

17. LOGISTICS, RISK AND PERFORMANCE MANAGEMENT

17.1 Logistics management

The accounting officer will establish an effective system of logistics management in order to provide for the setting of inventory levels, placing of orders, receiving and distribution of goods, stores and warehouse management, expediting orders, transport management, vendor performance, maintenance and contract administration.

17.2 Risk management

- (1) The accounting officer must establish an effective system of risk management for the identification, consideration and avoidance of potential risks in the supply chain management system.
- (2) Risk management must include –
 - (a) The identification of risks on a case-by-case basis;
 - (b) The allocation of risks to the party best suited to manage such risk;
 - (c) Acceptance of the cost of the risk where the cost of transferring the risk is greater than that of retaining it;
 - (d) The management of risks in a pro-active manner and the provision of adequate cover for residual risks; and
 - (e) The assignment of relative risks to the contracting parties through clear and unambiguous contract documentation.

17.3 Performance management

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

18. OTHER MATTERS

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

- (1) The accounting officer will ensure that, irrespective of the procurement process followed, no award above R15 000 is given to a person whose tax matters have not been declared by the South African Revenue Service to be in order.
- (2) Before making an award to a person the accounting person must first check with SARS whether that person's tax matters are in order.
- (3) If SARS does not respond within 7 days such person's tax matters may for purposes of subparagraph (1) be presumed to be in order.

18.2 Prohibition on awards to persons in the service of the state

- (1) The accounting officer must ensure that irrespective of the procurement process followed, no award may be given to a person –
 - (a) who is in the service of the state; or
 - (b) if that person is not a natural person, of which any director, manager, principal shareholder or stakeholder is a person in the service of the state; or
 - (c) a person who is an advisor or consultant contracted with the municipality.

18.3 Awards to close family members of persons in the service of the state

- (1) The notes to the annual financial statements must disclose particulars of any award or more than R2 000 to a person who is a spouse, child or parent of a person in the service of the state, or has been in the service of the state in the previous twelve months, including –
 - (a) the name of that person;
 - (b) the capacity in which that person is in the service of the state; and
 - (c) the amount of the award.

18.4 Ethical standards

- (1) A code of ethical standards is hereby established, in accordance with subparagraph (2), for officials and other role players in the supply chain management system in order to promote –
 - (a) mutual trust and respect; and
 - (b) an environment where business can be conducted with integrity and in a fair and reasonable manner.

- (2) An official or other role player involved in the implementation of the supply chain management policy –
 - (a) must treat all providers and potential providers equitably;
 - (b) may not knowingly understate or split a procurement requisition with the intention of avoiding a more stringent procurement process
 - (c) may not use his or her position for private gain or to improperly benefit another person;
 - (d) may not accept any reward, gift, favour, hospitality, or another benefit directly or indirectly, including to any close family member, partner or associate of that person, of a value more than R350,00;
 - (e) notwithstanding subparagraph (2)(c), must declare to the accounting officer details of any reward, gift, favour, hospitality or other benefit promised, offered or granted to that person or to any close family member, partner or associate of that person;
 - (f) must declare to the accounting officer details of any private or business interest which that person, or any close family member, partner or associate, may have in any proposed procurement or disposal process of, or in any award of a contract by the municipality;
 - (g) must immediately withdraw from participating in any matter whatsoever in a procurement or disposal process or in the award of a contract in which that person, or any close family member, partner or associate, has any private or business interest;
 - (h) must be scrupulous in his or her use of property belonging to the municipality;
 - (i) must assist the accounting officer in combating fraud, corruption, favouritism and unfair and irregular practices in the supply chain management system; and

- (j) must report to the accounting officer any alleged irregular conduct in the supply chain management system which that person may become aware of, including –
 - (i) any alleged fraud, corruption, favouritism or unfair conduct;
 - (ii) any alleged contravention of paragraph 15.5 (1) of this policy; or
 - (iii) any alleged breach of this code of ethical standards.
- (3) Declarations in terms of subparagraphs (2)(d) and (e) –
 - (a) must be recorded in a register which the accounting officer must keep for this purpose;
 - (b) by the accounting officer must be made to the mayor of the municipality who must ensure that such declarations are recorded in the register.
- (4) The National Treasury's code of conduct must also be taken into account by supply chain management practitioners and other role players involved in supply chain management.
- (5) It is recommended that the municipality adopt the National Treasury's code of conduct for supply chain management practitioners and other role players involved in supply chain management. When adopted, such code of conduct becomes binding on all officials and other role players involved in the implementation of the supply chain management policy of the municipality. A copy of the National Treasury code of conduct is available on the website www.treasury.gov.za/mfma located under "legislation".
- (6) A breach of the code of conduct adopted by the municipality must be dealt with in accordance with schedule 2 of the Systems Act.

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

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

- (2) The accounting officer must promptly report any alleged contravention of subparagraph (1) to the National Treasury for considering whether the offending person, and any representative or intermediary through which such person is alleged to have acted, should be listed in the National Treasury's database of persons prohibited from doing business with the public sector.
- (3) Subparagraph (1) does not apply to gifts less than R350 in value.

18.6 Sponsorships

- (1) The accounting officer must promptly disclose to the National Treasury and the relevant provincial treasury any sponsorship promised, offered or granted, whether directly or through a representative or intermediary, by any person who is –
 - (a) a provider or prospective provider of goods or services; or
 - (b) a recipient or prospective recipient of goods disposed or to be disposed.

18.7 Contracts providing for compensation based on turnover

Where a service provider acts on behalf of the municipality as a distributor of grants or collector of service charges or taxes, and the compensation payable is an agreed percentage of the distribution or collection, then the contract between the provider and the municipality must stipulate that:

- (a) the compensation must be performance based;
- (b) changes in the turnover as a result of changes in the amount of the grant or service charge/tax must be disregarded in determining the compensation.

19. POLICY PROCEDURES AND REVIEW

This policy will be reviewed annually as part of the review of budget-related policies. The Accounting Officer will promptly develop procedures to support the implementation, management and monitoring of this policy including methods for effective risk management and performance management in accordance with Sections 40 and 41 of the Framework respectively.

20. OVERSIGHT ROLE OF COUNCIL

- (1) The council must maintain oversight over the implementation of the Supply Chain Management Policy.
- (2) For the purpose of such oversight the accounting officer must –
 - (a) Within 30 days of the end of each financial year, submit a report on the implementation of the supply chain management policy of the municipality, to the council of the municipality,
 - (b) Whenever there are serious and material problems in the implementation of the supply chain management policy, immediately submit a report to the Council.
- (3) The accounting officer must, within 10 days of the end of each quarter, submit a report on the implementation of the Supply Chain Management policy to the mayor.
- (4) The reports must be made public in accordance with section 21A of the Municipal Systems Act.

21. BY-LAWS

The council will publish the appropriate by-laws necessary to give effect to this supply chain management policy.

22. ADOPTION OF SUPPLY CHAIN MANAGEMENT POLICY

The Supply Chain Management Policy was adopted by Council on 27 October 2005 and is reviewed annually with the budget process.