

SUPPLY CHAIN MANAGEMENT POLICY FOR THE YEAR 2014/2015



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## Abbreviation

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BBBEEA	Broad Based Black Economic Empowerment Act (Act 53 of 2003).
BEC	Bid evaluation committee
CIDB	Construction Industry Development Board
CFO	Chief Financial Officer
HDI	Historically Disadvantaged Individual
MFMA	Municipal Finance Management Act, 2003 (Act 56 of 2003)
NT	National Treasury PPPFA Preferential Procurement Policy Framework Act
PSP	Professional Service Provider
RFI	Request for Information
RFQ	Request for Quotation
SCM	Supply Chain Management
SCP	Supply Chain Procedures
SITA	State Information Technology Agency
SARS	South African Revenue Services
SABS	South African Bureau of Standards
SLA	Service Level Agreement
SMME	Small Medium and Micro Enterprise
TLM	Thabazimbi Local Municipality
TOR	Terms of Reference

## List of Definitions

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

**“Acceptable Bid”**- means any bid or quotation which, in all respects, complies with the specification and conditions as set out in the procurement document, upon which a final award will be made;

**“Accounting Officer”**- means a municipal official appointed in terms of section 60 of Municipal Finance Management Act, 2003 or the person who has been appointed to perform the functions in the absence of the accounting officer or during a vacancy;

**“BBBEE Act”** – refers to the Broad Based Black Economic Empowerment (Act 53 of 2003);

**“Bid”** – (or tender) means a written offer in a prescribed or stipulated form in response to and in consonance with the invitation by the Thabazimbi Local Municipality’s requirements, either for the provision of services, works or goods, or in compliance with the specifications and conditions of the bid as set out in the procurement document. For the purpose of, and throughout, this policy the term “Bid” shall be equivalent to and be used interchangeably with “Proposal” and “Tender”, particularly when referring to the procurement of consultants;

**“Bidder”** – (or tenderer) refers to an eligible contractor, manufacturer, supplier, distributor and/or consultant competing for an award of a contract in the TLM. A contractor, manufacturer, supplier, distributor and/or consultant is said to be eligible if it meets all the eligibility requirements issued by the TLM;

**“Bid Committees”** – refers to the Specification Committee, Evaluation Committee and Adjudication Committee. The Adjudication Committee is responsible for adjudicating the award of bids on the basis of the recommendation (evaluation report) submitted by the Evaluation Committee based on bids developed by the Specification Committee. For the purpose of and throughout this policy, the term “Bid Committees ” shall be equivalent to and be used interchangeably with “the “Committee System”, particularly when referring to the competitive bidding process;

**“Competitive bidding”** – means competitive bidding process as envisaged by the SCM Regulations;

**“Control”**- the possession and exercise of legal authority and power to manage the assets, goodwill and daily operations of a business and the active and continuous expertise of appropriate managerial authority and power in determining the policies and directing the operations of the business.

**“Councillor”** means a member of a municipal council.

**“Competitive bid”** means a written offer on the prescribed forms in response to a published invitation by the Municipality and in compliance with regulation 12(1) (d) of MFMA for the submission of offers in respect of the provisioning of goods or services; “Consultant” means a natural or juristic person or partnership who or which, as an independent contractor, provides any of the following services on an ad hoc basis to the TLM against remuneration:

- a) Expert advice;
- b) Drafting of proposals for the execution of specific tasks; and/or
- c) Execution of specific tasks, which are of a technical or intellectual nature;

**“Contract”** means the agreement that results from the acceptance of a quotation or bid by the Municipality;

**“Cost Effectiveness”** – means cost effectiveness as envisaged by the Framework for SCM Regulations;

**“Disability”**- means, in respect of a person, a permanent impairment of a physical, intellectual, or sensory function, which results in restricted, or lack of, ability to perform an activity in the manner, or within the range, considered normal for a human being;

**“Equitable”** – means equitable as envisaged by the Framework for SCM Regulations;

**“Evaluation Committee”** – refers to evaluation committees as approved by the TLM’s Adjudication Committee. The evaluation committees are responsible for assessing bids with a view to submitting a recommendation (evaluation report) to the Adjudication Committee for the award of the contract to the preferred bidder;

**“Fair”** – means fair as envisaged by the Framework for SCM Regulations;

**“Final award”**- means the final decision on which bid or quote to accept and conclude a contract;

**“Formal written price quotation”**- means a written offer made on the prescribed forms by a supplier or service provider in response to a request from the Municipality and in compliance with the prescribed thresholds in this policy;

**“Goods & Services”** – refers to all items, supplies, materials and general support services, except consulting services and infrastructure projects, which may be needed in the transaction of the TLM’s business or in the pursuit of any municipal undertaking, project or activity;

**“Head of Department”** means manager referred to in section 78 of MFMA;

**“HDI”** – “Historically Disadvantaged Individual (HDI)” – means a South African Citizen (1) who, due to the apartheid policy that had been in place, had no franchise in national elections prior to the introduction of the Constitution of the Republic of South Africa, 1983 (Act No 110 of

1983) or the Constitution of the Republic of South Africa, 1993 (Act No 200 of 1993) (“the Interim Constitution”); and/or (2) Who is a female; and /or (3) Who has a disability; Provided that a person who obtained South African citizenship on or after the coming to effect of the Interim Constitution, is deemed not to be an HDI;

**“Informal price quotation,”** means a written offer made by a person, business or enterprise in response to a request from the Municipality;

**“Infrastructure”** projects include construction, improvement, rehabilitation, demolition, repair, restoration, or maintenance of buildings and engineering works included in the provision of municipal services and other related construction projects of the TLM as envisaged in the Construction Industry Development Board Act 38 Of 2000. For

the purpose of, and throughout this policy, the term “infrastructure” shall have the same meaning as and shall be used interchangeably with “with Building or Engineering Works and Construction or Maintenance Projects”;

**“In the service of the state”** means to be –

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

**“list of accredited prospective providers”** means the list of accredited prospective providers which a municipality or municipal entity must keep in terms of section 21, 28,29 &35 of this policy;

**“MFMA or the Act”** – refers to the Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003);

**“Municipality”** means the Thabazimbi Local Municipality (TLM);

**“Municipal Manager”** means a person appointed in terms of section 82(1) (a) or (b) of Local Government: Municipal Structures Act (Act no 117 of 1998) and who is the head of administration and also the accounting officer for the Municipality;

**“Order”** means an official instruction, processed and printed on the Municipality’s official order form, which is issued to a successful tenderer to supply goods or services in accordance with the accepted price quotation or tender;

**“organ of state”** means an organ of state as defined in section 239 of the Constitution.

**“Person”** includes reference to a juristic person;

**“Persons in the service of the state”** MSCM Regulations refers the following to be in the service of the state

- I. a member of any municipal council; any provincial legislature; or the national assembly or national council of provinces
- II. a member of the board of directors of any municipal entity; excluding non-executive directors
- III. an official of the municipality or municipal entity
- IV. an employee of any national or provincial department, national or provincial entity or constitutional institution within the meaning of the PFMA, 1999 (Act No 1 of 1999);
- V. a member of the accounting authority of any national or provincial public entity; or
- VI. an employee of Parliament or a Provincial legislature

**“PPPFA”** – refers to the Preferential Procurement Policy Framework Act, 2000 (Act 5 of 2000);

**“Preferred bidder”**- means any bidder who during the evaluation process scores the highest points and/or is recommendable for appointment.

**“Preferential Procurement Regulations”** means the regulations to the Preferential Procurement Policy Framework Act, 2000 (Act 5 of 2000) issued by the Minister of Finance on 10 August 2001

**“privileged or confidential information”** means any information: a) determined by the bid specification, evaluation or adjudication committee to be privileged or confidential; b) discussed in close sessions by any of the bid committees; c) disclosure of what would violate a person’s right to privacy; d) declared to be privileged, confidential or secret in terms of any legislative framework.

**“Procurement Delegations”** – refers to the Procurement delegations issued by the Accounting Officer in terms of section 79 and 106 of the MFMA. This includes Sub-delegations system.

**“Procurement Documents”** – refers to the procurement documentation distributed to prospective bidders during the solicitation of bids from bidders. The Procurement Documents contain the information required for bidders to submit their bids to the TLM.

**“Prospective provider”**, means a person, business or enterprise registered with the Municipality in respect of specified categories of goods and/or services for which price quotations are invited as and when required.

**“Prospective provider or Supplier Register”** – refers to the database of accredited prospective provider/suppliers established in terms of regulation 14 from whom bid offers will be requested.

**“Rand value”** means the total estimated value of a contract in Rand denomination which is calculated at the time of inviting price quotations or bids, and includes all applicable taxes and excise duties.

**“Responsive Bid”** – one that conforms to all items, conditions, and specification of the bid documents without material deviation or qualification

**“Requisition”** means the official request for the procurement of supplies or services which is submitted on the prescribed form, accompanied by the specifications or terms of reference according to which price quotations or bids are to be invited.

**“Scoring models”** – refers to the scoring models used to evaluate bids. Scoring models apply the evaluation criteria identified in the Procurement Documents to competitive bids.

**“Scope of Work”** means procurement document that specifies and describes the supplies, services, or engineering and construction works, which are to be provided, and any other requirements and constraints relating to the manner in which the contract work is to be performed.

**“Service providers”**

a) “Professional Service Provider”:

Any person or body corporate that is under contract to the Employer for the provision of Professional Services

b) “General Service Provider”:

Any person or body that is under contract to the Employer for the provision of any type of service

**“Small, Medium and Micro Enterprise (SMME)”** means a separate and distinct business entity, including co-operative enterprises and non-governmental organisations, managed by one owner or more which, including its branches or subsidiaries, if any, is predominantly carried on in any sector or sub-sector of the economy mentioned in column 1 of the Schedule of the National Small Business Act, 1996 (Act No. 102 of 1996) and which can be classified as a micro- a very small, a small or a medium enterprise by satisfying the criteria mentioned in columns 3,4 and 5 of the Schedule opposite the smallest relevant size or class as mentioned in column 2 of the Schedule;

**“SCM Unit”** – refers to the TLM’s Supply Chain Management Unit that falls under the auspices of the Chief Financial Officer (CFO).

**“SCM Directives”** – refers to the SCM Directives maintained by the SCM Unit in TLM. The SCM Directives constitute instructions to the TLM that address key decision points and contentious issues in procurement and other phases of the SCM system. The Directives are dynamic. The SCM office communicates new and updated Directives via SCM Circulars.

**“SCM Regulations”** – refers to the Regulations in terms of the Municipal Finance Management Act, 2003: Framework for Supply Chain Management (Government Gazette Number 27636 on 30 May 2005).

**“SCM Standard Operational Procedures”** – means Procedures that translate SCM Delegations and SCM Directives into the day-to-day procedures required to manage demand, acquisition, logistics, disposal; risk and performance in the SCM system.

**“Supplier”** – refers to any supplier of works, goods and services (professional and other) to the TLM.

**“Transparent”** – means transparent as envisaged by the Framework for SCM Regulations.

**“Treasury”** – means National Treasury. Preamble

## **Preamble**

### **Introduction**

The Supply Chain Management (SCM) Policy of the Thabazimbi Local Municipality sets a framework for meaningfully managing, monitoring and reporting of procurement activities and provides the procedures to be followed in procurement. The SCM policy is located within the South African legislative framework. The laws that are currently applicable include: the Constitution of the Republic of South Africa (Act 108 of 1996), the Preferential Procurement Policy Framework Act (Act 5 of 2000) and the Local Government: Municipal Systems Act (Act 32 of 2000), Local Government: Municipal Finance Management Act (Act 56 of 2003) and the Broad Based Black Economic Empowerment Act (Act 53 of 2003). The principles of this policy are those set out in the legislative frameworks mentioned above in particular that of realizing value for money and good governance and ensuring cost effectiveness and competitive equitable, transparent and fair access to procurement opportunities to all. The SCM policy forms part of the overall business systems of the TLM and will be supported by specific procurement systems aimed at improving both procurement and overall business performance.

### **Mandate**

Section 111 of the Municipal Finance Management Act, 2003 (Act No 56 of 2003) and SCM Regulations mandates the Thabazimbi Local Municipality to develop, implement and maintain a procurement and provisioning system as part of the Supply Chain Management (SCM) system. The SCM gives effect to Section 217(2) of the Constitution of the Republic of South Africa, (Act No. 108 of 1996) which mandates the Municipality as an organ of state to implement a preferential procurement policy in accordance with a nationally prescribed framework, the Preferential Procurement Policy Framework Act (Act 5 of 2000).

### **Purpose of the SCM Policy**

As an organ of state, the Thabazimbi Local Municipality has a duty to ensure that all the legislative requirements are satisfied. Accordingly, all procurement policies (including those addressing preferential procurement), procedures and practices must be consistent with these requirements, in particular Part 1 of Chapter 11 and other provisions of the MFMA. The purpose of this policy is:

- a) To provide a policy according to which the Municipality will procure goods and services; dispose goods; and letting of assets in a manner that is fair, equitable, transparent, competitive and cost effective.
- b) To provide a system for managing demand, acquisition, logistics, disposal, risk and performance.
- c) To promote local public administration system in terms of Chapter 7 of Municipal Systems Act and Municipal Finance Management Act, Promotions of Access to Information Act, (Act 2 of 2000, and Promotion of Administrative Justice Act (Act 3 of 2000).
- d) To comply with the Regulations, norms and standards that may be prescribed in terms of section 168 of MFMA and other applicable legislation.
- e) To promote economic policies concerning investments and doing business with the public sector.

## Scope and Application of the Policy

1. This policy is applicable to the entire Thabazimbi Local Municipality employees and must be strictly adhered to. The policy provides a uniform procurement approach applicable to:
  - a) General goods and services (provisioning);
  - b) Consulting services (from built environment and other consultants)
  - c) Construction in line with the Construction Industry Development Board prescripts and National Treasury;
  - d) Property (leasing);
  - e) Disposal of redundant assets as per asset management policy;
  - f) Selection of contractors to provide assistance in the provision of municipal services other than in circumstances where Chapter 8 of the Municipal Systems Act applies;
  - g) Selection of external mechanisms for the provision of municipal services as 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 the MSA.
2. Within the context of the Supply Chain Management the policy covers the whole process from needs identification to contract closure.
3. The application of the policy is further supported by specific legislation, including but not limited to the following:
  - a) The procurement of information technology and related services. Such procurement must be performed according to the provision of State Information Technology Agency Act (Act 88 of 1998). As per Section 7(g) of the Act, the State Information Technology Agency is empowered to act as a procurement agency in respect of information technology requirements in accordance with state procurement policy regarding the provision of data processing services, training, application software development and maintenance services, technical, functional and business advice and support, and related management services.
  - b) Public Private Partnership, which must be procured in accordance with Municipal Investment and PPP regulations - Gazette number 27431, 1 April 2005 Regulation issued in terms of MFMA.
  - c) Procurement and disposal of arms.
4. This policy, except where provided otherwise, does not apply in respect of procurement of goods and services as contemplated in section 110(2) of the MFMA, where the TLM procures from another organ of state including water and electricity from Department of Water Affairs or Eskom respectively, or other public entity, municipality or municipal entity.

## Legislative Framework

### 1. Constitution of the Republic of South Africa, 1996 (Act 108 of 1996)

Section 217(1) of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996) provides the basis for procurement and determines that:

“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 or services, it must do so in accordance with a system which is fair, equitable, transparent, competitive and cost effective”.

This section of the Constitution establishes the overarching procurement framework, namely that procurement must be:

- Fair;
- Equitable;
- Transparent Competitive; and
- Cost effective.

Section 217(2) of the Constitution establishes South Africa’s preferential procurement policy, namely that: Subsection (1) does not prevent the organs of state or institutions referred to in that subsection from implementing a procurement policy providing for:

- a) Categories of preference in the allocation of contracts; and
- b) The protection or advancement of persons, or categories of persons, disadvantaged by unfair discrimination.

Section 217(3) of the Constitution (as amended) confers an obligation for national legislation to prescribe a framework providing for preferential procurement to address the social and economic imbalances of the past, viz;

National legislation must prescribe a framework within which the policy referred to in subsection (2) must be implemented.

## **2. Preferential Procurement Policy Framework Act, 2000 (Act No.5 of 2000) (PPPFA).**

Effect was given to section 217(3) of the Constitution in the form of the Preferential Procurement Policy Framework Act, 2000 (Act No.5 of 2000) (PPPFA). The PPPFA provides a framework within which procurement policies referred to in section 217 (3) must be implemented.

The PPPFA requires organs of State to determine their preferential procurement policies and implement it within a framework prescribed in the Act. The Framework provided by the Act requires that a preference point system must be followed viz:

- For contracts with a Rand value above a prescribed amount, a maximum of 10 points may be allocated for specific goals provided that the lowest acceptable tender scores 90 points for price.
- For contracts with a Rand value equal to or below a prescribed amount, a maximum of 20 points may be allocated for specific goals provided that the lowest acceptable tender scores 80 points for price.
- Any other acceptable tenders which are higher in price must score fewer points on a pro rata basis, calculated on their tender prices in relation to the lowest acceptable tender in accordance with a prescribed formula; and
- The contract must be awarded to the tenderer who scores the highest points unless objective criteria in addition to that pertaining to specific goals justify the award to another tenderer.

The PPPFA identifies specific goals to include two sets of parameters:

- Contracting with persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of race, gender or disability; and
- Implementing the programme of the Reconstruction and Development Programme as published in Government Gazette No. 16085 dated 23 November 1994.

The framework furthermore requires that:

- Any specific goal, for which a point may be awarded, must be clearly specified in the invitation to submit a tender;
- Any goals contemplated must be measurable, quantifiable and monitored for compliance.

No referencing outside of the points system is permitted. This in practice means that tenderers who obtain the highest number of points can only have their tenders rejected should they:

- Have insufficient capacity or capability to deliver; or
- Are under suspension from participating in public procurement for prior actions, e.g. withdrawing a tender after the closing date for tenders, failing to provide sureties, failing to execute the contract when instructed to do so, performing unsatisfactorily, offering bribes, or acting improperly.

Regulations pertaining to the PPPFA, the Preferential Procurement Regulations 2001 were published in Government Gazette No. 22549 dated 10 August 2001.

### **3. Municipal Finance Management Act (Act 56 of 2003)**

A Policy Strategy to Guide Uniformity in Procurement Reform Processes in Government was approved by Cabinet in September 2004 as a strategy to point out the direction that Government is moving towards in the implementation of Supply Chain Management within Government. This strategy is intended to guide the uniform implementation of Government's procurement reform initiatives as well as the issuing of Regulations in terms of the Municipal Finance Management Act (Act 56 of 2003) in respect of the Framework for Supply Chain Management.

The MFMA requires the Municipality to have and implement a Supply Chain Management Policy. The Supply Chain Management Policy must be in accordance with Section 217 of Act 108 of 1996. The Act further requires that the Municipal Manager as Accounting Officer to ensure that the Municipality has and maintains a Supply Chain Management Policy.

### **4. Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003)**

The TLM is committed to black economic empowerment and the advancement of historically disadvantaged individuals. It will, therefore, at all times apply the provisions of the Preferential Procurement Policy Framework Act and the Regulations issued in terms of that Act when goods and services are procured.

In determining the preferential procurement policy, the Thabazimbi Local Municipality supports the provisions of the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003) and the related codes of good practice to be issued by the Minister of Trade and Industry. The Thabazimbi Local Municipality therefore acknowledges that Preferential Procurement Policy will be reviewed accordingly as soon as the Broad-Based Black Economic Empowerment codes are developed.

These procurement policies have been drafted around the philosophy and content of the Municipal Finance Management Act i.e. to allow “managers to manage and be held accountable”, while councillors are provided with information necessary to set overall policy and priorities for the Municipality.

## MANAGING THE PROCUREMENT PROCESS

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### 1. DELEGATION OF SUPPLY CHAIN MANAGEMNT POWERS AND DUTIES

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- 1.1 The Council is responsible for the approval of this policy and providing the oversight role over the implementation of the policy as contemplated in Regulation 6 of the MFMA regulations.
- 1.2 The Council delegates all powers and duties to the accounting officer so as to enable the accounting officer to discharge the supply chain management responsibilities conferred upon the accounting officer in terms of Chapter 8 of the MFMA and this policy in order to comply with his or her responsibilities in terms of section 115 and other applicable provisions of the Act, enforce the object of this policy.
- 1.3 The Municipal Manager, as the Accounting Officer, is responsible for
- a) discharging the supply chain management responsibilities conferred upon him/her in terms of Chapter 8 and 11 of the MFMA and to comply with his or her responsibilities in terms of section 115 and other applicable provisions of the Act
  - b) ensuring the overall application of this policy in terms of sections 62 (1)(f) (iv) and 99(2) by; among others:
    - Developing and reviewing, on an annual basis, this policy for the Council's approval
    - Ensuring that procurements, disposals and all other phases of the supply chain management comply with all legislative requirements and for putting in place all measures necessary to avoid any abuse of the system.
    - Approving standards, assigning responsibilities and promoting the development of this policy and related systems.

### 2. SUB DELEGATION

- 2.1 The accounting officer may sub-delegate such powers and duties in terms of section 79 and 106 of the MFMA to officials of the municipality and provide for a bidding system in terms of the committee systems provided for in the procurement regulations.
- 2.2 The accounting officer may not sub delegate any SCM powers and duties to a person who is not an official of TLM or committee not solely composed of TLM officials.
- 2.3 The Heads of the Departments will be responsible for; among others:
- Initiating and planning all the procurements and disposals.
  - Drafting and packaging all tender dossiers including determination of deliverables and / or performance indicators and bid adjudication criteria.
  - Keeping records of all procurements and disposals in accordance with the provisions of this policy.
  - Submitting monthly reports to the Chief Financial Officer.
  - Contract closure report including performance monitoring.

2.4 **All officials** dealing with SCM issues as part of their financial responsibilities are also responsible for implementation of this Policy in their day-to-day operations.

### 3. THE APPROVAL AND MAINTENANCE

3.1 The amendments to this policy shall be presented to and approved by the council.

3.2 This policy will be subject to periodic review, at least on a yearly basis or more frequently if required, to ensure that it remains relevant to changed circumstances.

### 4. SUPPLY CHAIN MANAGEMNT UNIT

4.1 The Supply Chain Management Unit is established in term of regulation 7 of SCM. The SCM Unit is responsible for the management of the procurement of all goods and services on behalf of the various Business Units / Business Divisions of the TLM. It is responsible for procuring goods and services in accordance with the TLM's established policies and guidelines. The SCM Unit will in addition to the above, under the CFO, be responsible for:

(a) the SCM system including:

- Implementing this policy
- Continuously tracking changes in legislation, regulations or Treasury instructions regarding procurement and updating this Policy as may be required.
- Developing best practices and templates for various aspects and types of procurement.
- Developing and maintaining manuals on procurement policies and procedures.
- Reporting every deviation from this policy to Bid Committees and the Municipal Manager as the Accounting Officer.
- Maintaining the suppliers' register.
- Consolidate Procurement Monitoring Reports.
- Coordinating the reporting on procurement as per Treasury requirements. Maintaining a proper supply chain management information system.

(b) Day to day procurement functions including:

- Advertise and/or post invitations to bid.
- Coordinate the conducting of tender briefing session and make arrangements for tender issuing and opening.
- Receive bids and become the custodian of procurement and contract documents.
- Be the central channel of communication with bidders as per directions of the Bid Committees;
- Be the single point of contact between Bid Committees and departments/users and the general public on procurement issues.
- Arrange all logistics related to Bid Committees' functions.
- Provide secretarial services including record keeping.

No person may interfere with the SCM system.

## **5. TRAINING OF THE SUPPLY CHAIN MANAGEMENT OFFICIALS**

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

The accounting officer shall ensure that all persons involved in the implementation of this policy meets the prescribed competency levels, where necessary, shall provide relevant training, resources and opportunities for relevant officials to meet the expected competency levels.

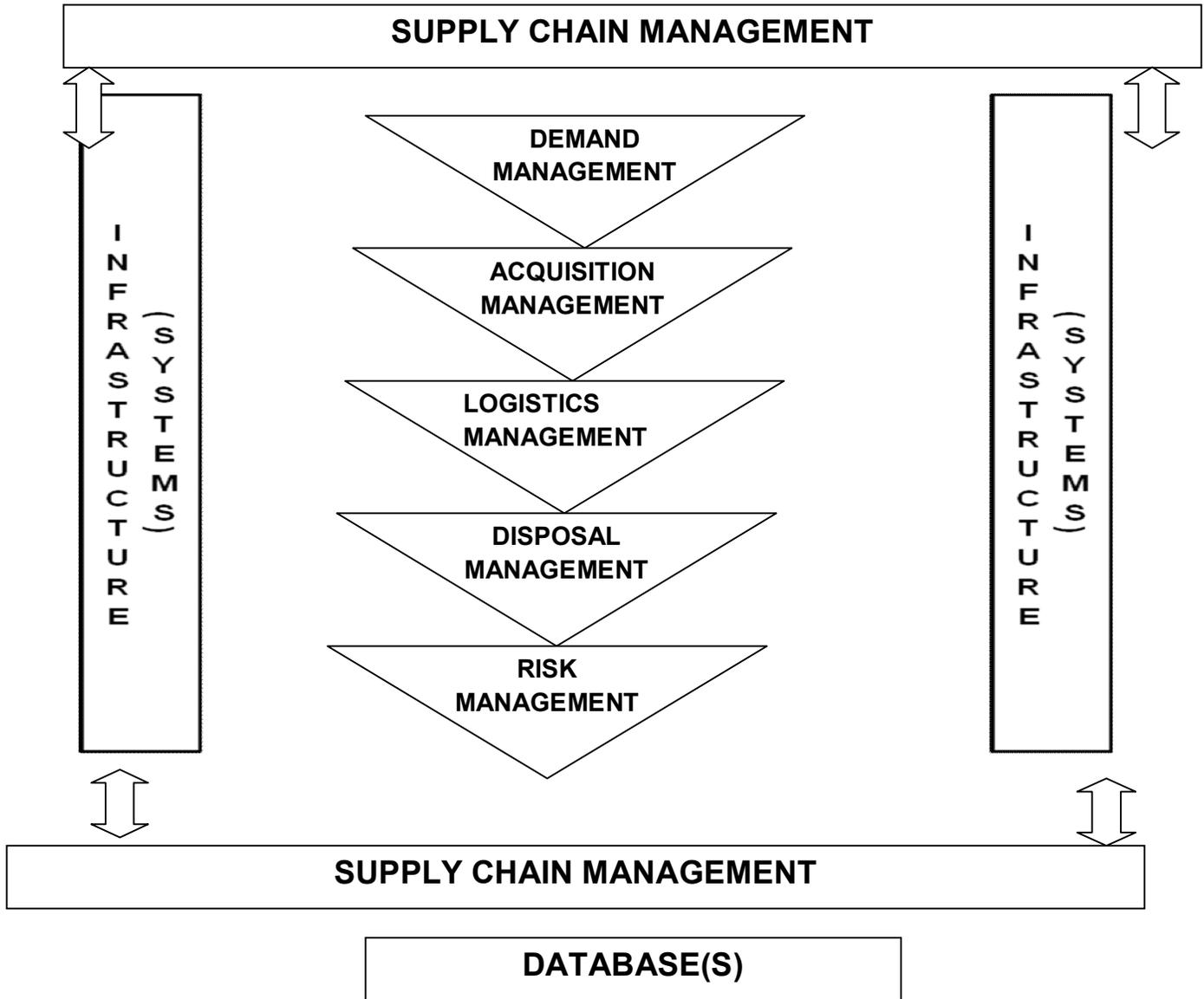
Thabazimbi Local Municipality must provide an on-going training for at least the following officials:-

- Senior management
- Practitioners who are involved with the day to day operations of the supply chain management
- Cross functional team members
- End users involved in the Supply Chain Management activities
- Members of the supply chain management bid committees.

## **6. COMMENCEMENT OF THE POLICY**

This policy is effective from the date of approval by council

7. THE ELEMENTS / FRAMEWORK OF SUPPLY CHAIN MANAGEMENT



## **PART 1: Demand Management (Planning and Budget Linkage)**

1. This is the beginning of the supply chain, and must begin with a needs assessment, to ensure:
  - that goods or services are required in order to deliver the agreed service;
  - that specifications are precisely determined;
  - that requirements are linked to the budget; and
  - that the supplying industry has been analyzed.

This phase will bring the supply chain practitioner close to the end user, to ensure that value for money is achieved.

### **System of demand management**

2. The objective is to ensure that the resources required to fulfill the needs identified in the Integrated Development Plan (IDP) are quantified; budgeted for; timely & effectively delivered at the right locations on the critical delivery dates and are of appropriate quality at a fair cost.

### **The demand management process**

3. All procurements should be within approved budget in terms of section 15 of the MFMA and such expenditure shall have been authorized as per delegations and procured as per applicable thresholds.
4. A total needs assessment should be done on a continuous basis, which should include among others an analysis of needs, frequency of need, linking the requirements to the Medium Term Expenditure Framework, as well as budget for capital expenditure, an analysis of past expenditure as well as an analysis of integrated development plan.
5. Consistent with the government fiscal discipline, no procurement shall be undertaken unless it is in accordance with Annual Procurement Plan (APP) approved by the Municipal Manager, which must be consistent with the duly approved annual or multi-year budget and service delivery plan.
6. For the purpose of this policy only those considered crucial to the efficient discharge of the municipal functions shall be included in the APP. Any procurement shall be considered to be crucial if it is required for the day-to-day operations or is in pursuit of the principal mandate of the TLM.
7. In case of Infrastructure Projects the plan shall consider the appropriate timing/phasing of appropriate activities such as engineering design and construction to reduce/lower project cost and avoid unnecessary roll-overs.
8. Where possible demand analysis should be used as a tool to stimulate local economic production and development and facilitate SMME development.

## **Strategy For Achieving The Preferential Procurement Policy Framework Act (PPPFA) Objectives And Linking The System To Black Economic Empowerment (BEE) Objectives**

9. The municipality will use the public sector SCM system as a tool to achieve the BEE objectives/goals. This will be achieved within the prescribed framework of the PPPFA and its Regulations.
10. In order to achieve the BEE objectives and goals the specifications and terms of reference for each project will be drafted prior to publication. The specifications will be drafted in a manner that will assist in achieving the BEE targets set by the municipality. The accounting officer will approve all specifications drafted by the Bid Specification Committee prior to publication.

### **Benefits of Demand Management**

Demand management should provide benefits such as:

- Best value for money;
- Better risk management;
- More efficient procurement;
- Improvements in procurement outcomes;
- More opportunities for innovating bidding and contract management;
- More opportunities for implementing the National Treasury`s guidelines and objectives

## **PART 2: Acquisition (Procurement) Management**

11. It is the management of procurement by a municipality:
  - to decide on the manner in which the market will be approached;
  - to establish the total cost of ownership of a particular type of asset;
  - to ensure that bid documentation is complete, including evaluation criteria;
  - to evaluate bids in accordance with published criteria; and
  - that proper contract documents are signed
12. Procurements and all other phases of the Supply Chain Management will be conducted in accordance with provisions of Chapter 11 of the Municipal Finance Management Act, (No. 56 of 2003): Framework for Supply Chain Management; and this policy.
13. In support, procurements and disposals will be procured as per Standard Rules for Public Procurements and Disposals as published by the Construction Industry Development Board, Policy Strategy to Guide Uniformity in Procurement reform process in government and Regulations in terms of Section 168) of the Municipal Finance Management Act, (No. 56 of 2003): Framework for supply chain management and Procurement and Disposals Policies of the Municipality.
14. Procurements will only take place against approved budget in terms of section 15 of the MFMA.

## Procurement process

15. The procurement process will be managed as per SCM Standard Operational Procedures to be maintained by the SCM Unit and clearly outline the procedures and conditions for use of petty cash, written or verbal quotations, formal written quotations and competitive bidding process in support of this policy.
16. Range of procurement processes

STRUCTURE OF APPROVAL		
GOODS/SERVICE VALUE (Incl. VAT)	PROCUREMENT METHOD MINIMUM	APPROVAL AUTHORITY
R0 - R500	Petty cash: One Quote	Head of Department
R501 - R2000	Three Quotations of which one must be written	Head of SCM Unit
R2001 - R30 000	Three written quotations	Head of SCM Unit
R30 001 - R200 000	Notice on public notice boards & website (7 days i.t.o SCM regulation 18) or advertisement via newspapers: three formal quotations	CFO
R200 001 - R500 000	Competitive Bidding Process (Advertise at least 14 days in the newspapers & website)	Accounting Officer on the approval of Bid Adjudication Committee
R500 001 - R2 million	Competitive Bidding Process (Advertise at least 14 days in the newspapers & website)	Accounting Officer on the approval of Bid Adjudication Committee
R2 million - R10 million	Competitive Bidding Process (Advertise at least 14 days in the newspapers & website)	Accounting Officer on the approval of Bid Adjudication Committee
Above R10 million	Competitive Bidding Process (Advertise at least 14 days in the newspapers & website)	Accounting Officer on the approval of Bid Adjudication Committee

- 1) The procurement of goods and services through this policy is provided by way of –
- a) petty cash purchases sourced from one provider up to a transaction value of R500,00(VAT included);
  - b) written or verbal quotations for procurements of a transaction value over R500,00 up to R2 000 (VAT included);
  - c) formal written price quotations for procurements of a transaction value over R2 000 up to R30 000 (VAT included);
  - d) a competitive bidding process for–
    - I. Procurements above a transaction value of R200 000 (VAT included); and
    - II. the procurement of long term contracts (more than one year).
  - e) *Strategic transversal contracts/agreements in case of specialised services. i.e. travel agencies, advertisement, abattoir services.etc.*

- 17 (1) The thresholds values for invitation of priced quotation and competitive bids as determined from time to time by National Treasury in accordance with the framework for Supply Chain Management are adopted as part of this policy, unless lowered through the delegation system.
- (2) The accounting officer may in writing –
- a) lower, but not increase, the different threshold values specified in section 24; or,
  - b) direct that –
    - (i) written or verbal quotations be obtained for any specific procurement of a transaction value lower than R2 000;
    - (ii) formal written price quotations be obtained for any specific procurement of a transaction value lower than R10 000; or
    - (iii) a competitive bidding process be followed for any specific procurement of a transaction value lower than R200 000.
- 18 In case of thresholds, goods and services may not be artificially split to avoid complying with the requirements of this policy.
- 19 The Municipality shall follow written or verbal quotations, formal written quotations and competitive bidding following procurement procedures prescribed by the CIDB Standard for Uniformity and National Treasury Regulations and guidelines.
- 20 Only bids or quotation from entities who have furnished full names, identification number or registration, VAT registration number, tax clearance and completed “in the service of the state” declaration, if any, shall be considered.
- 21 A written quotation or bid may not be considered unless the provider who submitted the quotation or bid has indicated–
- i. whether he or she is in the service of the state, or has been in the service of the state in the previous twelve months;
  - ii. if the provider is not a natural person, whether any of its directors, managers, principal shareholders or stakeholder is in the service of the state, or has been in the service of the state in the previous twelve months; or
  - iii. whether a spouse, child or parent of the provider or of a director, manager, shareholder or stakeholder referred to in subsection (ii) is in the service of the state, or has been in the service of the state in the previous twelve months.;

## **PETTY CASH PURCHASES**

- 22 In certain cases it is not possible or economically viable to procure goods and services through written quotation or competitive bidding processes. This situation will arise where the total costs of engaging in written quotations or competitive bidding far outweighs the value of the item(s) or services been sought. This situation is envisaged for items or services below R500 vat inclusive only. This mechanism might also be utilised in an

emergency situation where the total value of the goods or services is below R500 subject to authorised process being followed. Only Heads of the departments may authorise petty cash processes and payments.

### **WRITTEN OR VERBAL QUOTATIONS (BETWEEN R500 & R2 000)**

- 23 The accounting officer must establish the conditions for the procurement of goods or services through written or verbal quotations, which must include conditions stating the procedure for procuring goods and services as follows:–
- a) That quotations must be obtained from at least three different providers preferably from, but not limited to, providers whose names appear on the list of accredited providers of the municipality, provided that if quotations are obtained from providers who are not listed, such service providers must meet the listing criteria in the supply chain management policy required by section 20 and 21 of this policy;
  - b) That, to the extent feasible, providers must be requested to submit such quotations in writing. As far as possible all suppliers must be afforded an opportunity to quote on rotational basis.
  - c) That if it is not possible to obtain at least three quotations, the reasons must be recorded and recommended by the CFO and be approved by the accounting officer. Such deviations must be reported quarterly to the accounting officer or another official designated by the accounting officer;
  - d) that the official designated by the accounting officer must record the names of the potential providers requested to provide such quotations with their quoted prices;
  - e) that if a quotation was submitted verbally, the order may be placed only against written confirmation by the selected provider

### **FORMAL WRITTEN PRICE QUOTATIONS (BETWEEN R2 000 AND R30 000)**

- 24 The procurement of goods and services above The accounting officer must establish the conditions for the procurement of goods or services through formal written price quotations, which must include conditions stating –
- a) quotations must be obtained in writing from at least three different providers whose names appear on the list of accredited prospective service providers of the municipality
  - b) that quotations may be obtained from service providers who are not listed, provided that such providers meet the listing criteria in the supply chain management policy required by section 20 and 21 of this policy;(SCM regulation 18 requires publicity of RQF for 7 days on notice boards) and if the database of the municipality have no listed suppliers on the required category, suppliers can be sourced from other municipalities or state departments.
  - c) that if it is not possible to obtain at least three quotations, the reasons must be recorded and recommended by the chief finance officer and be approved by the accounting officer. Such

deviations must be reported monthly to the accounting officer or another official designated by the accounting officer;

- d) that the official designated by the accounting officer must record the names of the potential providers requested to provide such quotations with their quoted prices;
- e) the accounting officer must promote ongoing competition amongst different service providers by inviting providers on a rotational basis from the approved list of accredited service providers to submit quotations, and;
- f) Offers below R30 000 must be awarded based on compliance to specifications, conditions of the contract, ability and capability to deliver the goods and services at the lowest price.

#### **FORMAL WRITTEN PRICE QUOTATIONS (BETWEEN R30 000 AND R200 000)**

- 25 The procurement of goods and services above R30 000 but below R200 000 must be procured through formal written price quotations.
- 26 These must be advertised on the notice board and website for a period of seven (7) working days and an on-going competition must be promoted.
- 27 Offers above R30 000 must be awarded based on the preferential point system using the 80/20 system, compliance to specifications and ability and capacity to deliver the goods and services. Thabazimbi Local Municipality when awarding must also consider the empowerment goals (BEE targets) of the municipality.
- 28 The chief financial officer must on a monthly basis be notified in writing of all written quotations and formal written price quotations approved by supply chain management officials acting in terms of the sub-delegation.

#### **COMPETITIVE BIDDING (ABOVE R200 000)**

- 29 Goods and services above a transaction value of R200 000 (vat inclusive) and long-term contracts may only be procured through competitive bidding process.
- 30 The bid document will be prepared by the bid specification committee with the assistance of the SCM Unit and be recommended by the chairperson of the bid specification committee for Chief Financial Officer's approval. This process must be done in consultation with the relevant department.
- 31 After specification approval, the SCM Unit must advertise in a commonly circulated local newspapers and national newspaper, if necessary, but not limited thereto, with the closing date of at least 14 working days after the date of the advertisement first appearance.
- 32 No requirements for goods or services above an estimated transaction value of R200 000 , may be deliberately split into parts or items of lesser value merely for the sake of procuring the goods or services otherwise than through a competitive bidding process.

## **PROCESS FOR COMPETITIVE BIDDING**

- 33 The procedures for the stages of the competitive bidding process are as follows:-
- Compilation of bidding documentation by the project manager
  - Finalisation and recommendation of the bid document by the bid specification committee
  - Approval of the specification by the CFO
  - Public invitation for bids by SCM or as delegated Site meeting or briefing session if required
  - Public opening of the tender box as per advert closing date
  - Initial pre-evaluation of bids by project managers
  - Evaluation, finalisation and recommendation of the bid evaluation report by the bid evaluation committee
  - Consideration of the evaluation report and final recommendations by the bid adjudication committee
  - Award of contract by the accounting officer
  - Issue of the appointment letter to the success bidder
  - Receipt of formal acceptance letter by the successful bidder
  - Administration of the contract after awarding the bid – the municipality and the bidder must enter into a written agreement where SLA or contract must be signed, if applicable
  - All documents leading to the conclusion of the tender should be properly kept in a secure place for reference and audit purposes.

## **RESPONSIBILITIES**

- 34 The SCM Unit will assume responsibilities for notifying successful bidders and for providing interested parties with the particulars of tenders received. Unsuccessful bidders will only be notified on request. The Chief Financial Officer will be responsible for providing written reasons for any administrative action that is taken.
- 35 The Chief Financial Officer, in consultation with the Bid Adjudication Committee, will in the event of one tender being received; determine whether or not fresh bidders will be called for.
- 36 The Municipal Manager shall take overall responsibility of implementing the procurement and disposal system and shall present a quarterly and annual report on all procurements and disposals which shall cover, among others, a range of key performance indicators including those associated with a preferential procurement policy.
- 37 The accounting officer must take all reasonable steps to ensure that the procurement of goods and services through formal written price quotations is not abused and there is proper record keeping.

## **LIST OF ACCREDITED PROSPECTIVE SUPPLIERS**

- 38 The Municipality will develop a system for use of a prospective provider data base (R1-R30 000) for the purpose of verbal or written quotation and formal written quotations in such a manner satisfying the provision of 217(1) of the Constitution of the Republic of South Africa (Act 108 of 1996) thus ensuring fairness, equity, transparency, competitiveness and cost effectiveness. All received quotations above the rand value of R30 000

shall be evaluated by the SCM Unit in line with the SCM prescripts. This must be read along with SCM Regulation 18.

- 39 Advertising for evaluation and admission to the register and re-registration specifying the listing criteria must be published annually and updated daily in a manner that enables a wide spectrum of suitably qualified and eligible bidders to apply.
- 40 The prospective providers must be admitted to the register whenever they choose to submit an application, which satisfies the Municipality's admission policy requirements. The Municipality must advise the supplier in writing if requested the administrative action taken regarding their submission, i.e. whether or not they have been admitted, and if not on what grounds.
- 41 The list must be updated daily to include any additional prospective providers and any new commodities or types of services.
- 42 Service providers should be subjected to a quality check depending on the type and nature of service being registered for before registration is approved, e.g. registration to national institutions for certain types of services such as IATA for travel agents.
- 43 The performance of service providers on the database should be reviewed regularly and reports of defaulters and non-compliance should be prepared. Defaulters may be removed from the Database should the Bid Adjudication Committee consider a perpetual unsatisfactory performance.
- 44 Any prospective provider whose name appears on the National Treasury's data base as a person prohibited from doing business with the public sector will not be accepted.
- 45 All contractor's or suppliers' work history with the TLM will be maintained on the Supplier Registers. The Heads of Departments will be required to rate the performance of the contractor upon completion of the contract. Where a contractor's performance has been rated as unsatisfactory they shall be notified accordingly and may be taken off the registers should the Bid Adjudication Committee consider a perpetual unsatisfactory performance. There shall be a register for unsatisfactory performance and defaulters within the SCM Unit.
- 46 Any service provider registered on the Database whose tax clearance has expired will be excluded from selection until such time as their valid tax clearance certificate is received by the Supply Chain Unit.

The database will be used to promote participation of black-owned small, medium and micro enterprises (SMME's) and community co-operatives.

## **PROCEDURES FOR PROCURING GOODS AND SERVICES**

- 47 The Municipality shall advertise tenders and calls for expressions of interest by placing insertions in a national newspaper (e.g. city press), local commonly circulated newspaper (i.e. widely circulated in the area of the Municipality) and/or Municipal website and and/or Government Tender Bulletin and TLM and local municipalities' (within TLM's jurisdictions) notice board as deemed appropriate.

- 48 The Provincial and State Tender Bulletins may be used in order to provide opportunities to access a wide spectrum of suitably qualified and eligible bidders with opportunities presented.
- 49 Invitations for competitive bids shall become open for a period not less than thirty (30) days for bids with estimated value above R10 million, and fourteen (14) days for bids below R10 million, from the date of publication in the selected primary medium of advertising identified as deemed appropriate. Goods and services above R200 000 can only be procured through competitive bidding process, unless approval has been obtained from the Municipal Manager in advance to use limited bidding procurement. In such case, limited bidding items will still have to serve before the Bid Adjudication Committee.
- 50 When using the list of accredited prospective providers the accounting officer must promote ongoing competition amongst providers, including by inviting providers to submit quotations on a rotation basis
- 51 Invitations for written quotations shall become open for a period not less than seven (7) from the date of advertising.
- 52 With regard to the procurement of goods and services with a transaction value lower than **R200 000** -
- a) the procurement of goods and services between R0 and R30 000 falls within the scope of the SCM UNIT;
  - b) the procurement of goods and services between R30 001 and **R200 000** will be delegated by the accounting officer to the chief financial officer within the municipality (see Delegation Policy).
- 53 For purposes of the procurement of goods and services in terms of section 48 -
- a) the regulation thereof will be assessed and monitored by the supply chain management unit to ensure alignment with the empowerment goals set out in this policy.
  - b) the municipality shall establish a database of service providers and suppliers which must be updated daily whereupon preferred service providers and suppliers will be selected in terms of the empowerment goals set out in this policy.
  - c) The database shall be established in terms of subsection 49 (b.)
  - d) In order to be considered for listing on either of the databases referred to in subsection (c), a service provider or supplier must be produce proof of compliance with the following prerequisites :
    - i. Current/valid original certificate of good standing in terms of VAT/Income Tax.
    - ii. offices should preferably be in the jurisdiction of the TLM.
    - iii. company registration with the registrar of businesses.
    - iv. professional registration with a professional body where required.
    - v. A quality check may be performed on registrations for certain services determined from time to time by the Accounting officer
- 54 Supply Chain Management unit will submit a quarterly report on the procurement of goods and services in this category. An analysis will be provided stating the achievement and/or failure in compliance with the set goals.

## PROCUREMENT DOCUMENTS

- 55 Industry standard forms of contract will as far as possible be used to establish risks, liabilities and obligations of the Municipality and the contractor.
- 56 Use will be made as far as possible of South African National Standards to establish requirements.
- 57 The accounting officer must establish the criteria to which bid documentation for a competitive bidding process must comply, which in addition to section 24 of this policy, the bid documentation must –
- a) take into account –
    - i. the general and specific conditions of contract;
    - ii. any Treasury guidelines on bid documentation;
    - iii. any penalty clauses; and
    - iv. the requirements of the Construction Industry Development Board, in the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure;
  - b) include evaluation and adjudication criteria, including any criteria required by other applicable legislation and all the necessary declaration statements and proof;
  - c) compel bidders to declare any conflict of interest they may have in the transaction for which the bid is submitted;
  - d) if the value of the transaction is expected to exceed R10 million (VAT included), require bidders to furnish–
    - i. if the bidder is required by law to prepare annual financial statements for auditing, their audited annual financial statements –
      - for the past three years; or
      - since their establishment if established during the past three years;
    - ii. a certificate signed by the bidder certifying that the bidder has no undisputed commitments for municipal services towards a municipality or other service provider in respect of which payment is overdue for more than 30 days;
    - iii. particulars of any contracts awarded to the bidder by an organ of state during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract;
    - iv. a statement indicating whether any portion of the goods or services are expected to be sourced from outside the Republic, and, if so, what portion and whether any portion of payment from the municipality is expected to be transferred out of the Republic; and
  - e) Stipulate that disputes must be settled by means of mutual consultation, mediation (with or without legal representation), or, when unsuccessful, in a South African court of law.
- 58 A non-refundable amount determined by the Bid Specification Committee will be charged for procurement documents issued by the Municipality to prospective bidders to cover cost of reproduction, or documents will be provided free of charge, depending on the cost of reproduction.

## **NEGOTIATIONS WITH PREFERRED BIDDERS**

- 59 (1) The accounting officer or delegated official 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.

## **COMMITTEE SYSTEM, COMPOSITION AND FUNCTIONS FOR COMPETITIVE BIDDING**

- 60 The accounting officer is required to –
- a) establish a committee system for competitive bids consisting of at least –
    - i. a bid specification committee;
    - ii. a bid evaluation committee; and
    - iii. a bid adjudication committee;
  - b) appoint the members of each committee, taking into account section 117 of the Act; and
  - c) provide for an attendance or oversight process by a neutral or independent observer, appointed by the accounting officer, when this is appropriate for ensuring fairness and promoting transparency.

### **A. Bid specification committee**

- 61 (1) This committee is responsible for compiling bid (tender) specifications and Terms of Reference; and functions specified in Regulation 27 of the SCM. The specifications committee may be comprised of one or more officials from the municipality or entity and, where appropriate, include external specialist advisors.

- (2) Specifications for each procurement –

- a) must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services;
- b) must take account of any accepted standards such as those issued by Standards South Africa, the International Standards Organisation, or an authority accredited or recognised by the South African National Accreditation System with which the equipment or material or workmanship should comply;
- c) where possible, be described in terms of performance required rather than in terms of descriptive characteristics for design;

- d) may not create trade barriers in contract requirements in the forms of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labelling of conformity certification;
- e) may not make reference to any particular trade mark, name, patent, design, type, specific origin or producer unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the words “equivalent”;
- f) must indicate each specific goal for which points may be awarded in terms of the points system set out in terms of the Preferential Procurement Policy Framework Act, 2000; and
- g) must be approved by the accounting officer prior to publication of the invitation for bids in terms of section 53 of this policy.
- h) be accompanied by a detailed evaluation criterion for the said bid

(3) 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.

## **B. Bid specification committee**

62 (1) This committee functions as per Regulation 28 of the SCM. The committee is responsible for the evaluation of bids received and to verify legal criteria and past performance history of the bidder. Membership of this committee as far as possible should comprise officials from the department requiring the goods and/or services and at least one Supply Chain Management practitioner of the Municipality or entity. This committee should evaluate all bids received and submit a report and recommendation(s) regarding the award of the bid(s) to the adjudication committee.

(2) The bid evaluation committee must:

- a) evaluate bids in accordance with –
  - i. the specifications for a specific procurement; and
  - ii. the points system set out in terms of the Preferential Procurement Policy Framework Act, 2000;
- b) evaluate each bidder’s ability to execute the contract;
- c) check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not in arrears;
- d) submit to the adjudication committee a report and recommendations regarding the award of the bid or any other related matter.

(3) The bid evaluation committee must as far as possible be composed of –

- a) officials (technical experts) from departments requiring the goods or services;
- b) at least one supply chain management practitioner of the municipality to ensure compliance with SCM procedures.

Subject to the subsection (3):

- i. the composition of the bid evaluation committee may change to accommodate different scenarios;
- ii. members from the bid specification committee may also form part of the bid evaluation committee; and
- iii. a member (preferably the Chairperson) from the bid evaluation committee shall present reports to the bid adjudication committee, but only as an advisor.

**C. Bid specification committee**

63 (1) The committee functions as per Regulation 29 of the SCM. The committee should consider the report(s) and recommendation(s) made by the evaluation committee. Depending on the delegations granted by the Accounting Officer, the adjudication committee could make the final award of the bid, or make a recommendation to the Accounting Officer to make the final award.

(2) The bid adjudication committee shall comprise of the Chief Financial Officer, and at least three other Senior Managers nominated by the Municipal Manager and at least one senior supply chain management practitioner who is an official of the municipality. Such committees will be convened and chaired by the Chief Financial Officer.

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

(4) 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.

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 subsection (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.

64 The bid specification and bid evaluation committees for tenders and expressions of interest are fixed committees with variable members being the project managers or technical experts of the relevant tender.

65 The Chairperson of the Bid Evaluation Committee shall be invited to present his/her report in the meetings of the Bid Adjudication Committee or any other delegated official by the BEC.

66 Members of the Bid Adjudication Committee will excuse themselves from voting of discussions for items serving before the Bid Adjudication Committee from their department or division.

- 67 Independent experts may be co-opted to such committees in an advisory capacity should this be necessary and shall not have any voting rights.
- 68 The Municipal Manager must ensure that (where possible and necessary)all members of the Bid Committees as well as the secretariat to these committees are cleared by the relevant authority (ies).
- 69 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.

### **POWERS OF THE BID COMMITTEES**

- 70 Allocation of points shall be done by Bid Specification Committee taking into consideration the nature of the services being procured, affirmative procurement and Black Economic Empowerment targets and other wide industry, economic and social factors.
- 71 The Bid Adjudication Committee may prior to award of a contract, cancel a tender process if due to change in circumstances, there is no longer a need for goods or services, funds are no longer available to cover the total envisaged expenditure or acceptable tenders have not been received.
- 72 The Bid Evaluation Committee shall determine the eligibility of prospective bidders and carry out evaluation using the approved scoring method and make recommendations to the Bid Adjudication Committee
- 73 The Bid Adjudication Committee shall recommend an award of contract provided it is within the delegated authority or recommend award of contracts to the Municipal Manager. Provided, however that in the event the Municipal Manager shall disapprove such recommendation, such disapproval shall be based only on valid, reasonable, justifiable grounds to be expressed in writing.
- 74 The secretariat shall ensure that records of all procurements, disposals and contract management are properly maintained, decisions and discussions are recorded and clear audit trails exist in order to ensure openness and probity.

### **QUORUM**

- 75 A majority of the Bid Adjudication Committee composition (physically present) as designated shall constitute a quorum for the transaction of business.
- 76 The decision of at least a majority of those present at a meeting at which there is a quorum shall be valid and binding as an act of the Bid Adjudication Committee.

### **Preference points system, evaluation of bids, awarding of bids not scoring highest points, cancellation and re-invitation of bids**

## 77 The 80/20 preference point system

- (1) The following formula must be used to calculate the points for price in respect of bids/procurement with a Rand value equal to, or above R30 000 and up to a Rand value of R500 000.00:

$$Ps = \frac{Pt - Pmin}{80(1 + Pmin)}$$

Where

Ps = Points scored for price of bid under consideration

Pt = Rand value of offer bid consideration

Pmin = Rand value of lowest acceptable bid

- (2) A maximum of 20 points shall be awarded for specific preferential goals to be determined by the specifications committee
- (3) The points scored by a bidder in respect of the goals specified in terms of the Preferential Procurement Policy Framework Act, 2000 must be added to the points scored for price.
- (4) Only the bid with the highest number of points scored may be selected unless prohibited by any section provided for by this policy

## 78 The 90/10 preference point system

- (1) The following formula must be used to calculate the points for price in respect of bids/procurement with a Rand value above R500 000:

$$Ps = \frac{Pt - Pmin}{90(1 + Pmin)}$$

Where

Ps = Points scored for price of bid under consideration

Pt = Rand value of bid under consideration

Pmin = Rand value of lowest acceptable bid

- (2) A maximum of 10 points shall be awarded for specific preferential goals to be determined by the specifications committee
- (3) The points scored by a bidder in respect of the goals specified in terms of the Preferential Procurement Policy Framework Act, 2000 must be added to the points scored for price.
- (4) Only the bid with the highest number of points scored may be selected unless prohibited by any section provided for by this policy

## 79 The 80/20 preference point system for the sale and letting of assets

- (1) The following formula must be used to calculate the points for price in respect of bids with a Rand value equal to, or above R30 000.00 and up to a Rand value of R500 000 and which relate to the sale and letting of assets.

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

Where

Ps = Points scored for price of bid under consideration

Pt = Rand value of bid under consideration

Ph = Rand value of highest acceptable bid

- (2) A maximum of 20 points may be awarded for specific preferential goals to a bidder.
- (3) The points scored by a bidder in respect of the goals specified in terms of the Preferential Procurement Policy Framework Act, 2000 must be added to the points scored for price.
- (4) Only the bid with the highest number of points scored may be selected unless prohibited by any section provided for by this policy

#### 80 The 90/10 preference point system for the sale and letting of assets

The following formula must be used to calculate the points for price in respect of bids with a Rand value above R500 000 and which relate to the sale and letting of assets:

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

Where

Ps = Points scored for price of bid under consideration

Pt = Rand value of bid under consideration

Ph = Rand value of highest acceptable bid

- (2) A maximum of 10 points shall be awarded for specific preferential goals.
- (3) The points scored by a bidder in respect of the goals specified in terms of the Preferential Procurement Policy Framework Act 2000, must be added to the points scored for price.

- (4) Only the bid with the highest number of points scored may be selected unless prohibited by any section provided for by this policy

**OR**

**81 When evaluating for both price and functionality the following formula must be used:**

- a) Calculations of percentage for functionality

$$Ps = (So/Ms) * Ap$$

Where

Ps = percentage scored for functionality by bid/proposal under consideration

So = total score of bid/proposal under consideration

Ms = maximum possible score

Ap = percentage allocated for functionality

- b) Calculation of percentage for price

$$Ps = (Pmin/Pt) * Ap$$

Where

Ps = percentage scored for price by bid/proposal under consideration

Pmin = lowest acceptable bid / proposal

Pt = price of bid/proposal under consideration

Ap = percentage allocated for price

- c) Calculations of points for functionality and price

The percentage obtained for functionality and price should be added together to obtain a percentage out of 100 and then be converted to points out of 80/90 in terms of the regulations.

$$Ps = 80 \text{ or } 90 (1 - ((Hs - Rs) / Rs))$$

Where

Ps = points scored for functionality and price of the bid /proposal under consideration

Hs = highest percentage scored by any acceptable bidder for functionality and price.

Rs = percentage scored for functionality and price by bid/ proposal under consideration.

### **Stipulation of preference point system to be used**

82 The municipality shall, in the bid documents, stipulate the preference point system which will be applied in the adjudication of bids.

### **Evaluation of bids on functionality and price**

- 83 (1) The municipality must, in the bid documents, indicate if, in respect of a particular bid invitation, bids will be evaluated on functionality and price (amount of functionality and price points must be clearly indicated)
- (2) The total combined points allowed for functionality and price may, in respect of bids with an estimated Rand value equal to, or below, R500 000, not exceed 80 points.
- (3) The total combined points allowed for functionality and price may, in respect of bids with an estimated Rand value above R500 000, not exceed 90 points.
- (4) When evaluating the bids contemplated in this item, the points for functionality must be calculated for each individual bidder.
- (5) The conditions of bid may stipulate that a bidder must score a specified minimum number of points for functionality to qualify for further adjudication.
- (6) The points for price, in respect of a bid which has scored the specified number of points contemplated in subsection (5) must, subject to the application of the evaluation system for functionality and price contemplated in this section, be established and be calculated in accordance with the provisions of sections 79 and 80.
- (7) Preferences for being an HDI and/or subcontracting with an HDI and/or achieving specified goals must be calculated separately and must be added to the points scored for functionality and price.
- (8) Only the bid with the highest number of points scored may be selected unless prohibited by any section provided for by this policy.

### **Award of contract to bid not scoring the highest number of points**

84 Despite subsections 72(4), 73(4), 74(4), 75(4) and 77(8), a contract may, on reasonable and justifiable grounds, be awarded to a bid that did not score the highest number of points.

### **Cancellation and re-invitation of bids**

- 85 The municipality may, prior to the award of a bid, cancel a bid if:
- a) due to changed circumstances, there is no longer need for the goods or services bided for; or
  - b) funds are no longer available to cover the total envisaged expenditure; or

- c) no acceptable bids are received.
- d) If there was a deviation or an error in the procurement process.

86 In the event that, in the application of the 80/20 preference point system as stipulated in the bid documents, all bids received exceed the estimated Rand value of R500 000, the bid invitation must be cancelled.

87 In the event that, in the application of the 90/10 preference point system as stipulated in the bid documents, all bids received are equal to, or below R500 000, the bid must be cancelled.

### **General Conditions**

- 88 (1) 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.
- (2) Points scored, must be rounded off to the nearest 2 decimals.
- (3) 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 discretion of the accounting officer.

### **Principles**

- 89 (1) Preference points stipulated in respect of a bid must include preference points for equity ownership by HDI's
- (2) The equity ownership contemplated in subsection (1) must 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.
- (3) In the event that the percentage of ownership contemplated in subsection (2) changes after the closing date of the bid, the bidder must notify the municipality and such bidder will not be eligible for any preference points.
- (4) 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.
- (5) Subject to subsections (1), (2), (3) and (4), all claims made for equity ownership by an HDI must be considered according to the following criteria:
- a) Equity within private companies must be based on the percentage of equity ownership;
  - b) Preference points may not be awarded to public companies and tertiary institutions;
  - c) EP = the percentage of equity ownership by an HDI within the business, determined in accordance with subsections (1), (2), (3) and (4).

$$NEP = NOP \times EP / 100$$

Where

NEP = Points awarded for equity ownerships by an HDI

NOP = the maximum number of points awarded for equity ownership by an HDI

EP = the percentage of equity ownership by an HDI within the enterprise or business.

- (6) Equity claims for a Trust may only be allowed in respect of those persons who are both trustees and beneficiaries and who are actively involved in the management of the Trust.
- (7) Documentation to substantiate the validity of the credentials of the trustees must be submitted to the municipality.
- (8) A Consortium or Joint Venture may, based on the percentage of the contract value managed or executed by their HDI members, be entitled to equity ownership in respect of an HDI.
- (9) The number of points scored for a Consortium or Joint Venture must be added to the number of points scored for achieving specified goals.
- (10) The points contemplated in subsection (9) must be added to the points scored for price, in order to establish the total number of points scored.
- (11) Subject to sections 80 and 81, the contract must be awarded to the bid which scores the highest points unless prohibited by any section provided for by this policy
- (12) A person awarded a contract as a result of preference for contracting with, or providing equity ownership to, an HDI, may not subcontract more than 25% of the value of the contract to a person who is not an HDI or does not qualify for such preference.

### **Specific goals**

- 90 (1) The bid conditions may stipulate that specific goals, as contemplated in terms of the Preferential Procurement Policy Framework Act, 2000, be attained.
- (2) The stipulation contemplated in section (1) must include the method to be used to calculate the points scored for achieving specific goals.
- (3) Over and above the awarding of preference points in favour of HDI's, the following activities may be regarded as a contribution towards achieving the goals contemplated in terms of the Preferential Procurement Policy Framework Act, 2000 :

- (a) The promotion of South African owned enterprises;
- (b) The promotion of SMME's;
- (c) The creation of new jobs or the intensification of labour absorption;
- (d) The promotion of enterprises located in the Limpopo Province for work to be done or services to be rendered in the aforesaid province;
- (e) The promotion of enterprises located within the jurisdiction of the TLM for work to be done or services to be rendered within the aforesaid jurisdiction;
- (f) The promotion of enterprises located in a specific municipal area for work to be done or services to be rendered in that municipal area;
- (g) The promotion of enterprises located in rural areas;

### **Black Economic empowerment and other socio economic objectives**

- 91 The TLM must award points for preference objectives in accordance with the PPPFA and its regulation, which also incorporate the 80/20 and 90/10 scoring models.
- 92 With the use of scoring models, the accounting officer must determine the ratio of points for HDI development in the achievements of pre-determined goals.
- 93 The TLM aims at meeting the principles of BEE as stipulated in the BEE Act and will apply general score cards or sector specific Charters where applicable.
- 94 Other socio-economic objectives not addressing the RDP requirements and targeting previously disadvantaged individuals, such as HIV/AIDS, Enterprise Development, EPWP and environmental conditions must be addressed through contract specification or scope of work.
- 95 In case an award (projects of rand value over R2 million) is made to an Enterprise located outside the district municipality of Waterberg, 30% of the total infrastructure project must be sub-contracted to an enterprise located in the Waterberg district for transfer of skills provided the subcontracted contractor appears on the TLM database.

### **Procurement of banking services**

- 96 Procurement of banking services shall be undertaken as per Supply Chain Management Regulation 30:
- 97 (1) A contract for the provision of banking services to the municipality:
  - (a) must be procured through competitive bids;
  - (b) must be consistent with section 7 or 85 of the Act; and
  - (c) may not be for a period of more than five years at a time.
- (2) The process for procuring a contract for banking services must commence at least nine months before the end of an existing contract.

- (4) 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 section 53. Bids must be restricted to banks registered in terms of the Banks Act, 1990 (Act No. 94 of 1990).

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

- 98 Procurement of IT related goods or services shall be undertaken as per Supply Chain Management Regulation 31:
- 99 (1) The accounting officer may request the State Information Technology Agency (SITA) to assist with the acquisition of IT related goods or services through a competitive bidding process.
- (2) Both parties must enter into a written agreement to regulate the services rendered by, and the payments to be made to, SITA.
- (3) The accounting officer must notify SITA together with a motivation of the IT needs if –
- (a) the transaction value of IT related goods or services required in any financial year will exceed R50 million (VAT included); or
  - (b) the transaction value of a contract to be procured whether for one or more years exceeds R50 million (VAT included).
- (4) If SITA comments on the submission and the municipality disagree with such comments, the comments and the reasons for rejecting or not following such comments must be submitted to the council, the National Treasury, the provincial treasury and the Auditor General. Procurement of goods and services procured under contracts secured by other organs of the state
- 100 The Municipal Manager may through the Bid Adjudication Committee procure goods and services under contracts procured by another organ of state provided such meets conditions stipulated in Regulation 31:
- 101 (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.
- 102 Such shall be reported to Council and Mayor as per reporting requirements.

## **Proudly South African and NEPAD**

- 103 The objectives of these two initiatives will be supported through the TLM's SCM process, if and when opportunities arise.
- 104 The accounting officer must determine internal operating procedures supporting the initiatives to the extent that all things being equal, preference is given to procuring local goods and services from Firstly – suppliers and businesses within the jurisdiction of TLM Secondly – suppliers and businesses within Limpopo Province Thirdly - suppliers and businesses within the Republic of South Africa

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

- 105 The accounting officer may –
- (a) dispense with the official procurement processes established by this policy and to procure any required goods or services through any convenient process, which may include direct negotiations, but only –
    - (i) in an emergency;
    - (ii) if such goods or services are produced or available from a single provider only;
    - (iii) for the acquisition of special works of art or historical objects where specifications are difficult to compile;
    - (iv) acquisition of animals for zoos, nature reserves or 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 section 105 (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.

## **Urgent and emergency procurement and sole supplier**

- 106 Exemption from the requirement that competitive bids be invited may be granted by the accounting officer as follows:
- a) In urgent or emergency cases where early delivery is of crucial importance and the invitation of competitive bids is either impossible or not practicable, or price quotations are invited from prospective suppliers. If suppliers are not yet registered by the TLM for the relevant supply or service, the companies identified by the relevant functionary are approached for price quotations. The price quotation, which represents the best value for money, is recommended for acceptance.
  - b) In cases where the goods or services can only be procured from a particular supplier or service provider, a price quotation is invited from the relevant company.

- c) The initiating department should provide the accounting officer with a certificate/written account stating the reasons for deviating from the invitation of competitive bids and also as to how they will maintain fairness and reasonableness in price.

107 The presence of, imminent risk of, an extreme or emergency situation arising from one or more of the following:

- a) Disaster or eminent disaster.
- b) Human injury or death.
- c) Human suffering or deprivation of human rights.
- d) Serious damage to property or financial loss.
- e) Livestock or animal injury, suffering or death.
- f) Serious environmental damage or degradation.
- g) Interruption of essential services: or
- h) Interruption / cancellation of essential municipal services.

108 Where there is deviation from such provisions, permission must be obtained from the Municipal Manager verbally in advance and subsequently in writing and the reasons for doing so must be recorded.

109 In these cases the bid committees will follow a negotiated procedure.

### **Responsibility of the Prospective /Eligible Bidder**

110 A prospective bidder shall be responsible for:

- taking steps to carefully examine all bidding documents
- submitting the bid on time, place and format prescribed in the bid documents
- considering all conditions related to and affecting the bidding, contracting and implementation of the contract

111 Failure to observe any of the responsibilities stated above (section 104) and this policy in general shall be at the prospective bidder or eligible bidder's own risk.

112 Before submitting their bids the bidders are deemed to be familiar with this policy, all existing laws and regulations, which may affect the bid and the contract in any way.

### **Bid evaluation**

113 Late bids will not be accepted and will be returned unopened to the bidder, where possible.

114 All responsive bids will be judged as per 80/20 or 90/10 points system for price and/or functionality and preferences as required by the Preferential Procurement Policy Framework Act. In case the bidders score the same point in all respect the bidder located within Thabazimbi Local Municipality will be given preference and incase both bidders are located within the district the municipality will toss a coin.

115 The ratio of points for Preference Objectives shall be developed by the Bid Specification Committee in consultation with the Head of Department responsible for the bid issue. Preference points/specific goals shall be determined in line with the strategic objective of the procurement. This refers to what social group is intended to be empowered.

116 The evaluation criteria will be clearly stated in the bid documents and cannot be changed post tender closure.

### **Consultants commissioned to prepare scopes of work /procurement documents procurements**

117 Consultants (contractors) who are commissioned to prepare a scope of work for a particular contract shall be precluded from submitting tender offers for that procurement.

### **Unsolicited bids**

118 The Municipal Manager is not obliged to consider unsolicited bids received outside a normal bidding process.

119 If the Municipal Manager decides to consider an unsolicited bid, he or she may do so if:

- a) The product or service offered in terms of the bid is a unique innovative concept, a product that will be exceptionally beneficial to, or have exceptional cost advantage to the Municipality
- b) The person who made the bid is the sole provider of the product or service; and
- c) The need for the product or service by the Municipality has been established during its strategic planning and budgeting process
- d) The reasons for not going through the normal procurement process are found to be sound by the Municipal Manager.

120 SCM Sub-regulations 37 (3)-(9) shall be applicable should the Municipal Manager choose to proceed with an unsolicited bid.

### **Appointment of Consultants**

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121 Appointment of consultants shall be done by means of competitive bidding process. In case of infrastructure projects, a threshold not exceeding 17% (in line with guideline: scope of services and tariff of fees for a person registered in terms of the Engineering professions act of 2000 (Act 46 of 2000) to a threshold not exceeding 17.5% as determined on yearly basis.

122 The method of selection of consultants shall be determined by the scope and complexity of the assignment, the quality of service and whether the assignment is non-standard or of routine nature.

123 The guideline for appointment of consultants issued in terms of Section 168 of the MFMA, as well as the prescripts of the CIDB, for the appointments of professional services shall be used.

- 124 The competitive bidding requirements shall be observed at all times and the consultant shall make a disclosure on all consultancy services provided to the TLM.
- 125 In order to maintain such a high standard of work and keeping in mind the possible risk TLM is exposed to, as well as the relevant legislation governing certain professions, only consultants employing professionals registered with the relevant professions' councils shall be engaged, where applicable.
- 126 Where appropriate, consultants should have a valid Professional Indemnity Insurance in place at appropriate level for the project.

## **Logistics Management**

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### **System of Logistics Management**

- 127 The accounting officer must establish an effective system of logistics management in order to provide for the placing of orders, receiving and distribution of goods, expediting orders, transport management, vendor performance, maintenance and contract administration.

### **The Logistics Management Process**

- 128 For fixed capital items (construction and road projects, immovable property) a process must be adopted ensuring appropriate classification, recording additions to asset and property registers, valuation, main use, etc.
- 129 The financial system necessary to generate payments must be implemented in a manner which is consistent with the principles attached to the logistics management process.

### **Inventory Management**

- 130 Should the TLM decide to keep stock such stock must be kept to a minimum and must take into consideration all best practices in inventory management and health and safety regulations and systems.

## **Disposal Management**

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### **Disposal and Letting of Assets**

- 131 The Municipal Manager, subject to approval by the Municipality and as per Asset Disposal Policy in compliance with section 14 and 90 of the MFMA, will do away with unserviceable, redundant or obsolete assets (including machinery, furniture, equipment and other tangible items) and appoint a disposals committee to make recommendations in this regard.
- 132 Assets may be:
- a) Transferred to another institution or organization free of charge or at market related value.
  - b) Traded through a competitive bid.
  - c) Sold or auctioned.
  - d) Destroyed or

- e) Disposed off through other means, as the Municipal Manager has formally approved.
- 133 Immovable properties may be sold only at market related prices except when the public interest of the plight of the poor demands otherwise.
- 134 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;
- 135 If movable assets are not disposed by way of methods described in section 11, the reasons for the disposal in such another manner should be motivated, certified and recorded for auditing purposes by the Municipal Manager or his delegate and reported to the Council.
- 136 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;
- 137 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
- 138 In cases where stores (inventory) items or assets are traded in for other stores items or assets, the highest possible trade-in price is to be negotiated.
- 139 The letting of immovable Municipal property (excluding housing for officials and political office bearers) should be at market-related tariffs, unless the Municipality approves otherwise.
- 140 The Accounting officer, should review, at least annually when finalizing the budget, all fees, charges, rates, tariffs or scales of fees or other charges relating to the letting of municipal property to ensure sound financial planning and management.
- 141 The SCM unit must develop guidelines for the disposal process

### **SCM Performance Management and Reporting**

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- 142 The Accounting Officer must establish an effective internal monitoring system linked to the organisational risk management, in order to determine, on the basis of a retrospective analysis, whether the authorised SCM process were followed and whether the desired objectives were achieved.
- 143 The officials or the Bid Adjudication Committee shall report to the Accounting Officer within 5 days of the end of each month as per reporting format to be prescribed by the Accounting Officer.
- 144 The Accounting Officer shall report to:
- Council on the implementation of the SCM policy within 30 days of the end of each financial year.
  - Mayor on the implementation of the SCM policy within 10 days of the end of each quarter.

- Council on any serious or material problems in the implementation of this policy.

## **SCM Risk Management**

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### **System of Risk Management**

145 Risks should be:

- a) Identified on a case-by-case basis.
- b) Allocated to the party best suited to manage such risks.
- c) Assigned clearly and unambiguously to the contractor and the Municipality in the procurement documents.
- d) Aligned with the Risk Management Policy.

146 The Municipality should apply a risk management policy in all its procurement. Risk management should include the contract award process and continue throughout the life of the contract.

147 For complex, high value purchases other tools include developing a business case, applying due diligence and developing a contract management plan may be necessary.

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

148 The Accounting Officer must establish a system of combating the abuse of the SCM system and report on such as part of the reporting in fulfilment of SCM Regulation 38.

149 In combating the abuse of the system, the accounting officer must–

- a) take all reasonable steps to prevent abuse of the supply chain management systems;
- b) investigate any allegations against an official or other role player of fraud, corruption, favouritism, unfair or irregular practices or failure to comply with this Policy, and when justified –
  - i. take appropriate steps against such official or other role player; or
  - ii. report any alleged criminal conduct to the South African Police Service;
- c) check the National Treasury's database prior to awarding any contract to ensure that no recommended bidder, or any of its directors, is listed as a person prohibited from doing business with the public sector;
- d) reject any bid from a bidder–
  - i. if any municipal rates and taxes or municipal service charges owed by that bidder or any of its directors to the TLM, 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 TLM or any other organ of state after written notice was given to that bidder that performance was unsatisfactory;

- e) reject a recommendation for the award of a contract if the recommended bidder, or any of its directors, has committed a corrupt or fraudulent act in competing for the particular contract;
- f) cancel a contract awarded to a person if –
  - i. the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract; or
  - ii. an official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of the contract that benefited that person; and
- g) reject the bid of any bidder if that bidder or any of its directors –
  - i. has abused the supply chain management system of the TLM 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 wilfully 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 of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004).

150 The accounting officer must inform the National Treasury and relevant provincial treasury in writing of any actions taken in terms of section 149 (b)(ii), (e) or (f) of this policy.

### **Penalties, insurance and guarantees**

- 151 Suitable insurance arrangement, liquidated damages or penalty clauses, retentions and various forms of guarantees should be made to protect the interest of TLM.
- 152 The levels of risks management arrangements should be commensurate with the degree of contractual risk to which the TLM is exposed.
- 153 Though the TLM would like to promote local and small business, all contracts considered as being of high risk due to the nature and scope of work should be subject to appropriate risk management.
- 154 (1) The municipality must adhere to the following general principles with regard to performance guarantees -
- (a) the aforesaid performance guarantees must be commensurate with the degree of contractual risk to which the municipality will be exposed;
  - (b) in the case of large and complex contracts, performance guarantees must be requested in order to discourage the submission of irresponsible bids; and,
  - (c) the risk of failure must be distributed between the contracting parties and should be managed so that the municipality's costs resulting from any such failure are recoverable.

### **Declaration**

- 155 For purposes of establishing control measures to eliminate fraud and corruption –
- a) a declaration schedule will form an integral part of all the Municipality's bid documents;
  - b) bidders must be required to complete the schedule as a prerequisite to submission of any bid;
  - c) Lack of declarations or incomplete declaration can act as disqualification

## Declaration of interest by officials, suppliers, service providers and consultants

- 156 (1) In order to obtain the disclosure of any interests that an official, supplier, service provider or consultant may have with regard to a bid, the declaration of interest schedule must be completed prior to the award of a bid.
- (2) The declaration of interest must be completed by the following persons –
- (a) all officials involved in the evaluation or approval of a bid;
  - (b) all suppliers, service providers or consultants who are involved in the preparation of bid documentation and bid reporting; and,
  - (c) any other person who played a role in the preparation, specification, evaluation and approval of a bid and who has an interest in the award thereof.
  - (d) The municipality reserves the right to vet any official, councilor, supplier who they deem necessary or believe that incorrect information is being supplied.

## Surety

- 157 Sureties must be obtained (in case of poor financial rating) in respect of construction projects, classified as follows:

AMOUNT	PERCENTAGE
R300 000	NIL
R300 001 - R1 000 000	5.50%
R1 000 001 - R3 000 000	7.50%
R3 000 001 - R5 000 000	10%
R5 000 001 - and above	12.50%

- (2) The service provider must seek assistance from the open market in order to meet the surety requirements.
- (3) The Municipality may waive the requirement for a surety on construction contracts that are estimated to be equal to or lower than one million rand (R1 000 000).
- (4) With regard to the waiving of sureties –
- a) this may be permitted to assist emerging and HDI entrepreneurs in the small works sector of the construction industry.
  - b) it may further be permitted where a surety, a performance guarantee or funds cannot be obtained with the assistance of the LIMDEV or a similar institution, a written indication thereof to be submitted to the municipality; and,
  - c) the municipality may bear the risks associated with such waiver in order to promote emerging and HDI entrepreneurs.
- (5) No contractor, supplier or service provider may be permitted to undertake more than two contracts simultaneously where sureties have been waived.
- (6) Sureties will be released from their obligations upon their application to the municipality and provided that the municipality is satisfied that the contract has been completed satisfactorily.

## Retention

- 158 (1) A percentage of the costs in respect of construction contracts must be set aside as retention funds.
- (2) No more than 10% of the value of the construction contract must be set aside for purposes of subsection (1).
- (3) With regard to the release of retention funds -
- (a) 50% of the retention funds shall be released upon practical completion for contracts of not more than R1000 000 with the remaining 50% released three months after the project has been completed. For contracts with a rand value exceeding R1000 000 but not exceeding R 10 000 000, 50% of the retention shall be released upon practical completion with the remainder released six months thereafter.
  - (b) For project with a rand value exceeding R10 000 000, 50% of the retention shall be released upon practical completion with the remainder released twelve months thereafter.

## Ethical standards

- 159 (1) A code of ethical standards is hereby established, in accordance with subsection (2), for officials and other role players in the supply chain management system in order to promote –
- (a) mutual trust and respect; and
  - (b) an environment where business can be conducted with integrity and in a fair and reasonable manner.
- (2) An official or other role player involved in the implementation of the supply chain management policy –
- (a) must treat all providers and potential providers equitably;
  - (b) may not use his or her position for private gain or to improperly benefit another person;
  - (c) may not accept any reward, gift, favour, hospitality or other benefit directly or indirectly, including to any close family member, partner or associate of that person;
  - (d) notwithstanding subsection (2)(c), must declare to the accounting officer details of any reward, gift, favour, hospitality or other benefit promised, offered or granted to that person or to any close family member, partner or associate of that person;
  - (e) must declare to the accounting officer details of any private or business interest which that person, or any close family member, partner or associate, may have in any proposed procurement or disposal process of, or in any award of a contract by, the municipality;
  - (f) must immediately withdraw from participating in any manner whatsoever in a procurement or disposal process or in the award of a contract in which that person, or any close family member, partner or associate, has any private or business interest;
  - (g) must be scrupulous in his or her use of property belonging to the municipality;
  - (h) must assist the accounting officer in combating fraud, corruption, favouritism and unfair and irregular practices in the supply chain management system; and
  - (i) must report to the accounting officer any alleged irregular conduct in the supply chain management system which that person may become aware of, including –
    - (i) any alleged fraud, corruption, favouritism or unfair conduct;
    - (ii) any alleged contravention of section 152(1) of this policy; or

(iii) any alleged breach of this code of ethical standards.

(3) The municipality shall ensure that –

- (a) all declarations in terms of subsections 2(d) and (e) must be recorded in a register which the accounting officer must keep for this purpose;
- (b) all declarations by the accounting officer must be made to the mayor of the municipality who must ensure that such declarations are recorded in the register; and
- (c) appropriate action is taken against any official or other role player who commits a breach of the code of ethical standards.

### **Inducements, rewards, gifts and favors to TLM officials and other role players**

160 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 TLM for or in connection with the award of a contract; or
- b) any reward, gift, favor or hospitality to –
  - i. any official; or
  - ii. any other role player involved in the implementation of this Policy.

161 The accounting officer must promptly report any alleged contravention of section 153 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.

162 The Accounting Officer must keep a register for declaration of gifts, rewards and any inducement irrespective of amount. (National Treasury Circular 34). Officials are not allowed to accept a gift more than R300 and councilors more than R1000 of value.

### **Sponsorships**

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

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

## **Objections, complaints and resolutions of disputes and queries**

- 164 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 being published, a written objection or complaint against the decision or action.
- 165 The accounting officer must appoint an independent and impartial person, not directly involved in the supply chain management processes to resolve any disputes and deal with objections, complaints or queries regarding any such decisions or actions or any matters arising from such contract.
- 166 A dispute, objection, complaint or query may be referred to the 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.
- 167 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.
- 168 This section must not be read as affecting a person's rights to approach a court at any time.

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

- 169 If a service provider acts on behalf of TLM to provide any service or act as a collector of fees, service charges or taxes and the compensation payable to the service provider is fixed as an agreed percentage of turnover for the service or the amount collected, the contract between the service provider and the TLM must stipulate –
- (a) a cap on the compensation payable to the service provider; and
  - (b) that such compensation must be performance based.

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

- 170 SCM Regulation 44 states that irrespective of the procurement process followed, no award may be made to a person in terms of this Policy –
- a) who is in the service of the state (including those who were in the service of the state within the last twelve months)
  - 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 TLM.

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

- 171 SCM Regulation 45 directs that the accounting officer must ensure that the notes to the annual financial statements disclose particulars of any award of more than R2000 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.

### **Prohibition on multiple awards to single bidder or listed on defaulters registers**

- 172 (a) No bidder must be awarded another contract if the bidder has not fully completed the initial or first contract with the Thabazimbi Local Municipality unless on exceptional cases where there is limited competition, time constraints or only one bidder qualified. Where feasible, the municipality must also consider re-advertisement of such service..
- (b) No bidder will be awarded a contract in TLM if such bidder is listed on the National Treasury default register or NT restricted list of CIDB defaulters' list or TLM internal restricted list of poor service providers.

### **Clearance Certificates**

- 173 No contract should be concluded with any tenderer whose tax matters are not in order. Prior to the award of a contract the Municipality should be in possession of an original and valid Tax Clearance Certificate issued by the South African Revenue Services for all bids above R15 000
- 174 Prior to the award of a contract the Municipality should be in possession of an original and valid Clearance Certificate issued by the local municipality for all bids above R15 000 which indicates that there are no amounts owing to the municipality.
- 175 A successful tenderer shall also submit proof of his/her registration as a levy payer or the alternative prescribed taxation prior to the conclusion of the contract with him / her.
- 176 A contractor shall also clearly indicate in the tender document whether the contractor is registered for VAT or not. If registered, a copy of the VAT registration certificate shall also be included in the tender documents.

### **Code of Conduct**

- 177 The officials involved in SCM and other role players must comply with the Code of Ethical Standards and Conducts issued by the CIDB for parties involved in construction procurements and National Treasury's Code of Conduct for supply chain management practitioners and other role players; and other best practices and standards as set from time to time.
- 178 Service providers, suppliers, contractors, bidders, subcontractors or other role-players will be expected to observe the provisions of section 171 of the MFMA.
- 179 A breach of the code of ethics must be dealt with as follows -

- a) in the case of an employee, in terms of the disciplinary procedures of the TLM envisaged in section 67(1)(h) of the Municipal Systems Act;
  - b) in the case a role player who is not an employee, through other appropriate means in recognition of the severity of the breach.
  - c) In all cases, financial misconduct must be dealt with in terms of chapter 15 of the Act.
- 180 The Municipal Manager shall report to the Council on the outcome of such matters referred to in section 173, the Municipality may upon receipt of the report decide on restrictions, if any, that are to be placed on the entities in question and their principals on further business with the Municipalities.

### **Contract Performance Management**

- 181 The basic requirements as stipulated in the MFMA (section 116) should be adhered to namely, writing dispute resolution mechanisms, termination, and periodic review of contracts.
- 182 All contracts will be subjected to a fair penalty clause to cover any loss incurred by the TLM.
- 183 Contract variation by not more than 10% of the original contract value can be allowed provided they are accommodated in the budget and are approved at the delegated level.
- 184 The TLM undertakes to effect processing of invoice and effect payment as soon as possible but within the time stipulated in the contract but not exceeding 30 calendar days from the date of receipt by the TLM of a valid claim.
- 185 Assistance may be given to emerging enterprises in the form of reduced payment periods, where possible and should they request it
- 186 Performance management of the Contractor and procured goods, services and works should be carried out by the Head of Department initiating the procurement and reported in terms of this policy.
- 187 For contracts having future budgetary implications the requirements of section 33 of the MFMA must be adhered to in regard to contracts which impose financial implications for three years or more (current financial year included)

### **Municipal Services Partnerships (including Public Private Partnerships)**

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- 188 Municipal Services Partnerships including Public Private Partnerships shall be executed in terms of Part 2 of chapter 11 of the MFMA.

### **Competencies and Training**

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- 189 All officials responsible for the SCM will be fully trained on this policy and be conversant with the principles of good SCM in accordance with any Treasury guidelines on SCM training.

190 The Chief Financial Officer will facilitate skills training and an awareness session to ensure that good procurement and contract management practices are disseminated throughout the organization.

## **Operationalisation**

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191 To systemize the procurement process, the Municipal Manager shall pursue the development and approval of a standard operating procedure incorporating a generic SCM manual, standard bidding documents, forms and standard evaluation documents.

192 The SCM policy will be brought into operation through:

- Procurement Directives which shall be issued by the SCM Unit from time to time
- Procurement delegations issued in terms of section 82 of MFMA; and
- SCM procedures

193 The Operationalisation shall be managed by the SCM Unit on a day-to-day basis.

## **Expanded Public Works Programme**

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194 The Expanded Public Works Programme (EPWP) is founded on the principle that the Implementing Agent (national or provincial department, state owned enterprise, municipality or municipal entity) is responsible for identifying and implementing suitable projects in accordance with the published EPWP Guidelines.

Labour-intensive infrastructure projects under the EPWP include:

- Using labour - intensive construction methods to provide employment opportunities to local unemployed people;
- providing training or skills development to those locally employed workers;
- building cost-effective and quality assets.

The employment of locally employed temporary workers on all EPWP labour-intensive infrastructure projects must be in accordance with the Code of Good Practice for Employment and Conditions of Work for Special Public Works Programmes issued in terms of the Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997) and promulgated in Government Gazette Notice No. P64 of 25 January 2002.

## **General Prerequisites**

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### **195 Introduction**

This Section covers a general set of prerequisites that have been identified for supply chain management by the TLM. All bidders must submit the information requested below. Bid documents and registration forms can be obtained in the SCM Unit. Bids will not be considered should the prerequisites not be met.

#### Criteria

- a) Proof of company registration and/or any other form of legal standing must be submitted by all bidders and the company composition form must be completed.
- b) The Declaration of Interest form must be completed.
- c) The bid document must be completed in all respects in black ink.
- d) Bids must be submitted on original bid documents.
- e) Bid documents must remain intact and no portion may be detached.
- f) A joint venture agreement must be formalized prior to submitting a bid.

### 196 Additional prerequisites for professionals

#### Introduction

This Section covers additional Prerequisites for Professionals that have been identified for supply chain management by the TLM. All Professionals must submit the information requested below. Bids will not be considered should the prerequisites not be met.

#### Criteria

- a) Submit proof of Professional Registration with the relevant Professional Body, e.g. The Engineering Council of South Africa.
- b) Submit Professional indemnity and type of cover.
- c) Submit company composition on the Company Composition Form which can be found from the SCM Unit

### 197 Additional prerequisites for contractors

#### Introduction

This Section covers additional Prerequisites for Contractors that have been identified for supply chain management by the TLM. All Contractors must submit the information requested below. Registration forms and bid documents are obtainable from the SCM Unit. Bids will not be considered should the prerequisites not be met.

#### Criteria

#### Contractor Registration

All contractors including sub-contractors must be registered with the Construction Industry Development Board (CIDB).

#### Subcontracting

- a) Should the contractor wish to sub contract any portion of the works, the contractor must submit details of subcontract together with names of subcontractor to the TLM.

- b) When Subcontracting to Non-HDI-owned companies, subcontracting will be restricted to a maximum of 25% of the total contract value.
- c) If details of sub contract are not disclosed, the bid will be set aside.
- d) No Sub Contractors are to further sub contract any portion of the works without disclosing details to TLM for approval prior to commencement of works
- e) The Company Composition of the subcontracting firm must be disclosed.

**Joint Ventures**

- f) Submit written proof of Joint Ventures - disclosing Joint Venture partnerships (Percentage or names or any other details required by TLM).
- g) All joint venture partners must be registered with the CIDB.
- h) Housing contractors must be registered with the National Home Builders Registration Council (NHBRC).

**198 Additional prerequisites for service providers registering on the Database**

- i. Proof of physical address
- ii. Certified copies of ID
- iii. Company/cc registration certificate
- iv. Professional registration certificate (CIDB, ECSA, NHBRC, BEE Certificate etc)
- v. Valid and Original Tax Clearance certificate

**Deviation**

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199 No deviation from this policy will be allowed except with the prior written approval of the Accounting Officer of the Municipality and, where appropriate, that of the Council.

**Commencement and Revision**

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200 This policy takes effect on 01 July 2013 and shall be submitted by the Accounting Officer to the Council for review at least annually before June or as considered necessary to ensure that this policy remains up-to-date and relevant.

201 Any deviation from the Regulations at any given time shall be reported to both the Provincial and National Treasuries.

**Adoption**

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Adopted by Council at its meeting held on..... 2013 per Council Resolution Number.....

Signed at..... on.....2013

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Municipal Manager