JOE GQABI DISTRICT MUNICIPALITY

Supply Chain Management Policy

2017/2018

TABLE OF CONTENTS

CHAPTER 5: ACQUISITION MANAGEMENT 27

PREAMBLE

This policy was adopted by the Joe Gqabi District Municipality (JGDM) on **12 September 2005, Item No 196/05/MC**, in terms of section 111 of the Municipal Finance Management Act, 2003 (Act No. 56 of 2003).

The Accounting Officer must annually review the implementation of this Policy and if he considers it necessary, submit proposals for the amendment of the Policy to the Council for approval.

The targeted mechanism of the Policy which enhances the development of Historically Disadvantaged Individuals (HDIs) and Historically Disadvantaged Companies (HDCs) clearly demonstrates the focus of the policy.

Major achievements and goals have been realized through the targeted procurement processes and Policies of the JGDM. The future focus will be to further enhance the Policy by considering new legislation that have been enacted.

The empowerment (BEE) goals have been reviewed and amended to be in-line with current trends and to be realistic in terms of Council's performance.

Other amendments related to policy gaps and policy performances have been included in the policy to strengthen and enhance the current policy.

The Policy includes a chapter on Empowerment Goals and objectives which strives towards ensuring that Historically Disadvantaged Individuals (HDIs) are presented an opportunity to participate and function in the mainstream of JGDM's economy.

The Policy sets out clear guidelines to service providers/contractors who perform projects on behalf of the Municipality to use local labour based human resources to ensure job creation and development of HDIs in communities where projects will be undertaken.

DEFINITIONS

In this policy, unless the context otherwise indicates, a word or expression to which a meaning has been assigned in the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) has the same meaning as in the Act, and –

1.	**"Act"** means the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003).
	"agent" means a person mandated by another person ("the principal") to do business for and on behalf of, or to represent in a business transaction, the principal, and thereby acquire rights for the principal against an organ of state and incur obligations binding the principal in favour of an organ of state.
2.	**"allocation"** in relation to a municipality means - [a] municipality's share of the local government's equitable share referred to in Section 214 (1) (a) of the Constitution; [b] an allocation of money to a municipality in terms of Section 214 (1) (c) of the Constitution; [c] an allocation of money to a municipality in terms of a provincial budget; or [d] any other allocation of money to a municipality by an organ of state, including by another municipality, otherwise than in compliance with a commercial or other business transaction.]
3.	**"bid"** means a written offer or bid in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of services or goods.
4.	**"break-out procurement"** means the procurement of goods and services for any project of the Municipality in the smallest possible quantities without compromising the quality, coverage, cost or developmental impact of the goods and services.
5.	**"competitive bidding process"** means a competitive bidding process referred to in section 26 of this policy;
6.	**"competitive bid"** means a bid in terms of a competitive bidding process;
7.	**"comparative price"** means the price after the factors of a non-firm price and all unconditional discounts that can be utilised have been taken into consideration.
8.	**"consortium or joint venture"** means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity necessary for the execution of a contract.
9.	**"contract"** means the agreement that results from the acceptance of a bid by the Municipality.
10.	**"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.
11.	**"councillor"** means a member of a municipal council.
12.	**"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.

13.	**"district municipality"** means a municipality that has municipal executive and legislative authority in an area that includes more than one municipality and which is described in section 155(1) of the Constitution as a category "C" municipality.
14.	**"employer"** means The Joe Gqabi District Municipality.
15.	**"end user"** means a person who initiates the process of acquisition management and also plays a very important role during the evaluation process.
16.	**"executive mayor"** means an executive mayor elected in terms of section 55 of the Municipal Structures Act, Act 32 of 1998.
17.	**"final award"**, in relation to bids or quotations submitted for a contract, means the final decision on which bid or quote to accept;
18.	**"firm price"** is the price that is only subject to adjustments in accordance with the actual increase or decrease resulting from the change, imposition, or abolition of customs or excise duty and any other duty, levy or tax which in terms of a law or regulation is binding on the contractor and demonstrably has an influence on the price of any supplies, or the rendering costs of any service, for the execution of the contract.
19.	**"formal written price quotation"** means quotations referred to in section 24 of this policy;
20.	**"fruitless and wasteful expenditure"** means expenditure that was made in vain and would have been avoided had reasonable care been exercised.
21.	**"historically disadvantaged individual"** means a South African Citizen or any **service provider;** a] 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 Act, 1993 (Act No. 200 of 1993) or the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993) ("the Interim Constitution"); and/or [b] who is a female; and/or [c] 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.
22.	**"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;
23.	**"irregular expenditure"** in relation to a municipality or municipal entity, means (a) expenditure incurred by a municipality or municipal entity in contravention of, or that is not in accordance with, a requirement of the Act, and which has not been condoned in terms of section 170 thereof; (b) expenditure incurred by a municipality or municipal entity in contravention of, or that is not in accordance with, a requirement of the Municipal Systems Act, and which has not been condoned in terms of that Act; (c) expenditure incurred by a municipality in contravention of, or that is not in accordance with a requirement of the Remuneration of Public Office-Bearers Act, 1998 (Act No. 20 of 1998); or (d) expenditure incurred by a municipality or municipal entity in contravention of, or that is not in accordance with, a requirement of the supply chain management policy of the municipality or entity or any of the municipality's by-laws giving effect to such policy, and which has not been condoned in terms of such policy or by-law.
24.	**"local municipality"** means a municipality that shares municipal executive and legislative authority in its area with a district municipality within whose area it falls and which is described in section 155(1) of the Constitution as a category "B" municipality.
25.	**"long term contract"** means a contract with a duration period exceeding one year;
26.	**"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 of this policy;
27.	**"management"** in relation to an enterprise or business, means an activity inclusive of control and performed on a daily basis, by any person who is a principal executive officer of the company, by whatever name that person may be designated, and whether or not that person is a director.
28.	**"municipal council or council"** means a municipal council referred to in section 157(1) of the Constitution, 1996.
29.	**"municipality"** when referred to as – [a] an entity, means a municipality as described in the definitions section, and [b] a geographic area, means a municipal area determined in terms of the Local Government: Municipal Demarcation Act, 1998 (Act No. 27 of 1998)
30.	**"municipal manager"** means a person appointed by the Municipality in terms of section 82 of the Municipal Structures Act and who is the head of administration and also the accounting officer for the Municipality.
31.	**"municipal structure act"** means the Local Government : Municipal Structures Act, 1998 (Act No. 117 of 1998).
32.	**"municipal systems act"** means the Local Government : Municipal Systems Act, 2000 (Act No. 32 of 2000).
33.	**"non-firm prices"** means all prices other than "firm" prices.
34.	**"organ of state"** means an organ of state as defined in section 239 of the Constitution.

35.	**"other applicable legislation"** means any other legislation applicable to municipal supply chain management, including – (a) the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000); (b) the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003); and (c) the Construction Industry Development Board Act, 2000 (Act No.38 of 2000);
36.	**"owned"** having all the customary incidents of ownership, including the right of disposition, and sharing in all the risks and profits commensurate with the degree of ownership interest, as demonstrated by an examination of the substance, rather than the form of ownership arrangements.
37.	**"person"** includes reference to a juristic person.
38.	**"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.
39.	**"rand value"** means the total estimated value of a contract in Rand denomination which is calculated at the time of bid invitations and includes all applicable taxes and excise duties.
40.	**"regulation"** means a Municipal Supply Chain Management Regulation published in terms of Section 168 of the Act.
41.	**"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.
42.	**"SMMEs"** means a separate and distinct business entity, including cooperative enterprises and non-governmental Organizations, 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.
43.	**"sub-contracting"** means the primary contractor's assigning or leasing or making out work to, or employing, another person to support such primary contractor in the execution of part of a project in terms of the contract.
44.	**"supply chain manager"** means an official appointed by Joe Gqabi District Municipality to fulfill a vital role in the implementation, the monitoring and the continued application of the Joe Gqabi District Municipality Supply Chain Management Policy.

45.	**"the Act"** means the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003).
46.	**"the constitution"** means the Constitution of the Republic of South Africa Act, 1996 (Act No. 109 of 1996).
47.	**"treasury guidelines"** means any guidelines on supply chain management issued by the Minister in terms of section 168 of the Act;
48.	**"unauthorised expenditure"** in relation to a municipality, means any expenditure incurred by a municipality otherwise than in accordance with Section 15 or 11(3) of the Act. (a) overspending of the total amount appropriated in the municipality's approved budget; (b) overspending of the total amount appropriated for a vote in approved budget; (c) expenditure from a vote unrelated to the department of functional area covered by the vote; (d) expenditure of money appropriated for a specific purpose, otherwise than for that specific purpose; (e) spending of an allocation referred to in paragraph (b), (c) or (d) of the definition of "allocation" otherwise than in accordance with any condition of the allocation; or (f) a grant by the Municipality otherwise than in accordance with this Act.
49.	**"written or verbal quotations"** means quotations referred to in **section 23** of this policy.

CHAPTER 1
EMPOWERMENT GOALS

1. INTRODUCTION

In the preamble of the Joe Gqabi District Municipality Supply Chain Management Policy it is stated that "the Supply Chain Management Policy seeks to encourage socio-economic transformation" within its region. To achieve this, empowerment goals have been set, which aim to redress the skewed distribution of wealth and therefore contribute to the alleviation of poverty.

2. STRATEGIC GOAL

The goal of this Policy is to provide a mechanism to ensure sound, sustainable and accountable supply chain management within the JGDM, whilst promoting black economic empowerment, which includes general principles for achieving the following socio-economic objectives:

- to stimulate and promote local economic development in a targeted and focused manner;
- to promote resource efficiency, greening and environmental sustainability practices;
- to facilitate creation of employment and business opportunities for the people of JGDM with particular preference to HDI's;
- to promote the competitiveness of local businesses;
- to increase the small business sector access, in general, to procurement business opportunities created by JGDM;
- to increase participation by small, medium and micro enterprises (SMME's); and
- to promote joint venture partnerships.

The Policy will achieve the above by providing employment opportunities to HDI's and communities, enabling socio-economic transformation objectives to be linked to fair, transparent, equitable, competitive and cost effective procurement practices. In this regard, the following empowerment goals are proposed to be used as measures by Council in assessing the impact of its policy in realizing the socio-economic transformation agenda of government in all spheres.

3. SPECIFIC GOALS

3.1 IMPLEMENTATION STRATEGY

In order for Council to achieve Local Economic Development (LED) and Small Medium and Micro Enterprise (SMME) Development goals within the District, the Accounting Officer will, at the end of each financial year after the budget has been approved for the next financial year, identify a budget that will be ring-fenced for the development and promotion of local emerging contractors.

3.1.1 Bidding Documents

The Municipality's bidding documents to include the following requirements for capital projects above the value of R1 million:

a) Utilising local labour
b) Sub-contracting with an HDI
c) Partnering with an HDI

3.1.2 Promotion of Local Enterprise Participation

3.1.2.1 Community Based Vendors

The Manager: Supply Chain Management may request quotations directly from Community Based Vendors in a specific area or from a specific community for the procurement of goods and services for amounts less than:

- R30 000 (including construction works).

3.2 MONITORING MECHANISM

For purposes of monitoring the allocation of bids along the empowerment goals and the implementation strategy mentioned above, Supply Chain Management shall table a report as part of consideration of the bids, detailing how many of the bids that were adjudicated on a particular day and if this reflects the empowerment goals listed above. A progress report will also be tabled every quarter to the Mayoral Committee and Council for noting and/or comments where there is deviation or lack of visible progress.

CHAPTER 2
ESTABLISHMENT AND IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY

Supply chain management policy

4. (1) The Joe Gqabi District Municipality resolves in terms of section 111 of the Act to have and implement a supply chain management policy that –

(a) gives effect to –

(i) section 217 of the Constitution; and
(ii) Part 1 of Chapter 11 and other applicable provisions of the Act;

(b) is fair, equitable, transparent, competitive and cost effective;
(c) complies with –

(i) the regulatory framework prescribed in Chapter 2 of the Regulations; and
(ii) any minimum norms and standards that may be prescribed in terms of section 168 of the Act;

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

(2) JGDM may not act otherwise than in accordance with this supply chain management policy when–

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

Delegation of supply chain management powers and duties

5. (1) JGDM hereby delegates such additional powers and duties to the accounting officer so as to enable the accounting officer –

(a) to discharge the supply chain management responsibilities conferred on accounting officers in terms of –

(i) Chapter 8 or 10 of the Act; and
(ii) the supply chain management policy;

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

(2) Sections 79 and 106 of the Act apply to the subdelegation of powers and duties delegated to an accounting officer in terms of subsection (1) of this policy.

(3) The council or accounting officer may not delegate or subdelegate any supply chain management powers or duties to a person who is not an official of the JGDM or to a committee which is not exclusively composed of officials of the JGDM;

(4) This section may not be read as permitting an official to whom the power to make final awards has been delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in *section 33* of this policy.

Subdelegations

6. (1) The accounting officer may in terms of section 79 or 106 of the Act subdelegate any supply chain management powers and duties, including those delegated to the accounting officer in terms of this policy, but any such subdelegation must be consistent with subsection (2) and *section 5* of this policy.

(2) The power to make a final award –

(a) above R10 million (VAT included) may not be subdelegated by the accounting officer;
(b) all bids above R10 million (VAT included), after recommendation by the bid adjudication committee, must be referred to the Internal Audit unit for further scrutiny and confirmation of the whole bidding process, before being forwarded to the accounting officer for final award;
(c) above R2 million (VAT included), but not exceeding R10 million (VAT included), may be subdelegated but only to –

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

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

  a. the chief financial officer;
  b. a senior manager; or
  c. a manager directly accountable to the chief financial officer or a senior manager; or
  d. a bid adjudication committee.

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

(a) the amount of the award;

(b) the name of the person to whom the award was made;
(c) the HDI status of the successful bidder or supplier; and
(d) the reason why the award was made to that person.

(4) A written report referred to in subsection (3) of this policy must be submitted –

(a) to the accounting officer, in the case of an award by –

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

(b) to the chief financial officer or the senior manager responsible for the relevant bid, in the case of an award by –
(i) a manager referred to in subsection (2)(c)(iii) of this policy; or
(ii) a bid adjudication committee of which the chief financial officer or a senior manager is not a member.

(5) Subsections (3) and (4) of this policy do not apply to procurements out of petty cash.

(6) This section may not be interpreted as permitting an official to whom the power to make final awards has been subdelegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in section 33 of this policy.

(7) No supply chain management decision-making powers may be delegated to an advisor or consultant.

Oversight role of council

7. (1) The Council has an oversight role as far as the supply chain management system is concerned, to ensure that the Municipal Accounting Officer executes the SCM Policy within the ambit of the applicable legislation.

(2) For the purposes of such oversight the accounting officer must –

(a) (i) within 30 days of the end of each financial year, submit a report on the implementation of the supply chain management policy of the municipality and of any municipal entity under its sole or shared control, to the council of the municipality,

(ii) whenever there are serious and material problems in the implementation of the Supply Chain Management Policy, immediately submit a report to the council of the municipality.

(3) The Accounting Officer must therefore in this regard on a quarterly basis report to the Mayor, on the implementation of the SCM policy.

(4) The quarterly reports must be made public in accordance with section 21A of the Municipal Systems Act.

Role of Supply chain management unit

8. (1) The accounting officer must establish a supply chain management unit to implement this supply chain management policy.

(2) The supply chain management unit must, operate under the direct supervision of the chief financial officer.

(3) The SCM Unit shall consist of:
(i) demand and acquisition management;
(ii) logistics management (stores and warehouse);
(iii) contract management and vendor performance; and
(iv) assets, disposal and risk management;

(4) The Supply Chain Manager shall be responsible and accountable for the day-to-day management of the SCM Unit.

(5) All documents pertaining to the procurement of goods or services by means of written price quotations of a transaction value up to R200 000 (VAT included), as well as all documents pertaining to procurements by means of competitive bidding of a transaction value over R200 000 (VAT included), will be issued, received and finalised by the SCM Unit.

(6) All documents pertaining to the disposal of goods will be issued, received and finalized by the SCM Unit.

Training of supply chain management officials

9. The CFO must ensure that officials implementing, applying and managing the SCM Policy are trained in accordance with the prescribed requirements.

CHAPTER 3
CONCEPT OF SUPPLY CHAIN MANAGEMENT

10. SUPPLY CHAIN MANAGEMENT DEFINED

SCM involves the management of working capital that is invested in goods, stores and services with the objective of optimizing the economic return on such investment. The process begins when the needs are identified during the strategic planning phase of the organisation when service delivery targets are identified, to the point of finally disposing of an asset.

11. OBJECTIVES OF SUPPLY CHAIN MANAGEMENT

As a concept, Supply Chain Management has the following broad objects:

- Promoting uniformity in the processes relevant to the repealing of bid board legislation in the various spheres of government and devolving the responsibility and accountability for procurement-related functions to accounting officers/authorities.
- Promoting uniformity in the various spheres of government in the interpretation of government's preferential procurement legislation and policies, also in the context of other broad-based but related legislative and policy requirements of government.
- Replacing the outdated procurement and provisioning practices in government with a supply chain management function and a systematic competitive procedure for the appointment of consultants as an integral part of financial management in government that conforms to internationally accepted best practice principles.
- Introducing parameters for the promulgation of a regulatory framework in terms of the PFMA and MFMA to ensure compliance to minimum norms and standards, but in such a manner that the principles of co-operative governance are observed.
- Give effect to the provisions of the Constitution.
- Give effect to the provisions of the MFMA and PFMA.
- Transform procurement and provisioning practices into an integrated SCM function.
- Introduce a systematic approach for the appointment of consultants.
- Create an understanding of Governments preferential procurement policy objectives.
- Make significant improvement to financial management.

- Promote consistency in respect of supply chain policy and other related policy initiatives.
- Adheres to international best practices.

12. IMPROVING ACCOUNTABILITY

The MFMA aims to improve accountability by placing responsibility for decisions in the heads of each accounting officer, and by ensuring that there is support from National Treasury, for example in the form of "best practice" guidelines, to assist managers in delivering services to communities as efficiently and effectively as possible.

The accountability chain is the most critical driver for improving financial management in the public sector. The Annual Report and the report of the Auditor-General will indicate achievement against the intentions specified in each municipality's or municipal entity's Integrated Development Plan (IDP) and may highlight areas that require improvement.

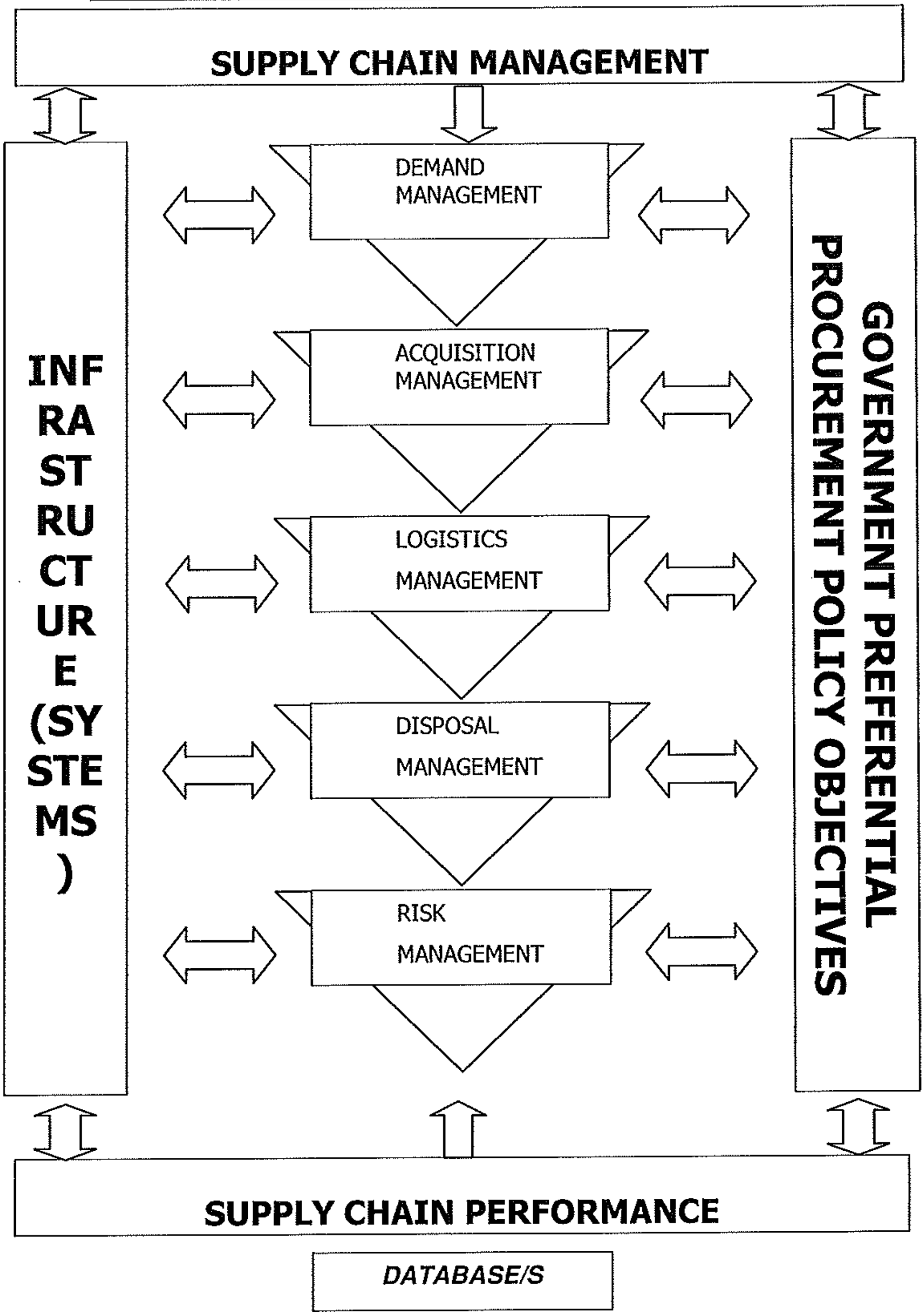
A particular requirement of the MFMA is that each accounting officer undertakes a "risk assessment" for his or her municipality or municipal entity. Risk management acknowledges that all the activities of an organization involve some element of risk. Management should decide what is an acceptable level of risk (given cost and other social factors) by objectively assessing the factors (risks) that may prevent a particular activity from meeting its objective. In the case of SCM, this will include ensuring – on a case-by-case basis – that in unambiguous contract documents, or that guarantees or insurance arrangements are in place (managers must manage!).

In addition, the award and management of contracts is an area where fraud and corruption has been found in the part, and the Institution's Fraud Prevention Plan should reflect this, through cost-effective use of control measures and procedures and an ethical culture.

13. GOOD GOVERNANCE

In order to achieve the ideals of good corporate governance and to address deficiencies in SCM, fundamental institutional reforms will have to be implemented. Such reforms need to promote efficient and effective procurement and provisioning systems and practices that enable municipalities/municipal entities to deliver the required quality and quantity of services to its clients. The establishment of uniformity in procedures, policies, documentation and contract options and the implementation of sound systems of control and accountability should form the cornerstone of institutional reform.

14. THE ELEMENTS / FRAMEWORK OF SUPPLY CHAIN MANAGEMENT



This supply chain management policy provides systems for –

(i) demand management;
(ii) acquisition management;
(iii) logistics management;
(iv) disposal management;
(v) risk management; and
(vi) performance management.

14.1 DEMAND MANAGEMENT

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. This policy provides for an effective system of demand management in order to ensure that the resources required to support the strategic and operational commitments of the municipality are delivered at the correct time, at the right price and at the right location, and that the quantity and quality satisfy the needs of the municipality.

14.2 ACQUISITION MANAGEMENT

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.

14.3 LOGISTICS MANAGEMENT

This aspect addresses the setting of inventory levels, placing of orders, receiving and distribution of material and goods, stores, warehouse and transport management, expediting orders, the review of vendor performance, maintenance and contract administration. From these processes, the financial system is activated to generate payments.

14.4 DISPOSAL MANAGEMENT

A supply chain management policy must provide for an effective system of disposal management for the disposal or letting of assets no longer needed, including unserviceable, redundant or obsolete assets, subject to sections 14 and 90 of the MFMA.

At this stage, consideration must be given to:

- obsolescence planning;
- maintaining a data base of redundant material;
- inspecting material for potential re-use;
- determining a disposal strategy; and
- executing the physical disposal process.

14.5 RISK MANAGEMENT

A supply chain management policy must provide for an effective system of risk management for the identification, consideration and avoidance of potential risks in the supply chain management system. Risk management must include:

- the identification of risks on a case-by-case basis;
- the allocation of risks to the party best suited to manage such risks;
- acceptance of the cost of the risk where the cost of transferring the risk is greater than that of retaining it;
- the management of risks in a pro-active manner and the provision of adequate cover for residual risks; and
- the assignment of relative risks to the contracting parties through clear and unambiguous contract documentation.

14.6 PERFORMANCE MANAGEMENT

This is a monitoring process, undertaking a retrospective analysis to determine whether the proper processes have been followed and whether the desired objectives were achieved. Some of the issues that may be reviewed are:

- compliance to norms and standards;

- cost efficiency of procurement process (i.e. the cost of the process itself); and
- whether supply chain practices are consistent with Government's broader policy focus.

15. Five pillars of procurement

(1) Value for money

The term "value for money" includes the monetary value as well as the quality and the utilisation of the procurement system to achieve government's policy objectives (see the Regulations pertaining to the PPPFA). Due consideration should, however, be given to the quality of goods required, the time to administrate the process, and the cost effectiveness of the ensuing contracts. This is an essential test against which a municipality or municipal entity must justify a procurement outcome.

(2) Open and effective competition

The pillar of public sector procurement requires the following:

(i) A framework of procurement laws, policies, practices and procedures that is transparent; in other words they must be readily accessible to all parties;

(ii) Openness in the procurement process;

(ii) Encouragement of effective competition through procurement methods suited to market circumstances; and

(iv) Observance of the provisions of the PPPFA.

(3) Ethics and fair dealing

All parties involved in procurement should comply with the following ethical standards:

(i) Deal with each other on a basis of mutual trust and respect; and

(ii) Conduct their business in a fair and reasonable manner and with integrity,

(4) Accountability and reporting

This involves ensuring that individuals and organizations are answerable for their plans, actions and outcomes. Openness and transparency in administration, by external scrutiny through public reporting, is an essential element of accountability

(5) Equity

The word "equity" in the context of the five pillars of public sector procurement means the application and observance of government policies that are designed to advance persons or categories of persons disadvantaged by unfair discrimination. This fifth pillar is vital to public sector procurement in South Africa. It ensures that Government is committed to economic growth by implementing measures to support the industry in general. No public procurement system should be operated if it is not founded on this pillar.

CHAPTER 4
DEMAND MANAGEMENT

System of demand management

16. (1) The accounting officer must establish, through operational procedures, an effective system of demand management in order to ensure that the resources required to support the strategic and operational commitments are delivered at the correct time, at the right price and at the right location, and that the quantity and quality satisfy the needs.

This is the beginning of the supply chain where the following functions should take place.

The objective is to ensure that the resources required to fulfil the needs identified in the Integrated Development Plan (IDP) are delivered at the correct time, price and place, and that the quantity and quality will satisfy those needs.

Resources required for the fulfillment of the municipality's obligations will be clearly analysed. This includes a detailed analysis of the goods, works and services required.

The Demand Management Process

17. (1) This is a cross-functional exercise that brings the supply chain practitioner closer to the end user and ensuring that value for money is achieved.

(2) The cross-functional team must at least consist of the following expertise:

- Manager: Supply Chain Management.
- Relevant end-user.
- Relevant commodity manager
- Human resource specialist
- Financial specialist
- Information technology specialist
- SCM specialist(s) covering all areas of SCM.

(3) The SCM official responsible for the demand management function coordinates the liaison with and inclusion in the cross-functional team.

(4) The official responsible for the demand management function must coordinate the needs analysis and costing of each and every programme in the JGDM. To do this the following process must be followed:

4.1 The end-user gives an overview of the detail of his/her multi-year business plan. The human resource and financial experts give their guidelines applicable to this plan.

4.2 The cross-functional team performs a needs analysis to determine the total needs required to support the multi-year business plan. The activities within the cross-functional team may be divided and the whole team need not perform all activities together. The needs analysis may include the under mentioned activities:

4.2.1 Understanding the future needs in terms of quantity and specification. Forecasting techniques may be utilised in order to determine quantities required should this be warranted by the size and the quantity of the requirement of the JGDM.
4.2.2 Frequency of the needs.
4.2.3 Critical delivery dates.
4.2.4 Budgetary requirements.
4.2.5 Planning for Information Technology requirements.
4.2.6 Linking the requirements with the baseline allocations over the next 3-year period.
4.2.7 Undertaking an expenditure analysis (based on past expenditures);
4.2.8 Compiling of specifications;
4.2.9 Undertaking a commodity analysis (checking for alternatives);
4.2.10 Undertaking a market/industry analysis; and
4.2.11 Providing regular feedback to and from the roleplayers.

(5) At the end of each financial year after budget has been approved for the next financial year, the municipality will develop a Demand Management Plan (Procurement Plan) for the coming financial year which will outline all procurement to be done by the municipality in that financial year, with quarterly reviews.

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

18. In order to achieve the objectives as stated in Chapter 1 of the Policy, 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.

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.

CHAPTER 5
ACQUISITION MANAGEMENT

System of acquisition management

19. (1) The accounting officer must establish, through operational procedures, an effective system of acquisition management in order to ensure –

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

(2) This supply chain management policy, except where provided otherwise in the policy, does not apply in respect of the procurement of goods and services contemplated in section 110(2) of the Act, including –

(a) water from the Department of Water Affairs or a public entity, another municipality or a municipal entity; and
(b) electricity from Eskom or another public entity, another municipality or a municipal entity.
(c) fuel and diesel
(d) media advertising
(e) courier services
(f) motor vehicle repairs and servicing by an approved corresponding dealer
(g) membership fees for registration to professional bodies

(3) The following information must be made public wherever goods or services contemplated in section 110(2) of the Act are procured other than through the supply chain management system –

(a) disclose the description of goods or services; and
(b) disclose the name of the supplier.

20. Range of procurement processes

STRUCTURE OF APPROVAL		
GOODS/SERVICE VALUE	**PROCUREMENT METHOD MINIMUM**	**APPROVAL AUTHORITY**
R0 – R2 000	One Quote	Head: SCM
R2 001 – R10 000	Three Quotations	Head: SCM
R10 001 – R30 000	Three Quotations	Head: SCM
R30 001 – R200 000	1 Week Bulletin Notice and Advertisement via Website : Three Quotations	This level of approval will be applied in terms of the Accounting Officer's delegation (See Delegation Policy).
R200 001 – R2 Million	Competitive Bidding Process	Bid Adjudication Committee
R2 Million – R10 Million	Competitive Bidding Process	Bid Adjudication Committee
Above R10 Million	Competitive Bidding Process	Accounting Officer

(1) The procurement of goods and services through this policy is provided by way of –

(a) petty cash purchases, up to a transaction value of R2 000 (VAT included);
(b) written or verbal quotations for procurements of a transaction value over R2 000 up to R10 000 (VAT included);
(c) formal written price quotations for procurements of a transaction value over R10 000 up to R200 000 (VAT included); and
(d) a competitive bidding process for–

(i) procurements above a transaction value of R200 000 (VAT included); and
(ii) the procurement of long term contracts.

(2) The accounting officer may in writing -

(a) lower, but not increase, the different threshold values specified in subsection (1); 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.

(3) Goods or services may not deliberately be split into parts or items of a lesser value merely to avoid complying with the requirements of the policy. When determining transaction values, a requirement for goods or services consisting of different parts or items must as far as possible be treated and dealt with as a single transaction.

General preconditions for consideration of written quotations or bids

21. (1) The following general rules will apply for acquisition of goods and services using a quotation method –

(a) The SCM Unit shall be solely responsible for sourcing quotations from prospective providers who are registered on the database of accredited prospective providers, in the relevant category and region.

(b) The request for quotation must indicate –

a. the closing date and time,
b. the address to where it must be submitted,
c. the validity period, and
d. the address where the supplies or services must be delivered or rendered

(c) Where no suitable or sufficiently suitable providers are available from the list, other possible unlisted providers may be contacted to solicit quotations from them, provided that such providers meet the listing criteria as outlined in section (22) of this policy

(2) A written quotation or bid may not be considered unless the provider who submitted the quotation or bid –

(a) has furnished that provider's –

(i) full name;
(ii) identification number or company or other registration number; and
(iii) tax reference number and VAT registration number, if any;

(b) has submitted a valid tax clearance certificate and has authorised JGDM to obtain a tax clearance from the South African Revenue Services that the provider's tax matters are in order; and

(c) 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.

Lists of accredited prospective providers

22. (1) The accounting officer must –
  (a) keep a list of accredited prospective providers of goods and services that must be used for the procurement requirements of the JGDM through written or verbal quotations and formal written price quotations; and
  (b) at least once a year through newspapers commonly circulating locally, the website and any other appropriate ways, invite prospective providers of goods or services to apply for evaluation and listing as accredited prospective providers;
  (c) specify the listing criteria for accredited prospective providers; and
  (d) disallow the listing of any prospective provider whose name appears on the National Treasury's database as a person prohibited from doing business with the public sector.

(2) The list must be updated at least quarterly to include any additional prospective providers and any new commodities or types of services. Prospective providers must be allowed to submit applications for listing at any time.
(3) The list must be compiled per commodity and per type of service.

Petty cash purchases

23. The accounting officer must establish the conditions for the procurement of goods by means of petty cash purchases referred to in section 19 (1) (a) of this policy, which must include conditions –

(a) determining the terms on which a manager may delegate responsibility for petty cash to an official reporting to the manager;
(b) limiting the number of petty cash purchases or the maximum amounts per month for each manager;
(c) excluding any types of expenditure from petty cash purchases, where this is considered necessary; and
(d) requiring monthly reconciliation reports from each manager to the chief financial officer, including –
    (i) the total amount of petty cash purchases for that month; and
    (ii) receipts and appropriate documents for each purchase.

Written or verbal quotations

24. The accounting officer must establish the conditions for the procurement of goods or services through written or verbal quotations, which must include conditions stating –

(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 prospective providers of the municipality or municipal entity, provided that if quotations are obtained from providers who are not listed, such providers must meet the listing criteria in the supply chain management policy required by section 21(1)(c) and (d) of this policy;
(b) that, to the extent feasible, providers must be requested to submit such quotations in writing;
(d) that if it is not possible to obtain at least three quotations, the reasons must be recorded and reported quarterly to the accounting officer or another official designated by the accounting officer;
(e) that the accounting officer must record the names of the potential providers requested to provide such quotations with their quoted prices; and
(f) that if a quotation was submitted verbally, the order may be placed only against written confirmation by the selected provider.

Formal written price quotations

25. (1) 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) that quotations must be obtained in writing from at least three different providers whose names appear on the list of accredited prospective providers of the municipality;
(b) that quotations may be obtained from providers who are not listed, provided that such providers meet the listing criteria in the supply chain management policy required by section 21(1)(c) and (d);
(c) that if it is not possible to obtain at least three quotations, the reasons must be recorded and approved by the chief financial officer or an official designated by the chief financial officer, and
(d) that the accounting officer must record the names of the potential providers and their written quotations.

(2) A designated official referred to in subsection (1)(c) must within three days of the end of each month report to the chief financial officer on any approvals given during that month by that official in terms of that subsection.

Procedures for procuring goods or services through written or verbal quotations and formal written price quotations

26. (1) The accounting officer must determine the operational procedure for the procurement of goods or services through written or verbal quotations or formal written price quotations, which must stipulate–

(a) that all requirements in excess of R30 000 (VAT included) that are to be procured by means of formal written price quotations must, in addition to the requirements of section 24, be advertised for at least seven days on the website and an official notice board of the municipality;
(b) that when using the list of accredited prospective providers and applying section 19 (2) of this policy, the accounting officer must promote ongoing competition amongst providers, including by inviting providers to submit quotations on a rotation basis;
(c) that the accounting officer must take all reasonable steps to ensure that the procurement of goods and services through written or verbal quotations or formal written price quotations is not abused;
(d) that the accounting officer or chief financial officer must on a monthly basis be notified in writing of all written or verbal quotations and formal written price quotations accepted by an official acting in terms of a sub-delegation, and;
(e) requirements for proper record keeping.

(2) With regards 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 Head of Supply Chain Management;
(b) the procurement of goods and services between R30 001 and R200 000 falls within the scope of the Chief Financial Officer;
(c) all formal quotations for goods and services between R30 001 and R200 000 will be evaluated by the Procurement Committee, recommended by the Head of SCM and approved by the Chief Financial Officer.

(3) For purposes of the procurement of goods and services in terms of sub-section 2 -

(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 Chapter 1

(b) the municipality shall establish a database of service providers and suppliers which must be updated annually whereupon preferred service providers and suppliers will be selected in terms of the empowerment goals set out in chapter 1.

(c) One database shall be established in terms of subsection 3 (b)

(d) In order to be considered for listing on the database referred to in subsection (c), a service provider or supplier must produce proof of compliance with the following prerequisites :

(i) good standing in respect of :

(aa) Municipal levies where they are operating their Head Office and Eastern Cape Office, if it differs from Head Office; and,

(bb) VAT and Income Tax; and,

(ii) proof of offices located within the jurisdiction of the JGDM;

(iii) company registration in terms of the Companies Act, 1973; and,

(iv) registration with a professional body, where relevant;

(e) the supply chain management policy unit must submit a quarterly report, including an analysis of the achievement of set goals.

(i) the following prerequisites will apply in order to be considered for selection to be placed on the database:

(aa) current original certificate of good standing in terms of VAT/Income Tax.

(bb) if offices are in the jurisdiction of the JGDM, proof should be attached.

(cc) company registration with the registrar of businesses.

(dd) professional registration with a professional body where required.

Competitive bidding process

27. (1) Goods or services above a transaction value of R200 000 (VAT included) and long term contracts may only be procured through a competitive bidding process, subject to section 18 (2) of this policy.

(2) No requirement for goods or services above an estimated transaction value of R200 000 (VAT included), may deliberately be split into parts or items of lesser value merely for the sake of procuring the goods or services otherwise than through a competitive bidding process.

Process for competitive bidding

28. The accounting officer must establish procedures for a competitive bidding process for each of the following stages:

(a) the compilation of bidding documentation;
(b) the public invitation of bids;
(c) site meetings or briefing sessions, if applicable;
(d) the handling of bids submitted in response to public invitation;
(e) the pre evaluation and evaluation of bids;
(f) the award of contracts;
(g) the administration of contracts; and
(h) proper record keeping.

Bid documentation for competitive bids

29. The accounting officer must establish the criteria to which bid documentation for a competitive bidding process must comply, which in addition to section 20 of this policy, the bid documentation must –

(a) take into account –

(i) the general conditions of contract;
(ii) any Treasury guidelines on bid documentation; and
(iii) the requirements of the Construction Industry Development Board, in the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure;

(b) include evaluation and adjudication criteria, including any criteria required by other applicable legislation;
(c) compel bidders to declare any conflict of interest they may have in the transaction for which the bid is submitted;
(d) if the value of the transaction is expected to exceed R10 million (VAT included), require bidders to furnish–

(i) if the bidder is required by law to prepare annual financial statements for auditing, their audited annual financial statements –

(aa) for the past three years; or
(bb) since their establishment if established during the past three years;

(ii) a certificate signed by the bidder certifying that the bidder has no undisputed commitments for municipal services towards a municipality or other service provider in respect of which payment is overdue for more than 30 days;
(iii) particulars of any contracts awarded to the bidder by an organ of state during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract;
(iv) a statement indicating whether any portion of the goods or services are expected to be sourced from outside the Republic, and, if so, what portion and whether any portion of payment from the municipality is expected to be transferred out of the Republic; and
(v) 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.

Public invitation for competitive bids

30. (1) The accounting officer must determine the procedure for the invitation of competitive bids, which must stipulate that:

(a) Any invitation to prospective providers to submit bids must be by means of a public advertisement in newspapers commonly circulating locally, the website of the municipality or any other appropriate ways (which may include an advertisement in the Government Tender Bulletin); and

(b) the information contained in a public advertisement, must include –

(i) the closure date for the submission of bids, which may not be less than 30 days in the case of transactions over R10 million (VAT included), or which are of a long term nature, or 14 days in any other case, from the date on which the advertisement is placed in a newspaper, subject to subsection (2) of this policy; and

(ii) a statement that bids may only be submitted on the bid documentation provided by the municipality.

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

(3) Bids submitted must be sealed.

(4) Where bids are requested in electronic format, such bids must be supplemented by sealed hard copies.

(c) long term projects with a duration period exceeding three years.

(2) In the first stage technical proposals on conceptual design or performance specifications should be invited, subject to technical as well as commercial clarifications and adjustments.

(3) In the second stage final technical proposals and priced bids should be invited.

Committee system for competitive bids

34. (1) 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.

(d) committee members will be appointed for a period of six months after which the accounting officer will review the membership of these committees

(2) The committee system must be consistent with –

(a) sections 34, 35 and 36 of this policy; and
(b) any other applicable legislation.

(3) The accounting officer may apply the committee system to formal written price quotations.

Bid specification committees

35. (1) The bid specification committee must compile the specifications for each procurement of goods or services by the municipality.

(2) Specifications –

(a) must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services;
(b) must take account of any accepted standards such as those issued by Standards South Africa, the International Standards Organisation, or an authority accredited or recognised by the South African National Accreditation System with which the equipment or material or workmanship should comply;
(c) where possible, be described in terms of performance required rather than in terms of descriptive characteristics for design;
(d) may not create trade barriers in contract requirements in the forms of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labeling of conformity certification;
(e) may not make reference to any particular trade mark, name, patent, design, type, specific origin or producer unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the 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 29 of this policy.

(3) The bid specification committee must be composed of one or more officials of the municipality, preferably the manager responsible for the function involved, and may, when appropriate, include external specialist advisors.

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

Bid evaluation committees

36. (1) The bid evaluation committee must –

(a) evaluate bids in accordance with –

(i) the specifications for a specific procurement; and
(ii) the points system set out in terms of 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 for more than three (3) months;
(d) submit to the adjudication committee a report and recommendations regarding the award of the bid or any other related matter.

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

(a) officials (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.

(3) Subject to subsection (2):

(a) the composition of the bid evaluation committee may change to accommodate different scenarios;
(b) members from the bid specification committee may also form part of the bid evaluation committee; and
(c) a member from the bid evaluation committee may present reports to the bid adjudication committee, but only for that purpose.

Bid adjudication committees

37. (1) The bid adjudication committee must –

(a) consider the report and recommendations of the bid evaluation committee; and

(b) either –

(i) depending on its delegations, make a final award or a recommendation to the accounting officer to make the final award; or

(ii) make another recommendation to the accounting officer how to proceed with the relevant procurement.

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

(i) the chief financial officer or, if the chief financial officer is not available, another manager in the budget and treasury office reporting directly to the chief financial officer and designated by the chief financial officer;

(ii) the senior manager responsible for the bid or another manager reporting directly to that senior manager;

(ii) at least one senior supply chain management practitioner who is an official of the municipality; and

(iii) a technical expert in the relevant field who is an official, if such an expert exists.

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

(3) The Bid Evaluation and Adjudication Committees cannot undertake business without a quorum present, consisting of at least 51% of its total membership with voting power (rounded to the nearest whole number).

(4) Neither a member of a bid evaluation committee, nor an advisor or person assisting the evaluation committee, may be a member of a bid adjudication committee.

(5) (a) If the bid adjudication committee decides to award a bid other than the one recommended by the bid evaluation

committee, the bid adjudication committee must prior to awarding the bid –

(i) check in respect of the preferred bidder whether that bidder's municipal rates and taxes and municipal service charges are not in arrears, and;

(ii) notify the accounting officer.

(b) The accounting officer may –

(i) after due consideration of the reasons for the deviation, ratify or reject the decision of the bid adjudication committee referred to in 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.

(6) The accounting officer may at any stage of a bidding process, refer any recommendation made by the evaluation committee or the adjudication committee back to that committee for reconsideration of the recommendation.

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

Evaluation panel

38. In respect of functionality, with regard to professional services, the accounting officer may evaluate each technical bid/proposal using an evaluation panel consisting of three or more specialists in their field of expertise. In view of impartiality, members of bid committees in respect of the bid under consideration should not act as panel members. The Supply Chain Management bid administration personnel together with the end-user representative will perform pre-evaluation of bids prior to bids being evaluated by the Bid Evaluation Committee.

Bid administration section

39. (1) The accounting officer shall establish a bid administration section in the SCM unit of the municipality to handle all the administrative tasks pertaining to the bidding process.

(2) The duties of the officials in this section shall entail, inter alia:

(a) the invitation for bids;
(b) the opening of bids on the closing date;
(c) the processing of the bid documents;
(d) consultation; and,
(e) the submission of a recommendation by the bid evaluation committee to the bid adjudication committee.

Advisors

40. The accounting officer may procure the services of advisors to assist in the execution of the supply chain management function. In this regard:

(a) these services must be obtained through a competitive bidding process;
(b) no advisor may, participate in the final decision-making process regarding the award of bids; and,
(c) the accounting officer may not delegate decision-making authority to an advisor.
(d) to manage the risk of collusion a Consultant assisting with Terms of Reference may not assist with evaluation of Bids.

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

41. The 80/20 preference point system

(1) (a) The following formula must be used to calculate the points for price in respect of bids (including formal price quotations) with a Rand value equal to, or above R 30 000 and up to a Rand value of R1 000 000 (all applicable taxes included):

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

Where:
Ps = Points scored for comparative price of bid under consideration
Pt = Comparative price of bid under consideration
Pmin = Comparative price of the lowest acceptable bid

(b) Organs of state may apply the formula in paragraph (a) for price quotations with a value less than R 30 000, if and when appropriate.

(2) Subject to sub-section (3), points must be awarded to a bidder for attaining the B-BBEE status level of contributor in accordance with the table below:

B-BBEE Status Level of Contributor	**Number of points (80/20 system)**
1	20
2	18
3	16
4	12
5	8
6	6
7	4
8	2
Non- compliant contributor	0

(3) A maximum of 20 points may be allocated in accordance with sub-section (2).

(4) The points scored by a bidder in respect of B-BBEE contribution contemplated in sub-section (2) must be added to the points scored for price as calculated in accordance with sub-section (1).

(5) Subject to section 47, the contract must be awarded to the bidder who scores the highest total number of points.

42. The 90/10 preference point system

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

$$Ps = 90\left(1 - \frac{Pt - P\min}{P\min}\right)$$

Where:
Ps = Points scored for comparative price of bid under consideration
Pt = Comparative price of bid under consideration
Pmin = Comparative price of the lowest acceptable bid

(2) Subject to sub-section (3), points must be awarded to a bidder for attaining their B-BBEE status level of contributor in accordance with the table below:

B-BBEE Status Level of Contributor	**Number of points (90/10 system)**
1	**10**
2	**9**
3	**8**
4	**5**
5	**4**
6	**3**
7	**2**
8	**1**
Non- compliant contributor	**0**

(3) A maximum of 10 points may be allocated in accordance with sub-section (2).

(4) The points scored by a bidder in respect of the level of B-BBEE contribution contemplated in sub-section (2) must be added to the points scored for price as calculated in accordance with sub-section (1).

(5) Subject to section 47, the contract must be awarded to the bidder who scores the highest total number of points.

43. 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 R1 000 000 and which relate to the sale and letting of assets.

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

Where

Ps = Points scored for price of bid under consideration

Pt = Rand value of bid under consideration

Ph = Rand value of highest acceptable bid

(2) A maximum of 20 points may be awarded to a bidder for level of B-BBEE contribution.

(3) The points scored by a bidder in respect of the goals specified in terms of the Preferential Procurement Regulations, 2011 must be added to the points scored for price.

(4) Only the bid with the highest number of points scored may be selected.

44. The 90/10 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 above R1 000 000 and which relate to the sale and letting of assets:

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

Where

Ps = Points scored for price of bid under consideration

Pt = Rand value of bid under consideration

Ph = Rand value of highest acceptable bid

(2) A maximum of 10 points may be awarded to a bidder for level of B-BBEE contribution.

(3) The points scored by a bidder in respect of the goals specified in terms of the Preferential Procurement Regulations, 2011 must be added to the points scored for price.

(4) Only the bid with the highest number of points scored may be selected.

Stipulation of preference point system to be used

45. 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

46. (1) The municipality must, on the bid documents, indicate if, in respect of a particular bid invitation, bids will be evaluated on functionality and price.

(2) When evaluating the bids contemplated in this item, the points for functionality must be calculated for each individual bidder.

(3) The conditions of bid may stipulate that a bidder must score a specified minimum number of points for functionality to qualify for further adjudication.

(4) 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 price contemplated in this section, be established and be calculated in accordance with the provisions of sections 41 and 42.

(5) Preferences for achieving a BBBEE status level of contributor must be calculated separately and must be added to the points scored for price.

(6) Only the bid with the highest number of points scored may be selected.

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

47. Despite subsections 41(4), 42(4), 43(4), 44(4) and 46(8), a contract may, on reasonable and justifiable grounds, be awarded to a bidder that did not score the highest total number of points, only in accordance with section 2 (1) (f) of the Act.

Cancellation and re-invitation of bids

48. (1) 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 R1 000 000, the bid invitation must be cancelled. If one or more of the acceptable bids received are within the prescribed threshold of R 1 000 000, all bids received must be evaluated on the 80/20 preference point system.

(2) 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 R 1 000 000, the bid must be cancelled. If one or more of the acceptable bids received are above the prescribed threshold of R 1 000 000, all bids received must be evaluated on the 90/10 preference point system.

(3) When the municipality cancels a bid invitation as stated above, a re-invitation of bids will be published and the bid document must stipulate the correct preference point system to be applied.

(4) 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.

(5) The decision to cancel a bid in terms of sub-regulation (4) must be published in the *Government Bid Bulletin* or the media in which the original bid invitation was advertised.

General Conditions

49. (1) Only a bidder who has completed and signed the declaration part of the bid documentation may be considered for preference points.

(2) 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.

(3) The municipality must, when calculating comparative prices, take into account any discounts which have been offered unconditionally.

(4) A discount which has been offered conditionally must, despite not being taken into account for evaluation purposes, be implemented when payment is effected.

(5) In the event that different prices are tendered for different periods of a contract, the price for each period must be regarded as a firm price if it conforms to the definition of a "firm price".

(6) Points scored, must be rounded off to the nearest 2 decimals.

(7) the event that two or more tenders have scored equal total points, the successful tender must be the one scoring the highest number of preference points for B-BBEE.

(8) However, when functionality is part of the evaluation process and two or more tenders have scored equal points including equal preference points for B-BBEE, the successful tender must be the one scoring the highest score for functionality.

(9) Should two or more tenders be equal in all respects, the award shall be decided by the drawing of lots.

(10) A trust, consortium or joint venture will qualify for points for their B-BBEE status level as a legal entity, provided that the entity submits their B-BBEE status level certificate.

(11) A trust, consortium or joint venture will qualify for points for their B-BBEE status level as an unincorporated entity, provided that the entity submits their consolidated B-BBEE scorecard as if they were a group structure and that such a consolidated B-BBEE scorecard is prepared for every separate tender.

Principles

50. (1) Subject to sections 47 and 48, the contract must be awarded to the bid which scores the highest points.

(2) A person awarded a contract, may not subcontract more than 25% of the value of the contract.

Declarations

51. A bidder must, in the stipulated manner, declare that-

(a) the information provided is true and correct;

(b) the signatory to the bid document is duly authorized; and

(c) documentary proof regarding any bid will, when required, be submitted to the satisfaction of the municipality.

Specific goals

52. (1) Over and above the awarding of preference points in line with BBBEE status level of contributor, the following activities may be regarded as a contribution towards achieving the goals contemplated in terms of the Preferential Procurement Policy Framework Act, 2000, Preferential Procurement Regulations, 2011:

(a) The promotion of South African owned enterprises;

(b) The promotion of export orientated production to create jobs;

(c) The promotion of SMME's;

(d) The creation of new jobs or the intensification of labour absorption;

(e) The promotion of enterprises located in the Eastern Cape Province for work to be done or services to be rendered in the aforesaid province;

(f) The promotion of enterprises located within the jurisdiction of the JGDM for work to be done or services to be rendered within the aforesaid jurisdiction;

(g) The promotion of enterprises located in a specific municipal area for work to be done or services to be rendered in that municipal area;

(h) The promotion of enterprises located in rural areas;

(i) The empowerment of the work force by standardizing the level of skill and knowledge of workers;

Procurement of banking services

53. (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.

(3) The closure date for the submission of bids may not be less than 60 days from the date on which the advertisement is placed in a newspaper in terms of section 29(1). Bids must be restricted to banks registered in terms of the Banks Act, 1990 (Act No. 94 of 1990).

Procurement of IT related goods or services

54. (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 disagrees with such comments, the comments and the reasons for rejecting or not following such comments must be submitted to the council, the National Treasury, the provincial treasury and the Auditor General.

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

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

(a) the contract has been secured by that other organ of state by means of a competitive bidding process applicable to that organ of state;

(b) there is no reason to believe that such contract was not validly procured;

(c) there are demonstrable discounts or benefits to do so; and

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

(2) Subsections (1)(c) and (d) do not apply if the municipality procures goods or services through a contract secured by a municipal entity of which it is the parent municipality.

Procurement of goods necessitating special safety arrangements

56. (1) The acquisition and storage of goods in bulk (other than water) which necessitate special safety arrangements, including gases and fuel, should be avoided where ever possible.

(2) Where the storage of goods in bulk is justified, such justification must be based on sound reasons, including the total cost of ownership, cost advantages and environmental impact and must be approved by the accounting officer.

Proudly SA Campaign

57. The accounting officer must determine internal operating procedures supporting the Proudly SA Campaign to the extent that preference is given, in the following order, to procuring local goods and services from suppliers and businesses located:

(a) within the jurisdiction of the JGDM;
(b) within the Eastern Cape Province;
(c) within the RSA.

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

58. (1) The accounting officer may –

(a) dispense with the official procurement processes established by this policy and to procure any required goods or services through any convenient process, which may include direct negotiations, but only –

(i) in an emergency;
(ii) if such goods or services are produced or available from a single provider only;
(iii) for the acquisition of special works of art or historical objects where specifications are difficult to compile;

(iv) acquisition of animals for zoos, 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 subsections 58 (1) (a) and (b) of this policy and report them to the next meeting of the council and include as a note to the annual financial statements.

(3) Subsection (2) does not apply to the procurement of goods and services contemplated in section 18(2) of this policy.

Unsolicited bids

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

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

(a) the product or service offered in terms of the bid is a demonstrably or proven unique innovative concept;

(b) the product or service will be exceptionally beneficial to, or have exceptional cost advantages for, the municipality;

(c) the person who made the bid is the sole provider of the product or service; and

(d) the reasons for not going through the normal bidding processes are found to be sound by the accounting officer.

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

(a) reasons as to why the bid should not be open to other competitors;

(b) an explanation of the potential benefits if the unsolicited bid were accepted; and

(c) an invitation to the public or other potential suppliers to submit their comments within 30 days of the notice.

(4) All written comments received pursuant to subsection (3), including any responses from the unsolicited bidder, must be submitted to the National Treasury and the relevant provincial treasury for comment.

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

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

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

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

(8) If any recommendations of the National Treasury or provincial treasury are rejected or not followed, the accounting officer must submit to the Auditor General, the relevant provincial treasury and the National Treasury the reasons for rejecting or not following those recommendations.

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

CHAPTER 6
APPOINTMENT OF CONSULTANTS

60. Introduction

The purpose of this section is to explain the procedures for selecting, contracting, and monitoring consultants required for projects. In general, the procedures described in the previous sections apply. Only the peculiarities of appointing consultants are dealt with herein, as the services to which these procedures apply are of an intellectual and advisory nature.

Where a conflict in interpretation or application arises between the contents of this chapter and the provisions contained elsewhere in this policy, the latter shall prevail.

61. Consultants Defined

The term consultants includes consulting firms, engineering firms, construction managers, management firms, procurement agents, inspection agents, auditors, other multinational organizations, investment and merchant banks, universities, research agencies, government agencies, non-governmental organizations (NGO's), and individuals. Accounting officers may use these organizations as consultants to help in a wide range of activities such as policy advice, accounting officer's/authority's reform management, engineering services, construction supervision, financial services, procurement services, social and environmental studies, and identification, preparation, and implementation of projects to complement accounting officers' capabilities in these area.

62. Need for appointment

Consultants should only be engaged when

(a) the necessary skills and/or resources to perform a project/duty/study are not available; and
(b) the accounting officer cannot be reasonably expected either to train or to recruit people in the time available.

63. Nature of Appointment

(1) Appointment by means of a formal contract

The relationship between the accounting officer and the consultant should be one of purchaser/provider and not employer/employee. The work undertaken for the accounting officer by a consultant should be regulated by a contract.

In procuring consulting services the accounting officer should satisfy himself/herself that

(a) the procedures to be used will result in the selection of consultants who have the necessary professional qualifications;

(b) the selected consultant will carry out the assignment in accordance with the agreed schedule, and

(c) the scope of the services is consistent with the needs of the project.

(2) Selection methods for the appointment of consultants

The accounting officer should be responsible for preparing and implementing the project, for selecting the consultant, awarding and subsequently administering the contract, as well as for the payment of consulting services under the project.

While the specific rules and procedures to be followed for employing consultants depend on the circumstances of the particular case, at least the following four major considerations should guide the accounting officer on the selection process:

(a) the need for high-quality services;
(b) the need for economy and efficiency;
(c) the need to give qualified consultants an opportunity to compete in providing the services; and
(d) the importance of transparency in the selection process.

The particular method to be followed for the selection of consultants for any given project should be selected by the accounting officer in accordance with the criteria outlined in the Guide for accounting officers/authorities.

The method selection is determined by the scope of the assignment, the quality of service, the complexity of the assignment and whether assignments are of a standard and routine nature.

The following are the methods most generally used for the appointment of consultants:

(i) Quality and Cost Based Selection (QCBS)

In the majority of cases, the abovementioned major considerations can best be addressed through competition among firms in which the selection is based both on the quality of the services to be rendered and on the cost of the services to be provided, i.e. Quality and Cost-Based Selection (QCBS). This method is used in the event of an assignment not complex or specialized.

Cost as a factor of selection should be used judiciously.

The relative weight to be given to the quality and cost should be determined for each case depending on the nature of the assignment.

Investment and commercial banks, financial firms, and fund managers hired by accounting officer for the sale of assets, issuance of financial instruments, and other corporate financial transactions, notably in the context of privatization operations, should be selected under QCBS.

Auditors typically carry out auditing tasks under well-defined TOR and professional standards. They should be selected according to QCBS, with cost as a substantial selection factor (40-50 points), or by the "Least Cost Selection" outlined in paragraph 4.2.4. When consultants are appointed to execute an audit function on behalf of the accounting officer, the tariffs agreed by the Auditor-General and the South African Institute for Chartered Accountants (SAICA) may be used as a guideline to determine the appropriate tariff or to, determine the reasonableness of the tariffs. These tariffs can be obtained from SAICA's website under www.saica.co.za. The tariffs are captured in a circular issued by SAICA.

In some circumstances, QCBS is not the most appropriate method for selecting consultants, and other methods are more appropriate. This section describes other selection methods and the circumstances under which they are generally appropriate.

(ii) Quality Based Selection (QBS)

(aa) QBS is appropriate for the following types of assignments:

(aaa) Complex or highly specialized assignments for which consultants are expected to demonstrate innovation in their proposals (for example, financial sector reforms) for which it is difficult to define TOR and the required input from the consultants, and for which the client expects the consultants to demonstrate innovation in their proposals (for example, country economic or sector studies, multi-sectoral feasibility studies, design of a hazardous waste remediation plant or of an urban master plan, financial sector reforms);

(bbb) Assignments that have a high downstream impact and in which the objective is to have the best experts (for example, feasibility and structural engineering design of such major infrastructure as large dams, policy studies of national significance, management studies of large government agencies); and

(ccc) Assignments that can be carried out in substantially different ways, such that proposals will not be comparable (for example, management advice, and sector and policy studies in which the value of the services depends on the quality of the analysis).

(bb) In QBS, the RFP may request submission of a technical proposal only (without the financial proposal), or request submission of both technical and financial proposals at the same time, but in separate envelopes (two-envelope system). The RFP should not provide the estimated budget, but it may provide the estimated number of key staff time, specify that this information is given as an indication only, and that consultants should be free to propose their own estimates.

(cc) If technical proposals alone were invited, after evaluating the technical proposals using the same methodology as in QCBS, the accounting officer should request the consultant with the highest ranked technical proposal to submit a detailed financial proposal. The accounting officer and the consultant should then negotiate the financial proposal and the contract. All other aspects of the selection process should be identical to those of QCBS. If, however, consultants were requested to provide financial proposals initially together with the technical proposals, safeguards should be built in to ensure that the price envelope of only the selected proposal is opened and the rest returned unopened, after the negotiations are successfully concluded.

(iii) Selection under a fixed budget

The method is appropriate only when the assignment is simple and can be precisely defined and when the budget is fixed. The RFP should indicate the available budget and request the consultants to provide their best technical and financial proposals in separate envelopes, within the budget. The TOR should be particularly well prepared to ensure that the budget is sufficient for the consultants to perform the expected tasks. Evaluation of all technical proposals should be carried out first as in the QCBS method where after the price envelopes should be opened in public. Proposals that exceed the indicated budget should be rejected. The consultant who has submitted the highest ranked technical proposal should be selected and invited to negotiate a contract.

(iv) Least-cost selection

This method is more appropriate to selection of consultants for assignments of a standard or routine nature (audits, engineering design of noncomplex works, and so forth) where well-established practices and standards exist, and in which the contract amount is small. Under this method, a "minimum" qualifying mark for the "functionality" is established. Proposals to be submitted in two envelopes are invited. Potential suppliers may be obtained from the list of approved service providers. Technical envelopes are opened first and evaluated. Those securing less than the minimum mark should be rejected and the financial envelopes of the rest are opened in public.

The firm with the highest points should then be selected. Under this method, the qualifying minimum mark should be established, keeping in view that all proposals above the minimum compete only on "cost" and promotion of HDI's and RDP objectives. The minimum mark to qualify should be stated in the RFP.

(v) Single-source selection

(aa) Single-source selection of consultants does not provide the benefits of competition in regard to quality and cost and lacks transparency in selection, and could encourage unacceptable practices. Therefore, single-source selection should be used only in exceptional cases. The justification for single-source selection should be examined in the context of the overall interests of the client and the project.

(bb) Single-source selection may be appropriate only if it presents a clear advantage over competition

(aaa) for tasks that represent a natural continuation of previous work carried out by the firm [see paragraph (iii) below];
(bbb) where rapid selection is essential (for example, in an emergency operation);
(ccc) for very small assignments; or
(ddd) when only one firm is qualified or has experience of exceptional worth for the assignment.

(cc) The reasons for a single-source selection must be recorded and approved by the accounting officer or his/her delegate prior to the conclusion of a contract.

(dd) When continuity for downstream work is essential, the initial RFP should outline this prospect and if practical, the factors used for the selection of the consultant should take the likelihood of continuation into account. Continuity in the technical approach, experience acquired, and continued professional liability of the same consultant may make continuation with the initial consultant preferable to a new competition, subject to satisfactory performance in the initial assignment. For such downstream assignments, the accounting officer should ask the initially selected consultant to prepare technical and financial proposals on the basis of TOR furnished by the accounting officer, which should then be negotiated.

(ee) If the initial assignment was not awarded on a competitive basis or was awarded under tied financing or reserved procurement or if the downstream assignment is substantially larger in value, a competitive process acceptable to the accounting officer should normally be followed in which the consultant carrying out the initial work is not excluded from the consideration if it expresses interest.

(vi) Selection based on consultants' qualifications

This method may be used for very small assignments for which the need for preparing and evaluating competitive proposals is not justified. In such cases, the accounting officer should prepare the TOR, request expressions of interest and information on the consultants' experience and competence relevant to the assignment and select the firm with the most appropriate qualifications and references. Potential suppliers may be obtained from the list of accredited service providers. The selected firm should be requested to submit a combined technical-financial proposal and then be invited to negotiate the contract.

(vii) Selection of individual consultants

(aa) Individual consultants may normally be employed on assignments for which

(aaa) teams of personnel are not required;
(bbb) no additional outside (home office) professional support is required; and
(ccc) the experience and qualifications of the individual are the paramount requirement.

(bb) When coordination, administration, or collective responsibility may become difficult because of the number of individuals, it would be advisable to employ a firm.

(cc) Individual consultants should be selected on the basis of their qualifications for the assignment. They may be selected on the basis of references or through comparison of qualifications among those expressing interest in the assignment or approached directly by the accounting officer. Individuals employed by the accounting officer should meet all relevant qualifications and should be fully capable of carrying out the assignment. Capability is judged on the basis of academic background, experience and, as appropriate, knowledge of the local conditions, such as local language, culture, administrative system, and local government environment.

(dd) From time to time, permanent staff or associates of a consulting firm may be available as individual consultants. In such cases, the conflict of interest provisions described in these guidelines should apply to the parent firm.

(viii) Selection of particular types of consultants

(aa) Use of Non-governmental Organisations (NGO's)

NGO's are voluntarily non-profit organizations that may be uniquely qualified to assist in the preparation, management, and implementation of projects, essentially because of their involvement and knowledge of local issues, community needs, and/or participatory approaches. NGO's may be included in the short list if they express interest and provided that the accounting officer is satisfied with their qualifications. For assignments that emphasise participation and considerable local knowledge, the short list may comprise entirely NGO's. If so, the QCBS procedure should be followed, and the evaluation criteria should reflect the unique qualifications of NGO's, such as voluntarism, non-profit status, local knowledge, scale of operation, and reputation. An accounting officer may select the NGO on a single-source basis, provided the criteria outlined for single-source selection are fulfilled.

(bb) Inspection agents

Accounting officers may wish to employ inspection agencies to inspect and certify goods prior to shipment or on arrival on the country. The inspection by such agencies usually covers the quality and quantity of the goods concerned and reasonableness of price. Inspection agencies should be registered with the South African National Accreditation System (SANAS) and the services of these inspection agents should be obtained by means of competitive bidding.

(cc) Banks

Investment and commercial banks, financial firms, and fund managers hired by accounting officers for the sale of assets, issuance of financial instruments and other corporate financial transactions, notably in the context of privatization operations, should be selected under QCBS. The RFP should specify selection criteria relevant to the activity – for example, experience in similar assignments or network of potential purchasers – and the cost of the services. In addition to the conventional remuneration (called a "retainer fee"), the compensation includes a "success fee." This fee can be fixed, but is usually expressed as a percentage of the value of the assets or other financial instruments to be sold. The RFP should indicate that the cost evaluation will take into the success fee, either in combination with the retainer fee or alone. If alone, a standard retainer fee should be prescribed for all short-listed consultants and indicated in the RFP, and the financial scores should be based on the success fee as a percentage of a pre-disclosed notional value of the assets. For the combined evaluation (notably for large contracts), cost may be accorded as weight higher or the selection may be based on cost alone among those who secure a minimum passing mark for the quality of the proposal. The RFP should specify clearly how proposals will be presented and how they will be compared.

(dd) Auditors

Auditors typically carry out auditing tasks under well-defined TOR and professional standards. They should be selected according to QCBS, with cost as a substantial selection factor (40-50 points), or by the "Least-Cost Selection." When consultants are appointed to execute an audit function on behalf of the accounting officer, the tariffs agreed by the Auditor-General and the South African Institute for Chartered Accountants (SAICA) may be used as a guideline to determine the appropriate tariff or to determine the reasonableness of the tariffs. These tariffs can be obtained from SAICA's website under www.saica.co.za. The tariffs are captured in a circular issued by SAICA.

(ee) "Service Delivery Contractors"

Projects in the social sectors in particular may involve hiring of large numbers of individuals who deliver services on a contract basis (for example, social workers, nurses and paramedics). The job descriptions, minimum qualifications, terms of employment and selection procedures should be described in the project documentation.

(ix) Association between consultants

Consultants may associate with each other to complement their respective areas of expertise, or for other reasons. Such an association may be for the long term (independent of any particular assignment) or for a specific assignment. The association may take the form of a joint venture or a sub-consultancy. In case of a joint venture, all members of the joint venture should sign the contract and are jointly and severally liable for the entire assignment. Once the bids or Requests for Proposals (RFP's) from service providers are issued, any association in the form of joint venture or sub-consultancy among firms should be permissible only with the approval of the accounting officer or his/her delegate. Accounting officers should not compel consultants to form associations with any specific firm or group of firms, but may encourage associations with the aim to enhance transfer of skills.

64. Invitation of Bids/Proposals, Using QCBS

Appointing consultants to assist accounting officers with the execution of their duties, implies the procurement of services. In all public sector procurement to the prescripts of the Preferential Procurement Regulations, 2001, must adhere to. These prescripts relate to the compulsory involvement of HDIs and the promotion of RDP goals.

(1) Request for bids

In the request for bids the following steps would generally be followed in appointing consultants where a clear Terms of Reference (TOR), including a detailed task directive has been compiled and the objectives, goals and scope of the assignment are clearly defined:

(a) Preparation of Terms of Reference (TOR)

(i) The accounting officer should prepare the TOR. The scope of services described should be compatible with the available budget. The TOR should define as clearly as possible the task directive (methodology), objectives, goals and scope of the assignment and provide background information (including a list of existing relevant studies and basic data) to facilitate the consultants' preparation of their bids.

(ii) If the assignment includes an important component for training or transfer of knowledge and skills, the TOR should indicate the objectives, nature, scope, and goals of the training programme, including details on trainers and trainees, skills to be transferred, time frames, and monitoring and evaluation arrangements to enable consultants to estimate the required resources. The TOR should list the services and surveys necessary to carry out the assignment and the expected outputs (for example reports, data, maps, surveys, etc), where applicable.

(iii) Time frames linked to various tasks should be specified, as well as the frequency of monitoring actions. The respective responsibilities of the accounting officer and the consultant should be clearly defined.

(iv) A clear indication should be given of which preference point system in terms of the PPPFA and its associated Regulations will be applicable as well as the goals to be achieved and the points allocated for these goals.

(v) Detailed information on the evaluation process should be provided by firstly indicating the ration of percentage between functionality and price. The percentage for price should be determined taking into account the complexity of the assignment and the relative importance of functionality. The percentage for price should normally be determined and approved by the accounting officer or his/her delegate prior to finalising the TOR.

(vi) The evaluation criteria, their respective weights, the minimum qualifying score for functionality and the values that will be applied for evaluation should be clearly indicated. The evaluation criteria should include at least the following:

(aa) Consultant's relevant experience relevant to the assignment;
(bb) The quality of the methodology;
(cc) The qualifications of key personnel; and
(dd) The transfer of knowledge (where applicable).

(vii) The accounting officer could divide these criteria into sub-criteria, for example, the sub-criteria under methodology might be innovation and level of detail. However, the number of sub-criteria should be kept to the essential.

(viii) Preparation of a well-thought-through cost estimate is essential if realistic budgetary resources are to be earmarked. The cost estimate should be based on the accounting officer's assessment of the resources needed to carry out the assignment such as staff time, logistical support and physical inputs (i.e. vehicles, laboratory equipment, etc). The cost of staff time be estimated on a realistic basis for foreign and local personnel.

(ix) The TOR should specify the validity period (normally 60 – 90 days).

(x) In more complicated projects provision may also be made for pre-bid briefing sessions as part of the evaluation process.

(xi) The TOR should form part of the standard bid documentation. At this stage the evaluation panel, consisting of least three members who are demographically representative in terms of race, gender and expertise, should also be selected and finalised.

(2) Request for proposals

This method should be followed where selection is based both on the quality of a proposal and on the cost of the service through competition among firms. This method will be applicable on more complex projects where consultants are requested and encouraged to propose their own methodology and to comment on the TOR in their proposals.

(a) Preparation and issuance of a Request for Proposal (RFP)

When possible, accounting officers should include at least the following documents in the RFP:

(i) **Letter of Invitation (LOI)**

The LOI should state the intention to enter into a contract for the provision of consulting services, the details of the client and the date, time and address for submission of proposals.

(ii) **Information to Consultants (ITC)**

Whenever possible, the accounting officer should use RFPs, which include the ITC covering the majority of assignments. The ITC should contain all necessary information that would assist consultants to prepare responsive proposals. It should be transparent and provide information on the evaluation process by indicating the evaluation criteria and factors and their respective weights and the minimum qualifying score that functionality. A clear indication should be given of which preference points system will be applicable in terms of the PPPFA and its regulations, as well as the goals to be targeted and the points allocated for each goal. The budget is not specified (since cost is selection criterion), but should indicated the expected input of key professionals (staff time). Consultants, however, should be free to prepare their own estimates of staff time necessary to carry out the assignment. The ITC should specify the proposal validity period (normally 60 – 90 days).

The ITC should include adequate information on the following aspects of the assignment:

(aa) a very brief description of the assignment;

(bb) standard formats for the technical and financial proposals;

(cc) the names and contact information of officials to whom clarifications should be addressed and with whom the consultants' representative should meet, if necessary;

(dd) details of the selection procedure to be followed, including:

(aaa) a description of the two-stage process, if appropriate;

(bbb) a listing of the technical evaluation criteria and weights given to each criterion;

(ccc) the details of the financial evaluation;

(ddd) the relative weights for quality and cost in the case of QCBS;

(eee) the minimum pass score for quality; and

(fff) the details on the public opening of financial proposals.

(ee) an estimate of the level of key staff inputs (in staff-months) required of the consultants; and indication of minimum experience, academic achievement, and so forth, expected of key staff or the total budget, if a given figure cannot be exceeded;

(ff) information on negotiations; and financial and other information that should be required of the selected firm during negotiation of the contract;

(gg) the deadline for submission of proposals;

(hh) a statement that the firm and any of its affiliates should be disqualified from providing downstream goods, works or services under the project if, in the accounting officer's judgement, such activities constitute a conflict of interest with the services provided under the assignment;

(ii) the method in which the proposal should be submitted, including the requirement that the technical proposals and price proposals be sealed and submitted separately in a manner that should ensure that the technical evaluation is not influenced by price;

(jj) request that the invited firm acknowledges receipt of the RFP and informs the accounting officer whether or not it will be submitting a proposal;

(kk) the short list of consultants being invited to submit proposals; and whether or not associations between short-listed consultants are acceptable;

(ll) the period for which the consultants' proposals should be held valid (normally 60 – 90 days) and during which the consultants should undertake to maintain, without change, the proposed key staff, and should hold to both the rates and total price proposed; in case of extension of the proposal validity period, the right of the consultants not to maintain their proposal;

(mm) the anticipated date on which the selected consultant should be expected to commence the assignment;

(nn) a statement indicating all prices should be VAT inclusive;

(oo) if not included in the TOR or in the draft contract, details of the services, facilities, equipment, and staff to be provided by the accounting officer;

(pp) phasing of the assignment, if appropriate; and likelihood of follow-up assignments;

(qq) the procedure to handle clarifications about the information given in the RFP; and

(rr) any conditions for subcontracting part of the assignment.

Notes:

(1) If under exceptional circumstances, the accounting officer needs to amend the standard ITC, it should do so through the

technical data sheet and not by amending the main text.

(2) Any granting of a substantial extension of the stipulated time for performance of a contract, agreeing to any substantial modification of the scope of the services, substituting key staff, waiving the conditions of a contract, or making any changes in the contract that would in aggregate increase the original amount of the contract by more than 15% percent, will be subject to the approval of the accounting officer or his/her delegate.

(iii) **The TOR**

The TOR should be compiled by a specialist in the area of the assignment and the scope of services described should be compatible with the available budget. The TOR should define as clearly as possible the objectives, goals and scope of the assignment including background information to facilitate the consultant in the preparation of its proposal. The TOR should be compiled in such a manner that consultants are able to propose their own methodology and staffing and be encouraged to comment on the TOR on their proposal.

Depending on the circumstances, it may be indicated that proposals should be submitted in two separate clearly marked envelopes, one containing the technical proposal and the other the cost for the assignment.

In cases where pre-qualification/short-listing is required, the TOR should indicate the basis of pre-qualification/short-listing, for instance the number of minimum points to be scored to pre-qualify.

(iv) **The proposed contract**

Accounting officers should use the appropriate Standard Form of Contract issued by the National Treasury. Any changes necessary to address specific project issues should be introduced through Contract

Data Sheets or through Special Conditions of Contract and not by introducing changes in the wording of the General Conditions of Contract included in the Standard Form. When these forms are not appropriate (for example, for pre-shipment inspection, training of students in universities), accounting officers should use other acceptable contract forms.

(3) Establishment of a list of approved service providers

(a) Where consultancy services are required on a recurring basis, a panel of consultants/list of approved service providers for the rendering of these services may be established. The panels/lists should be established through the competitive bidding process, usually for services that are of a routine or simple nature where the scope and content of the work to be done can be described in detail.

(b) The intention to establish a panel/list of approved service providers is published in the media and on the municipality's or municipal entity's website and the closing time and date for inclusion in the panel/list of approved service providers should be indicated. For this purpose, a questionnaire should be made available and should make provision for the following:

(i) composition of the firm in terms of shareholding;
(ii) personnel complement;
(iii) representation of expertise in respect of the disciplines required, e.g. accounting, legal, educational, engineering, computer, etc;
(iv) national/international acceptability of experts in the various professions;
(v) experience as reflected in projects already dealt with;
(vi) and financial position.

Requirements for admission to the list and criteria should be linked to the numeric value in terms of which applicants will be measured, for example qualifications, experience, acceptability, facilities and resources etc. A pre-determined standard method of awarding points should be followed.

(c) The applications received should be evaluated and any rejection of applicants should be motivated and recorded.

(d) Once the panel/list of service providers has been approved, only the successful applicants are approached, depending on the circumstances, either by obtaining quotes on a rotation basis, or according to the bid procedure when services are required, with the exception that the requirement is not advertised again.

(e) This list should be updated continuously, at least quarterly.

(4) Receipt of proposals

(a) The accounting officer should allow enough time for consultants to prepare their proposals. The time allowed should depend on the assignment, but normally should not be less than four weeks or more than three months (for example, for assignments requiring establishment of a sophisticated methodology, preparation of a multidisciplinary master plan). During this interval, the firms may request clarification about the information provided in the RFP. The accounting officer should provide clarification in writing and copy them to all firms who intend to submit proposals. If necessary, the accounting officer should extend the deadline for submission of proposals. The technical and financial proposals should be submitted at the same time. No amendments to the technical or financial proposal should be accepted after the deadline. To safeguard the integrity of the process, the technical and financial proposals should be submitted in separate sealed envelopes. The technical envelopes should be opened immediately after the closing time for submission of proposals. The financial proposals should remain sealed until they are opened publicly. Any proposal received after the closing time for submission of proposals should be returned unopened.

(b) **Consultants' role**

(i) When consultants receive the RFP, and if they can meet the requirements of the TOR, and the commercial and contractual conditions, they should make the arrangements necessary to prepare a responsive proposal (for example, visiting the principal of the assignment, seeking associations, collecting documentation, setting up the preparation team). If the consultants find in the RFP documents – especially in the selection procedure and evaluation criteria – any ambiguity, omission or internal contradiction, or any feature that is unclear or that appears discriminatory or restrictive, they should seek clarification from the accounting officer, in writing, within the period specified in the RFP for seeking clarifications.

(ii) In this connection, it should be emphasised that the specific RFP issued by the accounting officer governs each selection. If consultants feel that any of the provisions in the RFP are inconsistent with the prescripts of the Municipal Supply Chain Management Regulations and/or the PPPFA and its regulations, they should raise this issue with the accounting officer in writing.

(iii) In connection, it should be emphasised that the specific RFP issued by the accounting officer governs each selection. If consultants feel that any of the provisions in the RFP are inconsistent with the prescripts of the Municipal Supply Chain Management Regulations and/or PPPFA and its regulations, they should raise this issue with the accounting officer in writing.

(iv) Consultants should ensure that they submit a fully responsive proposal including all the supporting documents requested in the RFP. It is essential to ensure accuracy in the curricula vitae of key staff submitted with the proposals. The curricula vitae should be signed by the consultants and the individuals and dated. Non-compliance with important requirements should result in rejection of the proposal. Once technical proposals are received and opened, consultants should not be required nor permitted to change the substance, the key staff, and so forth. Similarly, once financial proposals are received, consultants should not be required or permitted to change the quoted fee and so forth, except at the time of negotiations carried out in accordance with the provisions of the RFP.

(5) Evaluation of bids/proposals

(a) Within the ambit of the Preferential Procurement Regulations, 2001. bids/proposals for the appointment of consultants should be evaluated on the basis of functionality and price as well as the achievement of specified RDP goals. The evaluation should be carried out in two phases – first the functionality and then the price. The combined percentages allocated for functionality and price should total to 100%. The ratio to be used for the division between functionality and price should be determined and approved by the accounting officer and should be made known up-front in the bid documents. Score sheets should be prepared and provided to panel members to evaluate the bids on functionality. In view of impartiality, members of bid committees should not also act as panel members.

The score sheet should contain all the criteria and the weight for each criterion as indicated in the TOR as well as the values to be applied for evaluation. Each panel member should after thorough evaluation award his/her own value to every criterion without discussing any aspect of any bid with any of the other members. Under no circumstances may additional evaluation criteria be added to those originally indicated in the bid documentation nor may the evaluation criteria be amended or omitted after closing of the bid. Score sheets should be signed by panel members and if required, written motivation could be requested from panel members in the event of vast discrepancies in the value awarded for each criterion.

(b) The evaluation of the proposals should be carried out in two stages: first the functionality (quality) and then the price and preferential goals.

(c) The evaluation should be carried out in full conformity with the provisions of the RFP.

(d) **Evaluation of functionality**

(i) When evaluating bids on functionality, the evaluation criteria for measuring functionality, the weight of each criterion, the applicable values as well as the minimum qualifying score for functionality, should be clearly indicated in the bid documents;

(ii) A bid must be disqualified if it fails to achieve the minimum qualifying score for functionality as indicated in the bid documents; and

(iii) Bids that have achieved the minimum qualifying score must be evaluated further in terms of the preference point system.

(iv) In respect of functionality, the accounting officer/authority should evaluate each technical proposal in terms of the specified evaluation criteria that may include following:

(aa) The consultant's relevant experience for the assignment;

(bb) The quality of the methodology proposed;

(cc) The qualifications of the key staff proposed; and

(dd) Transfer of knowledge.

(ii) The accounting officer should normally divide these criteria into sub-criteria, for example, the sub-criteria under methodology might be innovation and level of detail.

(iii) More weight should be given to the methodology in the case of more complex assignments for example multidisciplinary feasibility or management studies.

(iv) Evaluation of only "key" personnel is recommended as they ultimately determine the quality of performance. More weight should be assigned to this criterion if the proposed assignment is complex. The accounting officer should review the qualifications and experience of proposed key personnel in their curricula vitae which should be accurate, complete and signed by an authorised official of the consultant and the individual proposed. When the assignment depends critically on the performance of key staff, such as a Project Manager in a large team of specified individuals, it may be desirable to conduct interviews. The individuals can be rated, among others, in the following sub-criteria as relevant to the assignment:

(aa) General qualifications: general education and training, length of experience, positions held, time with the consulting firm staff, and experience in developing countries;

(bb) Adequacy for the assignment: education, training and experience in that specific sector, field or subject relevant to the particular assignment; and

(cc) Experience in the region: knowledge of the local language, culture, administrative system, government organization, etc.

(v) Accounting officers should evaluate each proposal on the basis of its - response to the TOR. A proposal should be rejected at this stage if it does not respond to important aspects of the TOR or it fails to achieve the minimum qualifying score for functionality as specified in the RFP.

(f) **Calculation of points for price**

Points scored for specified goals as contemplated by the PFFFA and its Regulations are then calculated separately and added to the points scored for price in order to obtain a final point. The contract should be awarded to the bidder scoring the highest points.

Information relating to evaluation of bids and recommendations concerning awards should not be disclosed to the consultants who submitted bids or to other persons not officially concerned with the process until the successful consultant is notified.

(g) **Negotiations and award of contract**

(i) The Accounting Officer may negotiate the contract only with the preferred bidder identified by means of the competitive bidding process.

(ii) Negotiations should include discussions of the TOR, the methodology, staffing, accounting officer's inputs, and special conditions of the contract. These discussions should not substantially alter the original TOR or the terms of the contract, lest the quality of the final product, its cost, and the relevance of the initial evaluation be affected. Major reductions in work inputs should not be made solely to meet the budget. The final TOR and the agreed methodology should be incorporated in "Description of Services," which should form part of the contract.

(iii) The selected firm should not be allowed to substitute key staff, unless both parties agree that undue delay in the selection process makes such substitution unavoidable or that such changes are critical to meet the objectives of the assignment. If this is not the case and if it is established that key staff were offered in the proposal without confirming their availability, the firm may be disqualified and the process continued with the next ranked firm. The key staff proposed for substitution should have qualifications equal to or better than the key staff initially proposed.

(iv) Financial negotiations should include clarification of the consultant's tax liability. Before the appointment is finalized, the consultant should submit an original tax clearance certificate to the accounting officer.

(v) Proposed unit rates for staff-months and re-imbursables should not be negotiated, since these have already been a factor of selection in the cost of the proposal, unless there are exceptional reasons.

(vi) If the negotiations fail to result in an acceptable contract, the accounting officer should terminate the negotiations. The original preferred consultant should be informed of the reasons for termination of the negotiations. Once negotiations have commenced with the next ranked firm, the accounting officer should not reopen the earlier negotiations. After negotiations are successfully completed, the accounting officer should promptly notify other firms that they were successful.

(h) **Contract award**

(i) According to the prescripts of the PPPFA and its Regulations, a contract may only be awarded to the bidder who scored the highest number number of points, unless objective criteria justify the award to another bidder. Should this be the case, the accounting officer should be able to defend the decision not to award the bid to the bidder who scored the highest number of positions in any court of law. It should be emphasized that not offering any contributions to prescribed goals as contemplated in the Preferential Procurement Regulations, 2001, does not disqualify a bidder. Under these circumstances a bidder will score no points for the specified goals.

(ii) The accounting officer should award the contract, within the period of the validity of bids, to the bidder who meets the appropriate standards of capability and resources and whose bid has been determined:

(aa) to be substantially responsive to the bidding documents; and
(bb) to be the highest on points.

(iii) A bidder should not be required, as a condition of award, to undertake responsibilities for work not stipulated in the bidding documents or otherwise to modify the bid as originally submitted.

(i) **Rejection of all proposals and re-invitation**

The accounting officer will be justified in rejecting all proposals only if all proposals are non-responsive and suitable, either because they present major deficiencies in complying with the TOR, or because they involve costs substantially higher than the original estimate. In the latter case, the feasibility of increasing the budget, or scaling down the scope of services with the firm should be investigated. The new process may include revising the RFP and the budget.

(6) Types of contracts

(a) The relationship between the accounting officer and the consultant should be one of purchaser/provider and not employer/employee. The work undertaken for the accounting officer by a consultant should be regulated by a contract.

(b) When appropriate, the accounting officer may include under the special conditions of contract, the following or similar condition:

"A service provider may not recruit or shall not attempt to recruit an employee of the principle for purposes of preparation of the bid or for the duration of the execution of this contract or any part thereof".

(c) The most common types of contract are:

(i) **Lump Sum (Firm Fixed Price) Contract**: Lump sum contracts are used mainly for assignments in which the content and the duration of the services and the required output of the consultants are clearly defined. They are widely used for simple planning and feasibility studies, environmental studies, detailed design of standard or common structures, preparation of data processing systems, and so forth. Payments are linked to outputs (deliverables), such as reports, drawings, bills of quantities, bidding documents and software programmes. Lump sum contracts are easy to administer because payments are due on clearly specified outputs.

(ii) **Time-Based Contract**: This type of contract is appropriate when it is difficult to define the scope and the length of services, either because the services are related to activities by others for which the completion period may vary, or because the input of the consultants required to attain the objectives of the assignment is difficult to assess. This type of contract is widely used for complex studies, supervision of construction, advisory services, and most training assignments. Payments are based on agreed hourly, daily, weekly or monthly rates for staff (who are normally named in the contract) and on reimbursable items using actually expenses and/or agreed unit prices. The rates for staff include salary, social costs, overheads, fees (or profit), and, where appropriate, special allowances. This type of contract should include a maximum amount of total payments to be made to the consultants. This ceiling amount should include a contingency allowance for unforeseen work and duration and provision for price adjustments, where appropriate. Time-based contracts need to be closely monitored and administered by the client to ensure that the assignment is progressing satisfactorily and payments claimed by the consultants are appropriate.

(iii) **Retainer and/or Contingency (Success) Fee Contract**: Retainer and contingency fee contracts are widely used when consultants (banks or financial firms) are preparing companies for sales or mergers of firms, notably in privatisation operations. The remuneration of the consultant includes a retainer and a success fee, the latter being normally expressed as a percentage of the sale price of the assets.

(iv) **Percentage Contract**: These contracts are commonly used for architectural services. They may be used for procurement and inspection agents. Percentage contracts directly relate the fees paid to the consultant to the estimated or actual project construction cost, or the cost of the goods procured or inspected. The contracts are negotiated on the basis of market norms for the services and/or estimated staff-month costs for the services, or competitive bid. It should be borne in mind that in the case of architectural or engineering services, percentages implicitly lack incentive for economic design and are hence discouraged. Therefore, the use of such a contract for architectural services is recommended only if it is based on a fixed target cost and covers precisely defined services (for example, not works supervision).

(v) **Indefinite Delivery Contract (Price Agreement):** These contracts are used when accounting officers need to have "on call" specialised services to provide advice on a particular activity. These are commonly used to retain "advisers" for implementation of complex projects (for example, dam panel), expert adjudicators for dispute resolution panels, accounting officer reforms, procurement advice, technical troubleshooting, and so forth, normally for a period of a year or more. The accounting officer and the firm agree on the unit rates to be paid for the experts and payments are made on the basis of the time actually used.

(7) Important provisions

(a) **Currency.** RFPs should clearly state that firms must express the price for their services, in Rand. If the consultants wish to express the price as a sum of amounts in different foreign currencies, they may do so, provided that the accounting officer/authority concurs with this practice and that the proposal includes no more than three foreign currencies outside the borders of South Africa. The accounting officer should require consultants to state the portion of the price representing local costs in Rand. Payment under the contract should be made in the currency or currencies expressed in the formal contract.

(b) **Price Adjustment.** To adjust the remuneration for foreign and/or local inflation, a price adjustment provision should be included in the contract if its duration is expected to exceed 12 months. Exceptionally, contracts of shorter duration may include a provision for price adjustment when local or foreign inflation is expected to be high and unpredictable.

(c) **Payment Provisions.** Payment provisions, including amounts to be paid, schedule of payments, and payments procedure, should be agreed upon during negotiations. Payments may be made at regular intervals (as under time-based contracts) or for agreed outputs (as under lump sum contracts). Payments for advances (for example, for mobilization costs) exceeding 10 percent of the contract amount should normally be backed by advance payment securities. Payments should be made promptly in accordance with the contract provisions. To that end,

(i) consultants can be paid by the accounting officer;
(ii) only disputed amounts should be withheld, with the remainder of the invoice paid in accordance with the contract; and
(iii) the contract should provide for the payment of financing charges if payment is delayed due to the client's fault beyond the time allowed in the contract. The rate of charges should be specified in the contract.

(d) **Bid and Performance Securities.** Bid and performance securities are not recommended for consultants' services. Their enforcement is often subject to judgement calls, they can be easily abused and they tend to increase the costs to the consulting industry without evident benefits, which are eventually passed on to the accounting officer.

(e) **Accounting Officer contribution.** The accounting officer normally assigns members of its own professional staff to the assignment in different capacities. The contract between the accounting officer and the consultant should give the details governing such staff, known as counterpart staff, as well as facilities that should be provided by the accounting officer, such as housing, office space, secretarial support, utilities, materials and vehicles. The contact should indicate measures the consultant can take if some of the items cannot be provided or have to be withdrawn during the assignment and the compensation of the consultant will receive in such a case.

(f) **Conflict of Interest.** The consultant should not receive any remuneration in connection with the assignment except as provided in the contract. The consultant and its affiliates should not engage in consulting activities that conflict with the interests of the client under the contract, and should be excluded from downstream supply of goods or construction of works or purchases of any asset or provision of any other service related to the assignment other than a continuation of the "Services" under the ongoing contract.

(g) **Professional Liability.** The consultant is expected to carry out its assignment with due diligence and in accordance with prevailing standards of the profession. As the consultant's liability to the accounting officer will be governed by the applicable law, the contract need not deal with this matter unless the parties wish to limit this liability. If they do so, they should ensure that:

(i) there should be no such limitation in case of the consultant's gross negligence or willful misconduct;

(ii) the consultant's liability to the accounting officer in no case be limited to less than the total payments expected to be made under the consultant's contract, or the proceeds the consultant is entitled to receive under its insurance, whichever is higher; and

(iii) any such limitation may deal only with the consultant's liability toward the client and not with the consultant's liability toward third parties.

(h) **Staff Substitution**. During an assignment, if substitution is necessary (for example, because ill health or because a staff member proves to be unsuitable), the consultant should propose other staff of at least the same level of qualifications for approval by the accounting officer.

(i) **Applicable Law and Settlement of Disputes**. The contract should include provisions dealing with the applicable law and the forum for the settlement of disputes. Should it not be possible to settle a dispute by means of mediation, the dispute may be settled in a South African court of law.

(8) Evaluation of the performance of consultants

(a) Consultants should observe due diligence and prevailing standards in the performance of the assignment. The accounting officer should evaluate the performance of consultants appointed in a fair and confidential process. In the case of repeated poor performance, the firm should be notified and provided an opportunity to explain the reasons for it and the remedial action proposed.

(b) Consultants should be responsible for the accuracy and suitability of their work. Although accounting officers supervise and review the consultants' work, no modifications should be made in the final documents prepared by the consultants without mutual agreement. In the case of supervision of works, consultants may have more or less authority to supervise, from full responsibility as an independent engineer, to that of advisor to the client with little authority to make decisions, as determined by the accounting officer and captured in the contract agreement between the accounting officer and the consultant.

(c) Any granting of a substantial extension of the stipulated time for performance of a contract, agreeing to any substantial modification of the scope of the services, substituting key staff, waiving the conditions of a contract, or making any changes in the contract that would in aggregate increase the original amount of the contract by more than 15 percent, will be subject to the approval of the accounting officer or his/her delegate.

(9) Disbursements

The responsibility for the implementation of the project and therefore for the payment of consulting services under the project, rests solely with the accounting officer.

(10) Confidentiality

(a) The process of proposal evaluation is to be confidential until the contract award is notified to the successful firm. Confidentiality enables the accounting to avoid either the reality or perception of improper interference. If, during the evaluation process, consultants wish to bring additional information to the notice of the accounting officer, they should do so in writing.

(b) If consultants wish to raise issues or questions about the selection process, they should communicate directly in writing with the accounting officer in this regard. All such communications should be addressed to the chief of the division for the relevant sector for the accounting officer.

(c) Communications that the accounting officer receives from consultants after the opening of the technical proposals should be handled as follows:

   (i) In the case of contracts any communication should be sent to the accounting officer for due consideration and appropriate action.

   (ii) If additional information or clarification is required from the consultant, the accounting officer should obtain it and comment on or incorporate it, as appropriate, in the evaluation report.

(11) Debriefing

If after notification of award, a consultant wishes to ascertain the grounds on which its proposal was not selected, it should address its request in writing to the accounting officer. If the consultant is not satisfied with the explanation given by the accounting officer, the consultant may refer this matter to the relevant treasury, Public Protector or court of law.

(12) Conclusion

Selecting a consultant requires a logical and systematic approach to enable the appointment of the most effective and efficient consultants. Selecting the right consultant is essential to be successful in a variety of objectives to be achieved by an institution. The consultant's performance has to be monitored and evaluated in an equally, logical, systematic and objective manner to ensure that the correct decision is made when the consultant is to be utilised in future. The general culture throughout the supply chain management process and specific appointment of consultants should be one of trust, honesty, professionalism and willingness to serve.

System of appointing consultants

65. (1) The accounting officer may procure consulting services provided that any Treasury guidelines in respect of consulting services are taken into account when such procurements are made.

(2) Consultancy services must be procured through competitive bids if–

(a) the value of the contract exceeds R200 000 (VAT included); or

(b) the duration period of the contract exceeds one year.

(3) In addition to any requirements prescribed by this policy for competitive bids, bidders must furnish particulars of –

(a) all consultancy services provided to an organ of state in the last five years; and

(b) any similar consultancy services provided to an organ of state in the last five years.

(4) The accounting officer must ensure that copyright in any document produced, and the patent rights or ownership in any plant, machinery, thing, system or process designed or devised, by a consultant in the course of the consultancy service is vested in the municipality.

(5) If a contract must be shared, full reasons for sharing must be supplied and the basis of the split must be provided as well as the conditions that will apply.

CHAPTER 7
LOGISTICS MANAGEMENT

System of Logistics Management

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

Stock items shall be systematically replenished using the re-order point planning strategy in conjunction with minimum and maximum levels.

The Logistics management process

67. (1) For stock or inventory items the following functions will amongst others be performed :

(a) Setting of inventory levels;
(b) Placing of orders;
(c) Receiving and distribution of material;
(d) Stores or warehouse management;
(e) Expediting Orders;
(f) Transport management;
(g) Vendor performance; and
(h) Maintenance and Contract Administration

(2) For fixed capital items (construction and road projects, immovable property) a similar process, mutatis mutandis, must be adopted, viz ensuring appropriate classification, recording additions to asset and property registers, valuation, main use, etc.

(3) 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.

(a) Setting of Inventory Levels

1. Stock items shall be systematically replenished using the re-order point planning strategy in conjunction with minimum and maximum levels.

2. Open reservations shall be taken into account during the replenishment run.

(b) Placing of Orders

1. Purchase orders will be created with reference to requisitions where the supply source is contract or quotations (where sourcing had to take place).
2. All purchase orders which are for imported goods and which are subject to rate and exchange adjustments must specify that the vendor must take out a forward exchange contract in order to fix the Rand based price in the purchase order.
3. All purchase orders will be captured on the financial system.
4. Standing orders (also known as "framework orders") will be used in cases where a longer term arrangement, such as after hour services and copier contracts, are required.
5. Purchase order approvals will be systems based and will involve the procurement department only.
6. The assets section (for asset creation) and the insurance section (for claims) will be informed after the purchase order approval.

(c)Receiving and Distribution of Material

1. Goods will be received on the DM Financial system with reference to purchase orders.
2. No over receipt of stock will be allowed. Under receipts will keep the purchase order open for the outstanding delivery quantity.
3. Goods will be issued from stock with reference to reservations. Goods can be issued for consumption against internal orders, cost centres, projects and assets under construction.

(d) Stores and Warehouse Management

1. The stores and warehousing function shall be decentralised in different parts of the District and will operate under the jurisdiction of the Supply Chain Management Directorate.
2. The Supply Chain Directorate must ensure proper financial and budgetary control; uphold the principle of effective administration, proper stock holding and control, product standardisation, quality of products and a high standard of service levels.

(e) Expediting Orders

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

(f) Transport Management

1. The DM's fleet management policy must be adhered to at all times.

(g) Vendor Performance

1. The DM's Financial System will enable system-based evaluation based on the vendors' performance with regard to certain pre-determined criteria.
2. The information will be available for contract negotiations and regular feedback to the vendors.

Contracts Management

68. The contract management provisions below are applicable to contracts for the provision of goods or services procured over a year.

(1) Competency

1. All contracts must be administered by an official(s) having the necessary competencies to ensure effective management of the contract.

(2) Maintenance and Contract Administration

Contracts related to the procurement of goods and services will be captured on the DM's Financial system in the form of a price schedule.

Value (where the maximum value of the contract is restricted) and volume (where the maximum units procured are restricted) based contracts will be used.

The use of fixed price, fixed term contracts will be promoted and expenditure will be driven towards contracts versus once-off purchases. Consolidated procurement volumes have to dive down the negotiated contract prices.

Contract price adjustments shall be processed only in accordance with contract terms and conditions. Price adjustments shall be made on the procurement contract and any current purchase orders shall be changed to reflect the new price.

(3) Contract Administration

1. Contract administration is the last stage of the tendering and contract cycle, and includes all administrative duties associated with a contract after it is executed, including contract review.
2. The effectiveness of contract administration will depend on how thoroughly the earlier steps were completed. Changes can be made far more readily early in the tendering cycle than after contract management has commenced.
3. Some of the key early stages, which influence the effectiveness of contract administration, include:
   a. Defining the output, that is, writing specifications which identify what the aims and outputs of a contract will be;
   b. assessing risk;
   c. researching the market place (including conducting pre-tender briefings);
   d. formulating appropriate terms and conditions of contract;
   e. identifying appropriate performance measures and benchmarks so that all parties know in advance what is expected, and how it will be tested;
   f. actively creating competition, so the best possible suppliers bid for contracts; and
   g. evaluating bids competently, to select the best contractor, with a strong customer focus and good prospects of building a sound relationship.

(4) Levels of Contract Administration

1. There are three levels of contract administration:

   a. The first operational level is for standard contracts for goods and services. Day to day contract administration should become no more than a monitoring, record keeping and price adjustment authorisation role.

b. The second or intermediate level is for more complex contracts for services. An example would be a contract to outsource cleaning services. This type of contract will require a more active role for the contract manager in developing the relationship between the DM and the contractor.
c. The third level is for strategic contracts involving complex partnerships and outsourcing arrangements. These contracts need more active management of the business relationships between the supplier and the users, for example to manage outputs and not the process. Sufficient resources need to be dedicated by all parties to successfully manage these contractor relationships and, where feasible, to achieve partnership. A partnership is the result of mutual commitment to a continuing co-operative relationship, rather than parties working on a competitive and adversarial basis.

(5) Appointing a Contract Manager

1. A contract manager should be appointed by the senior official in charge of the project prior to the execution of the contract.
2. Where it is practical to do so, the contract manager should be involved at the earliest stage of the acquisition, which is the time of writing the specification. Contract administration arrangements should be identified and planned including who, how, delegations, reporting requirements and relationships and specific task responsibilities.
3. Directorates shall be responsible for ensuring that contract managers:
   a. prepare the contract administration plan.
   b. monitor the performance of the contractor.
   c. are appointed with appropriate responsibility and accountability;
   d. are adequately trained so that they can perform and exercise the responsibility; and
   e. act with due care and diligence and observe all accounting and legal requirements.

(6) Duties and Powers of Contract Manager

1. The contract manager's duties and powers shall be governed by the conditions of contract and the general law.
2. The contract manager shall also be required to form opinions and make decisions, and in doing so is expected to be even-handed and prudent.

(7) Contract Guidelines

1. A guideline, which provides a description of the roles and responsibilities of a contract manager during the contract administration stage, shall be documented.
2. The following is not an exhaustive description of contract administrative activities, and some tasks may not be carried out in the sequence presented, may be done concurrently with other tasks, or may not be necessary in some circumstances.

(8) Delegating to Contract Administrator

1. Where appropriate, a contract manager may delegate some contract administration duties to a contract administrator.
2. The contract administrator would usually be required to perform duties related to processes for record keeping and authorising payment and collecting data on the contractor performance.
3. The contract manager will however remain ultimately responsible for the performance of the contract.

(9) Contract Management Process

1. The contract manager shall ensure the contractor fulfils its obligations and accepts its liabilities under the contract and must also ensure the contractors are treated fairly and honestly.
2. Both parties adhering to the agreed terms will result in:
    a. value for money;
    b. timeliness;
    c. cost effectiveness; and
    d. contract performance.

(10) Document Retention

1. The need exists to retain documents on a contract file for information and audit purposes, and in order to comply with the requirements of the Records Office (Corporate Services).
2. Proper records regarding all aspects of the contract must accordingly be maintained.

(11) Guidelines on Contract Administration

1. The responsibilities of a contract manager may include the following:
    a. establishing a contract management plan for the project;
    b. reviewing the contract management process (including the plan) on a regular basis;
    c. providing liaison between internal managers and users, and suppliers to identify and resolve issues as they arise;
    d. monitoring the contractor's continuing performance against contract obligations;
    e. providing the contractor with advice and information regarding developments within the department, where such developments are likely to affect the products provided;
    f. determining if staged products should continue, and providing a procurement process for additional stages which meet the principle of obtaining value for money;
    g. providing accurate and timely reporting to the senior management in charge of the project, highlighting significant performance issues or problems;
    h. ensuring insurance policy(s) terms and conditions provide adequate protection for the DM and are maintained throughout the contract period;
    i. ensuring all products provided are certified as meeting the specifications before the supplier is paid;
    j. maintaining adequate records (paper and/or electronic) in sufficient detail on an appropriate contract file to provide an audit trail;
    k. managing contract change procedures;
    l. resolving disputes as they arise;
    m. conducting post contract reviews; and
    n. pursuing remedies in the event of contract breach.

(12) Exclusions

(1) JGDM may incur non-contractual purchases only if the following applies:
  a. Small quantities of supplies or minor services may be procured outside of the contract in the following circumstances:
     i. In cases of emergency;
     ii. When the contractor's point of supply is not situated at or near the place where the supply or service is required; or
     iii. If the contractor's supplies or services are not readily available.

b. Purchases outside the contract must be restricted to the requirements that are absolutely necessary to satisfy the immediate requirement and the action must always be justifiable against the contract conditions
c. Acquisitioning procedures must in all instances be followed when procuring outside of existing contracts

(2) JGDM must include these aspects in the GCC

(13) Payments

1. The method and conditions of payment to be made to the supplier shall be specified in the Special Conditions of Contract
2. The supplier shall furnish JGDM with a valid tax invoice accompanied by the copy of the delivery note and upon fulfillment of other obligations stipulated in the contract
3. Payments shall be made promptly by JGDM, but in no case later than thirty (30) days after submission of a valid tax invoice or claim by the supplier
4. JGDM must not make a pre-payment or advance payment for goods and services (i.e. payments in advance of receipt of the goods and services), unless required by the contractual conditions
5. Where a contractor requires an advance payment or progress payment and this is not a contract condition, payment may be made only with the prior approval of the Accounting Officer, the relevant user department and the CFO.
6. Notwithstanding section 19(2) of this policy, all payments to suppliers / service providers shall be made against an official order.

Amendments / Expansion/ Extension / Variation of Contracts

69. (1) Requests for amendments / expansion / extension / variation of contracts must be considered by the Supply Chain Management Office before approval by the Accounting Officer. The Accounting Officer may, at his discretion, refer these requests to the Internal Audit for further scrutiny and recommendation before approval.

(2) Any amendments / expansion / extension / variation of a contract must be done in accordance with the provisions of the contract itself and in compliance with the JGDM's delegation policy, provided that:

(a) the requirements of section 33 of the MFMA are met; and

(b) the extension of the contract does not amount to the provision of new goods or services, such that the purposes of this policy are defeated.

(c) Project Managers must as far as possible refrain from extending/expanding contracts and/or allowing variation orders as it increases the risks, reflects possible flaws in the planning process and it creates an uncompetitive environment, possibly unfairly prejudicing other possible vendors.

(d) The extension of a contract must be finalised before the current expiry date of the contract.

(e) Must comply with the provision of National Treasury Circular 62 that states that contracts may be expanded or varied by not more than 20% for construction related goods, services and/or infrastructure projects and 15% for all other goods and/or services of the original value of the contract.

(f) Any expansion or variation in excess of the thresholds stipulated in (e) above must be dealt with in terms of the provisions of section 116(3) of the MFMA and will be regarded as an amendment to the contract.

(g) Section (f) above, are not applicable to transversal term contracts, facilitated by the relevant treasuries on behalf of municipalities and municipal entities and, specific term contracts.

CHAPTER 8
DISPOSAL MANAGEMENT

System of Disposal management

70. (1) The accounting officer must establish an effective system of disposal management for the disposal or letting of assets, including unserviceable, redundant or obsolete assets, subject to sections 14 and 90 of the Act.

(2) Assets must be disposed of by, inter alia -

(a) transferring the asset to another organ of state in terms of a provision of the Act enabling the transfer of assets;
(b) transferring the asset to another organ of state at market related value or, when appropriate, free of charge;
(c) selling the asset; or
(d) destroying the asset.

(3) With regard to the disposal of assets in general -

(a) immovable property may be sold only at market related prices except when the public interest or the plight of the poor demands otherwise;
(b) 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;
(c) in the case of the free disposal of computer equipment, the provincial department of education must first be approached to indicate within 30 days whether any of the local schools are interested in the equipment; and
(d) in the case of the disposal of firearms, the National Conventional Arms Control Committee has approved any sale or donation of firearms to any person or institution within or outside the Republic;

(4) In connection with the letting of immovable property -

(a) immovable property must be let at market related rates except when the public interest or the plight of the poor demands otherwise; and

(b) all fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property must be annually reviewed; and

(5) Where assets are traded in for other assets, the highest possible trade-in price must be negotiated.

The Disposal Management Process

71. (1) For purposes of the disposal management process, the accounting officer must ensure that the following steps are undertaken in respect of movable assets:

(a) Obsolescence planning must be effected, alternatively depreciation rates per item must be calculated;
(b) A data base of all redundant assets must be compiled and maintained;
(c) Assets identified for disposal must first be inspected for potential re-use;
(d) A strategy must be determined for the disposal of assets; and,
(e) The actual disposal of assets must be effected in compliance with this chapter.

(2) Similar steps to those set out in terms of subsection (1) must be undertaken in respect of immovable assets.

CHAPTER 9
SUPPLY CHAIN PERFORMANCE

The Performance management process

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

System of Supply Chain performance

73. For purposes of internal monitoring, at least the following may be considered -

(a) Achievement of objectives;
(b) Compliance with norms and standards;
(c) Savings generated;
(d) Stores efficiency;
(e) Cost variance per item;
(f) Possible breaches of contract;
(g) Cost of the procurement process itself;
(h) Whether supply chain objectives are consistent with national government's policies;
(i) Increasingly alignment of material construction standards with international best practice;
(j) Observance of principles of co-operative governance; and
(k) Reduction of regional economic disparities are promoted.

CHAPTER 10
RISK MANAGEMENT

System of risk management

74. (1) The accounting officer must establish an effective system of risk management for the identification, consideration and avoidance of potential risks in the supply chain management system.

(2) Risk management must include –

(a) the identification of risks on a case-by-case basis;

(b) the allocation of risks to the party best suited to manage such risks;

(c) acceptance of the cost of the risk where the cost of transferring the risk is greater than that of retaining it;

(d) the management of risks in a pro-active manner and the provision of adequate cover for residual risks; and

(e) the assignment of relative risks to the contracting parties through clear and unambiguous contract documentation.

Combating of abuse of supply chain management system

75. (1) The accounting officer must provide measures for the combating of abuse of the supply chain management system,

(2) For purposes of subsection (1), the aforestated measures must enable the accounting officer -

(a) to take all reasonable steps to prevent abuse of the supply chain management system;

(b) to investigate any allegations against an official or other role player of fraud, corruption, favouritism, unfair or irregular practices or failure to comply with this supply chain management policy, and when justified –

(i) take appropriate steps against such official or other role player; or

(ii) report any alleged criminal conduct to the South African Police Service;

(c) to check the National Treasury's database prior to awarding any contract to ensure that no recommended bidder, or any of its directors, is listed as a person prohibited from doing business with the public sector;

(d) to reject any bid from a bidder–

   (i) if any municipal rates and taxes or municipal service charges owed by that bidder or any of its directors to the municipality, or to any other municipality or municipal entity, where they are operating their Head office or Eastern Cape office, are in arrears for more than three months; or
   (ii) who during the last five years has failed to perform satisfactorily on a previous contract with the municipality or any other organ of state after written notice was given to that bidder that performance was unsatisfactory;

(e) to reject a recommendation for the award of a contract if the recommended bidder, or any of its directors, has committed a corrupt or fraudulent act in competing for the particular contract;
(f) to cancel a contract awarded to a person if –

   (i) the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract; or
   (ii) an official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of the contract that benefited that person; and

(g) to reject the bid of any bidder if that bidder or any of its directors –

   (i) has abused the supply chain management system of the municipality or has committed any improper conduct in relation to such system;
   (ii) has been convicted for fraud or corruption during the past five years;
   (iii) has willfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
   (iv) has been listed in the Register for Bid Defaulters in terms section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004).

(2) The accounting officer must inform the National Treasury and relevant provincial treasury in writing of any actions taken in terms of subsections (1)(b)(ii), (e) or (f) of this policy.

Penalties

76. (1) The municipality must, upon detecting that a preference in terms of the Preferential Procurement Policy Framework Act, 2000, its regulations and the Act, as defined, has been obtained on a fraudulent basis, or any specified goals are not attained in the performance of the contract, act against the person awarded the contract.

(2) The municipality may in addition to any other remedy it may have against the person contemplated in subsection (1) -

(a) recover all costs, losses and damages it has incurred or suffered as a result of that person's conduct;

(b) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;

(c) impose a financial penalty more severe than the theoretical financial preference associated with the claim which was made in the bid; and

(d) restrict the contractor, its shareholders and directors from obtaining business from any organ of state for a period not exceeding 10 years.

Insurance

77. (1) The accounting officer must ensure that steps are taken to-

(a) insure the municipality against procurement related risks;
(b) establish risk management programmes; and
(c) make advance provision for losses associated with such risks.

(2) The accounting officer shall further ensure that insurance related excesses do not cause the failure of emerging small and micro enterprises.

Guarantees

78. (1) The municipality must adhere to the following general principles with regard to performance guarantees -

(a) the aforestated 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.

(2) With regard to contracts pertaining to engineering and construction works -

(a) adequate provision should be made by the municipality to ensure that funds are available to rectify defects; and,

(b) performance guarantees may be waived in the case of low value and low risk contracts or where a third party bears the risk of failure.

79. Declaration

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) employees of any organ of state will be required to complete the schedule as a pre-requisite to the bid.

80. Declaration of interest by officials, suppliers, service providers and consultants

(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.

81. General Risk Management

For purposes of establishing General Risk Management measures, the municipality must apply the following principles -

(a) business plans where applicable will be required for approval prior to the commencement of all projects;

(b) feasibility or design reports will be required by the JGDM before bids for projects are called;

(c) bid documents will be specific and detailed;

(d) applicable project standards must be made available for public perusal;

(e) officials must ensure time, cost and quality control while projects are being implemented;

(f) where applicable, bidders must obtain public liability insurance to cover the JGDM; and,

(g) variation orders will only be approved by the accounting officer or a duly delegated JGDM official.

82. Surety

(1) Sureties must be obtained in respect of construction projects, classified as follows:

AMOUNT	PERCENTAGE
R300 000	Nil
R300 001-R1 000 000	2.5%
R1 000 001-R3 000 000	5%
R3 000 001-R5 000 000	7.5%
R5 000 001- and above	10%

(2) In the event that a contractor is unable to raise the required surety, the municipality may allow such surety to be deducted in full or part from monies that are to become due to the contactor, in which event this shall be effected by way of deductions from the first three [3] payment certificates issued in favour of the contractor.

(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 Eastern Cape Development Corporation (ECDC) 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.

(b) 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

83. (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) half of the retention funds shall be released upon the issue of a completion certificate; and,

(b) the balance of the retention funds shall be released upon completion of the defects liability period.

Cessions

84. (1) A cession agreement may be concluded by the municipality, a contractor, supplier or service provider and any other third party in order to assist emerging HDI entrepreneurs.

(2) The conclusion of a cession agreement shall be approved at the discretion of the accounting officer.

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

85. (1) The accounting officer must ensure that, irrespective of the procurement process followed, no award above R15 000 is given to a person whose tax matters have not been declared by the South African Revenue Service to be in order.

(2) Before making an award to a person the accounting person must first check with SARS whether that person's tax matters are in order.

(3) A successful bidder must ensure that their tax matters are in order for the whole duration of the contract

Prohibition on awards to persons in the service of the state

86. The accounting officer must ensure that irrespective of the procurement process followed, no award may be given to a person –

(a) who is in the service of the state; or
(b) if that person is not a natural person, of which any director, manager, principal shareholder or stakeholder is a person in the service of the state; or
(c) a person who is an advisor or consultant contracted with the municipality.

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

87. The notes to the annual financial statements must disclose particulars of any award of more than R2,000.00 to a person who is a spouse, child or parent of a person in the service of the state, or has been in the service of the state in the previous twelve months, including –

(a) the name of that person;
(b) the capacity in which that person is in the service of the state; and
(c) the amount of the award.

Ethical standards

88. (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 86(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 executive 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 favours to the municipality, officials and other role players

89. (1) No person who is a provider or prospective provider of goods or services to the municipality, or a recipient or prospective recipient of goods disposed or to be disposed of by the municipality, may either directly or through a representative or intermediary promise, offer or grant –

(a) any inducement or reward to the municipality for or in connection with the award of a contract; or

(b) any reward, gift, favour or hospitality to –

(i) any official; or

(ii) any other role player involved in the implementation of the supply chain management policy.

(2) The accounting officer must promptly report any alleged contravention of subsection (1) to the National Treasury for considering whether the offending person, and any representative or intermediary through which such person is alleged to have acted, should be listed in the National Treasury's database of persons prohibited from doing business with the public sector.

(3) Subsection (1) does not apply to gifts less than R350 in value.

Sponsorships

90. The accounting officer must promptly disclose to the National Treasury and the 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 to the municipality; or

(b) a recipient or prospective recipient of goods disposed or to be disposed of by the municipality.

Objections and complaints

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

Resolution of disputes, objections, complaints and queries

92. (1) The accounting officer must appoint an independent and impartial person, not directly involved in the supply chain management processes –

(a) to assist in the resolution of disputes between the municipality and other persons regarding –

(i) any decisions or actions taken in the implementation of the supply chain management system; or

(ii) any matter arising from a contract awarded in the course of the supply chain management system; or

(b) to deal with objections, complaints or queries regarding any such decisions or actions or any matters arising from such contract.

(2) The accounting officer, or another official designated by the accounting officer, is responsible for assisting the appointed person to perform his or her functions effectively.

(3) The person appointed must –

(a) strive to resolve promptly all disputes, objections, complaints or queries received; and

(b) submit monthly reports to the accounting officer on all disputes, objections, complaints or queries received, attended to or resolved.

(4) A dispute, objection, complaint or query may be referred to the provincial treasury if –

(a) the dispute, objection, complaint or query is not resolved within 60 days; or

(b) no response is forthcoming within 60 days.

(5) If the provincial treasury does not or cannot resolve the matter, the dispute, objection, complaint or query may be referred to the National Treasury for resolution.

(6) This 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

93. If a service provider acts on behalf of a municipality to provide any service or act as a collector of fees, service charges or taxes and the compensation payable to the service provider is fixed as an agreed percentage of turnover for the service or the amount collected, the contract between the service provider and the municipality must stipulate–

(a) a cap on the compensation payable to the service provider; and
(b) that such compensation must be performance based.

CHAPTER 11
SUPPORT TO BIDDERS

94. (1) INTRODUCTION

The Joe Gqabi District Municipality will provide all the necessary support within its powers to ensure that bidders, especially HDIs and/or emerging firms, are provided with an opportunity to provide goods and services to the municipality where possible.

(2) STRATEGY

(i) To ensure that bid information is simplified to enable wider participation and the provision of advise to ensure that bidders are successful when submitting bid documentation.

(ii) To provide easy access to information with regards to the provision of goods and services to the municipality to ensure wider participation.

(3) PROCESS

(i) Pre-bid meetings may be a standard requirement of the bid process in order to obtain details for the bid requirements and answer questions from prospective bidders.

(ii) A dedicated telephone number will be made available to bidders for assisting service providers in completing the bid document and addressing all other SCM related issues

(iii) Bid information, support and registration as a service provider or supplier will be available from the Joe Gqabi District Municipality's Supply Chain Management Unit.

(iv) Arrange regular tendering and SCM training seminars

(v) Establishing a website portal address SCM related matters

(vi) Form partnerships with relevant public sector institutions to provide tender support services to local suppliers within the JGDM

(4) THE ROLE OF LED UNIT

In addition to its assigned duties, powers and functions, the LED Unit of the JGDM shall:

- In consultation with the SCM Unit, facilitate access to tender support, advisory and information services to improve the participation of local supplier in supply chain process of the municipality;

- On the request of the SCM Unit, participate on processes pertaining to the determining, structuring and implementation of specific supply chain management decisions in order to maximize the economic benefit for both the Municipality and its local suppliers.

- Conduct quarterly meetings with the SCM Unit to identify, address and exchange experiences on issues affecting the optimal performance of local suppliers in the JGDM suppliers.

- Arrange quarterly workshops with service providers and suppliers to provide advice to assist service providers and suppliers in building capacity in their organizations and providing information on how suppliers and service providers can engage the municipality.

CHAPTER 12
OCCUPATIONAL HEALTH AND SAFETY ISSUES

95. INTRODUCTION

(1) In terms of the Construction Regulations, 2003 (Gazette No. 25207, 18 July 2003) promulgated under section 43 of the Occupational Health and Safety Act 85 of 1993, any person for whom construction work is performed for is defined as the "client". Client's duties as laid down under Construction Regulation 4 are applicable to Joe Gqabi District Municipality.

(2) Joe Gqabi District Municipality shall comply with all occupational health and safety standards and establish best practice on construction projects commissioned by the municipality.

(3) Contractors shall comply with all applicable standards and contract specifications when undertaking any construction project regardless of size of nature of the works.

96. LEGAL REQUIREMENTS

All contractors entering into a contract with the municipality shall, as minimum requirement comply with the following:

(a) Occupational Health and Safety Act 85 of 1993 (as amended) and applicable regulations;
(b) Compensation for Occupational Injuries & Diseases Act 130 of 1993 (as amended);
(c) Mine Health and Safety Act 29 of 1996, where work is carried out on a mine.

97. IMPLEMENTATION

Bidders are required to familiarize themselves with the provisions of the municipality's Construction Health and Safety Specifications when compiling bids for construction work.

98. SPECIFIC REQUIREMENTS

Bidders shall furnish the following -

(a) An original copy of a letter of good standing from the Workmen's Compensation Fund established in terms of the Compensation for Occupational Injuries and Diseases Act, 130 of 1993; and

(b) A pre-bid occupational health and safety plan as contemplated in terms of the Construction Regulations, 2003.

CHAPTER 13
PUBLIC PRIVATE PARTNERSHIPS

Conditions and process for public-private partnerships

99. (1) The municipality may enter into a public-private partnership agreement, but only if the municipality can demonstrate that the agreement will—

(a) provide value for money to the municipality;
(b) be affordable for the municipality; and
(c) transfer appropriate technical, operational and financial risk to the private party.

(2) A public-private partnership agreement must comply with any prescribed regulatory framework for public-private partnerships.

(3) If the public-private partnership involves the provision of a municipal service, Chapter 8 of the Municipal Systems Act must also be complied with.

(4) Before a public-private partnership is concluded, the municipality must conduct a feasibility study that—

(a) explains the strategic and operational benefits of the public-private partnership for the municipality in terms of its objectives;
(b) describes in specific terms—

(i) the nature of the private party's role in the public-private partnership;
(ii) the extent to which this role, both legally and by nature, can be performed by a private party; and
(iii) how the proposed agreement will—

(aa) provide value for money to the municipality;
(bb) be affordable for the municipality;
(cc) transfer appropriate technical, operational and financial risks to the private party; and
(dd) impact on the municipality's revenue flows and its current and future budgets;

(c) takes into account all relevant information; and

(d) explains the capacity of the municipality to effectively monitor, manage and enforce the agreement.

(5) The national government may assist the municipality in carrying out and assessing feasibility studies referred to in subsection (4).

(6) When a feasibility study has been completed, the accounting officer of the municipality must—

(a) submit the report on the feasibility study together with all other relevant documents to the council for a decision, in principle, on whether the municipality should continue with the proposed public-private partnership;

(b) at least 60 days prior to the meeting of the council at which the matter is to be considered, in accordance with section 21A of the Municipal Systems Act—

(i) make public particulars of the proposed public-private partnership, including the report on the feasibility study; and

(ii) invite the local community and other interested persons to submit to the municipality comments or representations in respect of the proposed public-private partnership; and

(c) solicit the views and recommendations of—

(i) the National Treasury;

(ii) the national department responsible for local government;

(iii) if the public-private partnership involves the provision of water, sanitation, electricity or any other service as may be prescribed, the responsible national department; and

(iv) any other national or provincial organ of state as may be prescribed.

(7) Part 5 of this policy applies to the procurement of public-private partnership agreements. Section 33 of the Act also applies if the agreement will have multi-year budgetary implications for the municipality within the meaning of that section.

CHAPTER 14
EXPANDED PUBLIC WORKS PROGRAMME (EPWP)

General

100. (1) 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.

(2) The EPWP is a programme that cuts across all departments and spheres of government. Work opportunities will be provided in the following ways:

(a) Infrastructure sector

Increasing the labour intensity of government-funded infrastructure projects. The infrastructure sector incorporates a large-scale initiative to use labour-intensive methods to upgrade rural and municipal roads, municipal pipelines, and storm-water drains. People living in the vicinity of these infrastructure projects are employed by contractors to carry out the work. In addition, emerging contractors will participate in Construction Education and Training Authority (CETA)-registered learnerships to gain the necessary skills to build this infrastructure labour-intensively. The Municipality shall arrange for access to finance for learner contractors.

Labour-intensive construction methods involve the use of an appropriate mix of labour and machines, with a preference for labour where technically and economically feasible, without compromising the quality of the product. International and local experience has shown that, with well-trained supervisory staff and an appropriate employment framework, labour-intensive methods can be used successfully for certain types of infrastructure projects. Labour-intensive infrastructure projects under the EPWP involve:

(i) using labour intensive construction methods to provide employment opportunities to local unemployed people;

(ii) providing training or skills development to those locally employed workers; and

(iii) building cost-effective and quality assets.

(b) Environmental sector

Creating work opportunities in public environmental programmes (e.g. Working for Water / Wetlands).

The environmental sector's contribution to the EPWP involves employing people to work on projects to improve their local environments, under programmes such as the Department of Water Affairs and Forestry's Working for Water and Working for Wetlands.

(c) Social sector

Creating work opportunities in public social programmes (e.g. community-based health and social welfare care and early childhood development).

The social sector contributes to the EPWP by employing people, through NGOs and CBOs, to work on home-based care and early childhood development programmes. These programmes will be coordinated by the Departments of Social Development, Health and Education.

(d) Economic sector:

Developing small businesses and cooperatives, including utilising general government expenditure on goods and services to provide the work experience component of small enterprise learnership / incubation programmes.

The EPWP process

101. (1) The JGDM will develop an EPWP Strategy Document.

(2) The JGDM will identify specific infrastructure projects to ensure that it implements the EPWP within the organization. The projects targeted for this programme will be in line with the EPWP programme.

(3) The Municipality will provide guidance on the:

(a) identification of suitable projects;

(b) appropriate design for labour-intensive construction;

(c) the specification of labour-intensive works; and

(d) the compilation of contract documentation for labour-intensive projects.

(4) The monitoring and reporting of the JGDM's EPWP by the Project Management Unit on a quarterly basis will be supported by an efficient and effective information management system. The type of information that will be monitored on an ongoing basis will include the following six key indicators:

(a) job opportunity;

(b) person years of employment, with segregated date for youth, women, disabled (YWD) in format of benchmark, actual to date and projections;

(c) project budgets, actual expenditure, expenditure projections (cashflows);

(d) demographic data;

(e) project wage rate; and

(f) cluster budgets, actual expenditure, project across all sectors.

(5) 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.

CHAPTER 15
PROCUREMENT REGIME FOR CONTRACTOR DEVELOPMENT PROGRAMME

Introduction

102. This Chapter focuses on regulatory issues impacting on the allocation of construction work contracts for developmental objectives, and specifically on allocating work opportunities to contractors enrolled within contractor development programmes.

In addressing the allocation of construction works contracts for developmental objectives, this Chapter highlights key elements of the Framework of the National Contractor.

Development Programme (NCDP), within which the allocation of work opportunities to CDPs is a key element to support contractor development.

This Chapter also highlights elements of the NCDP Guidelines for CDPs, which includes fair, equitable and transparent practices for the enrolment of contractors into CDPs, and for the development of contractors. This Chapter then reviews the legislative framework for allocating construction works contracts for developmental objectives. The Chapter then highlights that allocation of construction works contracts for developmental objectives is provided for within the legislative framework, provided that sustainable, fair, equitable and transparent practices are provided for – such as that provided for within the NCDP Framework and Guidelines.

National Contractor Development Programme

103. The National Contractor Development Programme (NCDP) is a government framework comprising of a partnership between the CIDB, national and provincial public works and other willing clients and stakeholders, in which the participating stakeholders:

- commit their resources to develop previously disadvantaged contractors; and
- align their individual contractor development programmes or initiatives with the principles set out in the NCDP framework (and guidelines), towards meeting the objectives of the NCDP through their own pre-set development and service delivery targets.

Objective Of The National Contractor Development Programme

104. The objective of the NCDP is to increase the capacity, equity ownership, sustainability, quality and performance of CIDB registered contractors, as well as improving skills and performance in the delivery and maintenance of capital works across the public sector.

In addition to specific contractor development instruments (including both direct and indirect targeting), the NCDP also addresses an enabling environment required for contractor development.

Key principles for establishing and operating Contractor Development Programmes

105. Key principles for establishing and operating CDPs are given in the CIDB *Guidelines for Implementing Contractor Development Programmes*, which provide for sustainable, fair, equitable and transparent practices, including:

- work opportunities are typically provided through direct contracts with the developing contractors within the CDP; and
- contractors will enter the programme based on predefined criteria and will receive support to enable contractors to exit the programme on the basis of achieving predefined criteria relating to skills, qualifications, certification, sustainability, quality, etc.

Allocation of financial resources

106. In understanding the regulatory issues impacting on the allocation of financial resources through construction works contracts to contractors enrolled within Contractor Development Programmes (CDPs), it is necessary to separate:

i) the allocation of projects or work opportunities to CDPs for developmental objectives; and

ii) the procurement regime for awarding such work opportunities which have been allocated to a CDP.

Awarding individual projects to contractors enrolled in the Contractor Development Programme

107. Section 217 of the Constitution requires that a procurement system must be fair, equitable, transparent, cost-effective and competitive – which governs the procurement regime for awarding such work opportunities. Section 217 allows for the deviation from these principles with the aim to develop previously disadvantaged individuals. This deviation is implemented through the Preferential Procurement Policy Framework Act (PPPFA), Act No. 5 of 2000.

In addition, Section 195 of the Constitution requires that public administration must be development-oriented. A Legal opinion obtained by the CIDB confirms that organs of state can:

- identify projects which by their nature have the ability to assist in the development of a contractor;
- allocate a portion of their budget for these developmental projects for the exclusive expenditure only to contractors within their predetermined development programmes – this portion of the budget must be reasonable in relation to the delivery standard required from government; and
- award individual projects to contractors enrolled in the CDP's through a competitive tendering process within the CDP.

In line with the above legal opinion obtained by the CIDB, it is the CIDB's view that the allocation of such projects for developmental purposes should be to development programmes with **clearly defined developmental criteria and objectives** – such as that provided for in the National Contractor Development Programme (NCDP).

In lieu of the above, JGDM has allocated 30% of their MIG budget for these developmental projects for the exclusive expenditure only to contractors within the JGDM's Contractor Development Programme.

The following criteria within the NCDP Framework and the CIDB *Guidelines for Implementing Contractor Development Programmes* are aligned to the requirements of fair and transparent development of contractors within the CIDB Register of Contractors, namely:

- The process for contractors to enter the programme must be through open competition. Contractors that wish to enter the programme must be registered with the CIDB on the Register of Contractors, and are evaluated based on a demonstration of a minimum level of contracting and financial capacity.

- Contractors that have qualified for entry into the programme (CDP) are subjected to a developmental programme which must be attained within a prescribed period e.g. 3 years. All contractors must exit within the prescribed period. Graduation will be for those contractors that have attained the necessary qualification and have advanced to, at least, the next CIDB Grading level within the specified period. The protection and advancement of those that have qualified into the individual CDP's that comply with the CIDB *Guidelines for Implementing Contractor Development Programmes* is therefore provided for in terms of the legislative framework. This therefore allows for the selection and allocation of projects to the individual CDP's, provided that competitive tendering amongst contractors enrolled in the CDP's, takes place for the award of the individual projects.

The CIDB Regulations stipulates that within the framework of the targeted development programme promoted by the JGDM it may accept, for evaluation, tender offers or expressions of interest by a contractor who is registered as a potentially emerging enterprise in terms of the Regulations at a contractor grading designation, a level higher than the contractor's registered grading designation, if that client or employer-

(a) is satisfied that such a contractor has the potential to develop and qualify to be registered in that higher grade; and
(b) ensures that financial, management or other support is provided to that contractor to enable the contractor to successfully execute that contract.

Contractor Development Programme

108. Allocation of projects to:

(a) Incubator Programme
(b) Cooperatives Programme
(c) Emerging Contractor Development Programme
(d) EPWP
(e) Designated Groups Allocation (Youth, Women, Disables, etc.)

CHAPTER 16
GENERAL PREREQUISITES

109. General Prerequisites

Introduction

This Section covers a general set of prerequisites that have been identified for supply chain management by the JGDM. All tenderers must submit the information requested below. Tenders 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.

110. Additional prerequisites for professionals

Introduction

This Section covers additional Prerequisites for Professionals that have been identified for supply chain management by the Joe Gqabi District Municipality. 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 provided in the Bid Documents.**

111. Additional prerequisites for contractors

Introduction

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

Criteria

Contractor Registration

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

Subcontracting

b) 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 JGDM.

c) When Subcontracting to Non-HDI-owned companies, subcontracting will be restricted to a maximum of 25% of the total contract value.

d) If details of sub contract are not disclosed, the bid will be set aside.

e) No Sub Contractors are to further sub contract any portion of the works without disclosing details to JGDM for approval prior to commencement of works

f) The Company Composition of the subcontracting firm must be disclosed.

Joint Ventures

g) Submit written proof of Joint Ventures - disclosing Joint Venture partnerships (Percentage or names or any other details required by JGDM).

h) All joint venture partners must be registered with the CIDB.

i) Housing contractors must be registered with the National Home Builders Registration Council (NHBRC).