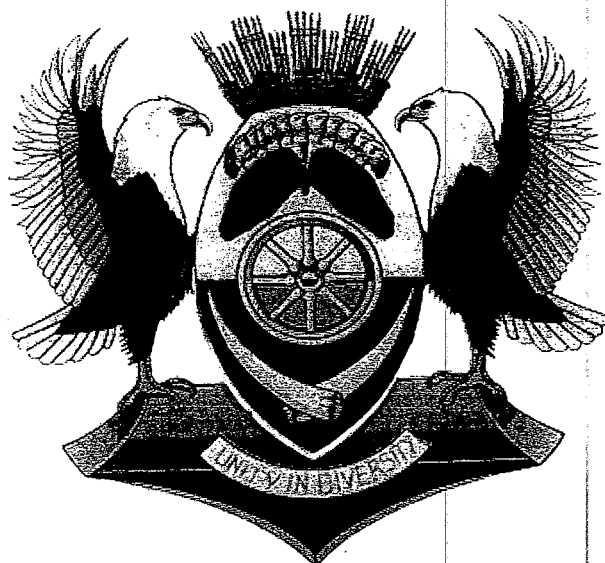


MOPANI DISTRICT MUNICIPALITY



Draft Reviewed - Supply Chain Management Policy

(Incorporating Preferential Procurement)

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DEFINITIONS

1. In this Supply Chain Management Policy, unless the context indicates otherwise;

- 1.1 "Adjudication points": means the points referred to in the Preferential Procurement Regulations, 2011 and the Preferential Procurement section of this policy, also referred to as "evaluation points".
- 1.2 "Asset": means a tangible or intangible resource capable of ownership.
- 1.3 "Bidder": means any person submitting a competitive bid or a quotation pursuant to definition 1.26.
- 1.4 "Broad-Based Black Economic Empowerment (BBBEE) Act": means the Broad-Based Black Economic Empowerment Act, 53 of 2003 and Codes of Good Practice pertaining thereto.
- 1.5 "Capital Asset": means:
 - 1.5.1 any immovable asset such as land, property or buildings; or
 - 1.5.2 any movable asset that can be used continuously or repeatedly for more than one year in the production or supply of goods or services, for rental to others or for administrative purposes, and from which future benefit can be derived, such as plant, machinery and equipment.
- 1.6 "Municipality": means the municipality of the Mopani District Municipality or any person(s) or committee delegated with the authority to act on its behalf.
- 1.7 "Municipality Manager": means the Accounting Officer as defined in the Municipal Finance Management Act.
- 1.8 "Closing Time": means the time and day specified in the bid documents for the receipt of bids.
- 1.9 "Competitive Bidding Process": means a competitive bidding process referred to in Regulation 12 (1) (d) of the Supply Chain Management Regulations.
- 1.10 "Competitive Bid": means a bid in terms of a competitive bidding process.

- 1.11 "Community Based Vendor": means a supplier of goods, services and/or construction works who resides in a target area or community, who meets the criteria for community based vendors as determined by the Assistant Director: Supply Chain Management from time to time, and who is registered as such on the Municipality's Supplier database.
- 1.12 "Construction Industry Development Board (CIDB) Act": means the Construction Industry Development Board Act, 38 of 2000 and includes the regulations pertaining thereto.
- 1.13 "Construction Works": means any work in connection with:
- 1.13.1 the erection, maintenance, alteration, renovation, repair, demolition or dismantling of or addition to a building or any similar structure;
 - 1.13.2 the installation, erection, dismantling or maintenance of a fixed plant;
 - 1.13.3 the construction, maintenance, demolition or dismantling of any bridge, dam, canal, road, railway, sewer or water reticulation system or any similar civil engineering structure; or
 - 1.13.4 the moving of earth, clearing of land, the making of an excavation, piling or any similar type of work.
- 1.14 "Consultant": means a person or entity providing services requiring knowledge based expertise, and includes professional service providers.
- 1.15 "Contract": means the agreement which is concluded when the Municipality accepts, in writing, a bid or quote submitted by a provider.
- 1.16 "Contractor": means any person or entity whose bid or quote has been accepted by the Municipality.
- 1.17 "Contract participation goal": means the amount equal to the sum of the value of work for which the prime contractor contracts to engage specific target groups in the performance of the contract, expressed as a percentage of the bid sum less provisional sums, contingencies and VAT.
- 1.18 "Day(s)": means calendar days unless the context indicates otherwise.

- 1.19 "Delegated Authority": means any person or committee delegated with authority by the Municipality in terms of the provisions of the Municipal Finance Management Act.
- 1.20 "Bulletin Board": means an electronic method of obtaining bids or quotations.
- 1.22 "Empowerment Indicator": means a measure of an enterprise/business's contribution towards achieving the goals of government's Reconstruction and Development Program. This indicator will relate only to certain specific goals for the purposes of this Policy.
- 1.23 "Exempted Capital Asset": means a municipal capital asset which is exempted by section 14(6) or 90(6) of the MFMA from the other provisions of that section.
- 1.24 "Evaluation Points": also referred to as "Adjudication Points" (see clause 1.1 above).
- 1.25 "Final Award": in relation to bids or quotations submitted for a contract, means the final decision on which bid or quote to accept.
- 1.26 "Formal Written Price Quotation", "Written Price Quotation", "Quotation" or "Quote": means a written or electronic offer to the Municipality in response to an invitation to submit a quotation.
- 1.27 "Functionality": is the measure, according to predetermined criteria, of the suitability of a proposal, design or product for the use for which it is intended, and may also include a measure of the competency of a supplier. "Functionality" is also referred to as "Quality".
- 1.28 "Granting of Rights": means the granting by the Municipality of the right to use, control or manage capital assets in circumstances where sections 14 and 90 of the MFMA and Chapters 2 and 3 of the Municipal Asset Transfer Regulations do not apply. In other words, where the granting of such rights does not amount to "transfer" or "disposal" of the asset and which includes leasing, letting, hiring out, etc, of the capital asset.
- 1.29 "Green Procurement": is defined as taking into account environmental criteria for goods and services to be purchased in order to ensure that the related environmental impact is minimised.

- 1.30 "Implementing Agent": means the decision maker/manager mandated by the Municipality to implement projects and invite bids/quotations for procurement of any nature.
- 1.31 "In the service of the state": means:
- 1.32.1 a member of any municipal council, any provincial legislature or the National Assembly or the National Council of Provinces;
 - 1.32.2 an official of any municipality or municipal entity;
 - 1.32.3 an employee of any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1 of 1999;
 - 1.32.4 a member of the board of directors of any municipal entity;
 - 1.32.5 a member of the accounting authority of any national or provincial public entity; or
 - 1.32.6 an employee of Parliament or a provincial legislature.
- 1.32 "Joint Venture or Consortium": means an association of persons/companies/close corporations/firms formed for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract or contracts. The Joint Venture must be formalised by agreement between the parties.
- 1.33 "Municipal Asset Transfer Regulations": means the Municipal Asset Transfer Regulations published in Government Gazette 31346 of 22 August 2008.
- 1.34 "Municipal Entity": means an entity as defined in the Systems Act.
- 1.35 "Municipal Finance Management Act" (MFMA): means the Local Government: Municipal Finance Management Act, 56 of 2003.
- 1.36 "Non-exempted Capital Asset": means a municipal capital asset which is not exempted by section 14(6) or 90(6) of the MFMA, from the other provisions of that section.
- 1.37 "One-off Contract": means a discrete contract where specified goods, services or construction works are supplied for an approved contract sum.

- 1.38 "Person": includes a natural or juristic entity.
- 1.39 "Policy": means this Supply Chain Management Policy as amended from time to time.
- 1.40 "Preference points": mean the points for preference referred to in this Policy.
- 1.41 "Preferential Procurement Policy Framework Act" (PPPFA): means the Preferential Procurement Policy Framework Act, 5 of 2000.
- 1.42 "Preferential Procurement Regulations": means the regulations pertaining to the PPPFA.
- 1.43 "Prime Contractor": shall have the same meaning as "Contractor".
- 1.44 "Promotion of Administrative Justice Act": means the Promotion of Administrative Justice Act, 3 of 2000.
- 1.45 "Quality": also referred to as "Functionality" (see clause 1.27 above).
- 1.46 "Republic": means the Republic of South Africa.
- 1.47 "Responsible Agent": means those internal project managers being Municipality officials or external consultants appointed by the Municipality responsible for the administration of a project or contract.
- 1.48 "SARS": means the South African Revenue Services.
- 1.49 "Small, Medium and Micro Enterprises (SMME's)": bears the same meaning assigned to this expression in the National Small Enterprise Act, 102 of 1996.
- 1.50 "Sub-contractor": means any person or entity that is employed, assigned, leased or contracted by the prime contractor to carry out work in support of the prime contractor in the execution of a contract.
- 1.51 "Supplier/Vendor": are generic terms which may include suppliers of goods and services, contractors and/or consultants.
- 1.52 "Supplier Database": means the list of accredited prospective providers which a municipality or municipal entity must keep in terms of Regulation 14 of the Supply Chain Management

Regulations.

- 1.53 "Supply Chain Management (SCM) Regulations": means the Municipal Supply Chain Management Regulations published in Government Gazette 27636 of 30 May 2005.
- 1.54 "Systems Act": means the Local Government: Municipal Systems Act, 32 of 2000.
- 1.56 "Tender/Tenderer": means "bid/bidder" in the context of construction works procurement.
- 1.57 "Term Bid": means a rates based bid for the ad-hoc or repetitive supply of goods, services or construction works, where the individual rates are approved for use over a specified contract period.
- 1.58 "Treasury Guidelines": means any guidelines on supply chain management issued by the Minister in terms of section 168 of the MFMA;
- 1.59 "Unsolicited Bid": means an offer submitted by any person at its own initiative without having been invited by the Municipality to do so.
2. Words importing the singular shall include the plural and vice versa and words importing the masculine gender shall include females and words importing persons shall include companies, close corporations and firms, unless the context clearly indicates otherwise.
3. All amounts/limits stated in this document shall be deemed to be inclusive of Value Added Tax (VAT).

POLICY STATEMENT

Introduction

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

Goal

6. The goal of this Policy is to provide a mechanism to ensure sound, sustainable and accountable supply chain management within the **Mopani District Municipality**, whilst promoting black economic empowerment, which includes general principles for achieving the following socio-economic objectives:
 - a. to stimulate and promote local economic development in a targeted and focused manner;
 - b. to promote resource efficiency and greening;
 - c. to facilitate creation of employment and business opportunities for the people of **Mopani District Municipality**;
 - d. to promote the competitiveness of local businesses;
 - e. to increase the small business sector access, in general, to procurement business opportunities created by Council;
 - f. to increase participation by small, medium and micro enterprises
 - i. (SMME-s); and
 - g. to promote joint venture partnerships.

Objectives

7. The objectives of this Policy are:
 - 7.1 to give effect to section 217 of the Constitution of the Republic of South Africa by implementing a system that is fair, equitable, transparent, competitive and cost effective;
 - 7.2 to comply with all applicable provisions of the Municipal Finance Management Act including the Municipal Supply Chain Management Regulations published under GN868 in Government Gazette 27636 30 May 2005 and any National Treasury Guidelines issued in terms of the MFMA;
 - 7.3 to ensure consistency with all other applicable legislation and any regulations pertaining thereto, including:
 - 7.3.1 the Preferential Procurement Policy Framework Act;
 - 7.3.2 the Broad-Based Black Economic Empowerment Act;
 - 7.3.3 the Construction Industry Development Board Act;
 - 7.3.4 the Local Government: Municipal Systems Act; and
 - 7.3.5 the Promotion of Administrative Justice Act
8. This Policy will also strive to ensure that the objectives for uniformity in supply chain management systems between organs of state, in all spheres, is not undermined and that consistency with national economic policy on the promotion of investments and doing business with the public sector is maintained.

Oversight

9. Section 117 of the Municipal Finance Management Act prohibits a Municipality Councillor from being a member of a bid committee or any other committee evaluating or approving quotations or bids nor may a Municipality Councillor attend any such meeting as an observer.
10. Council, however, has an oversight role to ensure that the Municipality Manager implements this Supply Chain Management Policy.
11. The Executive Mayor must provide general political guidance over the fiscal and financial affairs of the Municipality and may monitor and oversee the exercise of responsibilities assigned to the Municipality Manager and chief financial officer in terms of the Municipal Finance Management Act.

12. For the purposes of such oversight, the Municipality Manager shall, within 10 (ten) days of the end of each quarter, submit a report on the implementation of this Policy to the Executive Mayor and, within 30 days of the end of each financial year, shall submit a similar such report to Council.
13. In addition, if any serious problem arises in relation to the implementation of this Policy, the Municipality Manager shall immediately report to Council accordingly.
14. All such reports shall be made public in accordance with section 21.(1)(a) of the Systems Act.

Compliance with Ethical Standards

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

GENERAL PROVISIONS AND APPLICATION OF POLICY

Commencement and Review

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

Application of Policy

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

A report shall nevertheless be submitted to the Bid Adjudication Committee seeking authority to contract with another organ of state.
21. The Policy provides for the following supply chain management systems:
 - 21.1 demand management system;
 - 21.2 acquisition management system;

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

Delegations

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

Competency

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

Supply Chain Management Unit

27. The Municipality must establish a Supply Chain Management Unit to assist the Municipality Manager to implement this Policy.

Communication with the Municipality

28. All correspondence with regard to this Policy shall be addressed to the Chief Financial Officer or Assistant Director: Supply Chain Management.

Availability of Supply Chain Management Policy

29. A copy of the Policy and other relevant documentation should be made available on the Municipality's website.

DEMAND MANAGEMENT SYSTEMS

Introduction

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

Major Activities

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

34. Demand management accordingly shall involve the following activities:
 - 34.1 understanding the future needs;
 - 34.2 identifying critical delivery dates;
 - 34.3 identifying the frequency of the need;
 - 34.4 linking the requirement to the budget;
 - 34.5 conducting expenditure analyses based on past expenditure;
 - 34.6 determining requirements,
 - 34.7 conducting commodity analyses in order to check for alternatives; and
 - 34.8 conducting industry analyses.

ACQUISITION MANAGEMENT SYSTEM

Introduction

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

General

Application

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

Supplier Database

37. The Municipality Manager shall ensure that the Municipality's supplier database is updated at least quarterly and at least once per year shall, through newspapers commonly circulating locally, the website of the Municipality, and any other appropriate ways, invite prospective suppliers of goods and services, construction works and consultant services to apply for listing as an accredited prospective supplier.
38. Prospective suppliers shall however be allowed to submit applications and amendments for listing on the database at any time.

39. The listing criteria for accredited prospective providers are:

- 39.1 Name of supplier / service provider;
- 39.2 Street address;
- 39.3 Postal address;
- 39.4 Contact person
- 39.5 Department's telephone number;
- 39.6 Department's fax number;
- 39.7 Department's cell number;
- 39.8 Department's email address;
- 39.9 Contact person in Accounts Department;
- 39.10 Accounts Department's telephone number;
- 39.11 Accounts Department's fax number;
- 39.12 Accounts Department's email address;
- 39.13 Vat registration yes/no;
- 39.14 Vat registration number;
- 39.15 Bank details;
- 39.16 Type of industry;
- 39.17 Valid certification for specialised services;
- 39.18 Valid tax clearance certificate;
- 39.19 CIDB registration if applicable;
- 39.20 Valid B-BBBE certification.

40. The Municipality Manager shall 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.

41. For quotations (up to and including R200 000 (VAT Inclusive) bidders are required to be registered on the Municipality's Supplier Database on or before the closing date in order for their quotations to be responsive.

42. Where bids exceed R200 000 (VAT Inclusive), bidders who are not registered on the Municipality's Supplier Database are not precluded from submitting bids, but must however be registered prior to the evaluation of tenders in order for their bids to be responsive.
43. All parties to a Joint Venture must comply with the requirements of clauses 41 and 42 above.

Combating Abuse of the Supply Chain Management Policy¹

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

45. The Municipality Manager may reject the bid or quote of any person if that person or any of its directors has:
- 45.1 failed to pay municipal rates and taxes or municipal service charges and such rates, taxes and charges as are in arrears for more than three months;
 - 45.2 failed, during the last five years, 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;
 - 45.3 abused the supply chain management system of the Municipality or has committed any improper conduct in relation to this system;
 - 45.4 been convicted of fraud or corruption during the past five years;
 - 45.5 wilfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
 - 45.6 been listed in the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act, 12 of 2004 or has been listed on National Treasury's database as a person prohibited from doing business with the public sector.
46. The Municipality Manager shall inform the Provincial Treasury of any actions taken in terms of clauses 44 to 45 above.

Appointment of Observer

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

Contracts Having Budgetary Implications beyond Three Financial Years

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

Proudly South African Campaign

49. The Municipality supports the Proudly South African Campaign and may identify, as a specific goal the promotion of South African owned enterprises. Refer to clauses 383 and 384.

Specialised Forms of Procurement

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

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

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

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

Acquisition of Banking Services

52. Subject to section 33 of the Municipal Finance Management Act, any contract for the provision of banking services:
- 52.1 shall be procured through a competitive bidding process;
 - 52.2 shall be consistent with section 7 of the Municipal Finance Management Act; and
 - 52.3 may not be for a period longer than five years.
53. The process for procuring a contract for banking services must commence at least nine months before the end of an existing contract.
54. The closure date for the submission of bids for banking services may not be less than 60 days from the date on which the advertisement is placed in a newspapers commonly circulating locally.

55. Bids shall be restricted to banks registered in terms of the Banks Act, 94 of 1990.

Acquisition of IT Related Goods or Services

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

Acquisition of Goods Necessitating Special Safety Arrangements

59. Goods, other than water, which necessitate special safety arrangements (for example, flammable products, poisons), may not be acquired in excess of immediate requirements unless there is sound financial justification therefor.

Where the storage of goods, other than water in bulk is justified, the Municipality Manager may authorise such storage and the decision must be based on sound reason including total cost of ownership and cost advantages for the Municipality.

Public-Private Partnerships

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

Publications in Newspapers

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

Community Based Vendors

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

Range of Procurement Processes

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

Competitive Bids

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

Term Bids

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

Formal Written Price Quotations

67. Where the estimated transaction value exceeds R30 001 (VAT inclusive) and is less than or equal to R200 000 (VAT inclusive).

Written Price Quotations

68. Where the estimated transaction value exceeds R2 000 (VAT inclusive) and is less than or equal to R30 000 (VAT inclusive).

Petty Cash Purchases

69. Where the transaction value is less than or equal to R2 000 (VAT inclusive).

Procurement of Consulting Services

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

Reduction in Threshold Values

72. The Municipality Manager may:

72.1 lower, but not increase, the different threshold values specified in the acquisition management system of this Policy; or

72.2 direct that:

72.2.1 written quotations be obtained for any specific procurement of a transaction value lower than R2 000;

72.2.2 formal written price quotations be obtained for any specific procurement of a transaction value lower than R30 000; or

72.2.3 a competitive bidding process be followed for any specific procurement of a transaction value more than R200 000.

General Conditions Applicable to Bids and Quotations

73. The Municipality shall not consider a bid or quote unless the bidder who submitted the bid or quote:

73.1 has furnished the Municipality with that bidder's:

73.1.1 full name;

73.1.2 identification number or company or other registration number; and

73.1.3 tax reference number; and

73.1.4 VAT registration number, if any;

73.1.5 certificate of attendance at a compulsory site inspection, where applicable;

73.2 has submitted an original and valid tax clearance certificate certifying that the provider's tax matters are in order; and

73.3 has indicated whether:

73.3.1 the provider is in the service of the state, or has been in the service of the state in the previous twelve months;

73.3.2 if the provider is not a natural person, whether any of the directors, managers, principal shareholders or stakeholders is in the service of the state, or has been in the service of the state in the previous twelve months; or

73.3.3 whether a spouse, child or parent of the provider or of a director, manager, shareholder or stakeholder referred to in sub-clause 73.3.2 is in the service of the state, or has been in the service of the state in the previous twelve months.

74. Irrespective of the procurement process, the Municipality may not make any award above R30 000, to a person whose tax matters have not been declared by the SARS to be in order.
75. Before making an award the Municipality must check with SARS if the person's tax matters are in order and, if SARS does not respond within seven days such person's tax matters may, for the purposes of clause 74, be presumed to be in order.
76. Irrespective of the procurement process followed, the Municipality is prohibited from making an award to a person:
 - 76.1 who is in the service of the state;
 - 76.2 if the person is not a natural person, of which any director, manager or principal shareholder or stakeholder is in the service of the state; or
 - 76.3 who is an advisor or consultant contracted with the Municipality (refer to clause 95 in this regard).
77. The Municipality Manager shall ensure that the notes to the annual financial statements of the Municipality disclose particulars of any award above R2000 to a person who is a spouse, child or parent of a person in the service of the state, or who has been in the service of the state in the previous twelve months, including:
 - 77.1 the name of the person;
 - 77.2 the capacity in which the person is in the service of the state: and
 - 77.3 the amount of the award.

Competitive Bids

General

78. Competitive bids must be called for any procurement of goods or services, construction works, or consultant services above a transaction value of R200 000 (VAT inclusive), or for any contract exceeding one year in duration.
79. Goods or services, construction works, or consultant services may not be split into parts or items of lesser value merely to avoid complying with the requirements relating to competitive bids.
80. When determining transaction values, a requirement for goods or services, construction works or consultant services consisting of different parts or items must as far as possible be treated and dealt with as a single transaction.

Bid Specifications

81. Bid specifications must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services.
82. Bid specifications must take account of any accepted standards such as those issued by South African National Standards, the International Standards Organisation, or any authority accredited or recognised by the South African National Accreditation System with which the equipment or material or workmanship should comply.
83. Bid specifications shall, where possible, be described in terms of performance required rather than in terms of descriptive characteristics for design.
84. Bid specifications may not create trade barriers in contract requirements in the forms of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labelling of conformity certification.
85. Bid specifications may not make any reference to any particular trade mark, name, patent, design, type, specific origin or producer, unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the words "or equivalent".
86. Bid specifications and/or bid documentation must indicate each specific goal for which adjudication points may be awarded.

Bid specifications and/or bid documentation must be approved by the Municipality Manager or his delegated authority prior to publication of the invitation for bids.

87. Where specifications are based on standard documents available to bidders, a reference to those documents is sufficient.

Bid Specification Committee

89. All bid specifications and bid documentation must be compiled by an ad-hoc bid specification committee constituted for each project or procurement activity.

The Bid Specification Committee shall be comprised of at least three Municipality officials, an appointed Chairperson, a responsible official and at least one Supply Chain Management Practitioner of the Municipality.

90. Where appropriate a representative of Internal Audit and/or Legal Services and/or an external specialist advisor may form part of this committee.
91. Green procurement must be incorporated as far as reasonable possible, for all specifications of goods, services and construction works.
92. In the development of bid specifications, innovative mechanisms should be explored to render the service or product more resource and energy efficient.

94. The Municipality Manager, or his delegated authority, shall, taking into account section 117 of the MFMA, appoint the members of the Bid Specification Committees.
95. No person, advisor or corporate entity involved with the bid specification committee, or director of such corporate entity, may bid for any resulting contracts.
96. Bid Specification Committee meetings must be conducted in accordance with the applicable Rules of Order Regulating the Conduct of Meetings.

Compilation of Bid Documentation

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

104. Bid documentation must stipulate that disputes must be settled by means of mutual consultation, mediation (with or without legal representation) or, where unsuccessful, in a court of South African law.
105. A provision for the termination/cancellation of the contract in the case of non- or under-performance must be included in the bid documentation.
106. Unless otherwise indicated in the bid documents, the Municipality shall not be liable for any expenses incurred in the preparation and/or submission of a bid.
107. Bid documentation must state that the Municipality shall not be obliged to accept the lowest bid, any alternative bid or any bid.
108. Unless the Municipality Manager otherwise directs bids are invited in the Republic only.
109. Laws of the Republic shall govern contracts arising from the acceptance of bids.
110. Bid documentation must compel bidders to declare any conflict of interest they may have in the transaction for which the bid is submitted.
111. The bid documentation must require bidders to disclose:
 - 111.1 whether he or she is in the service of the state, or has been in the service of the state in the previous twelve months;
 - 111.2 if the bidder is not a natural person, whether any of its directors, managers, principal shareholders or stakeholder is in the service of the state, or has been in the service of the state in the previous twelve months; or
 - 111.3 whether a spouse, child or parent of the bidder or of a director, manager, shareholder or stakeholder referred to in sub-clause 111.2 is in the service of the state, or has been in the service of the state in the previous twelve months.
112. Bid documentation for consultant services must require bidders to furnish the Municipality with particulars of all consultancy services, and any similar services (to the services being bid for) provided to an organ of state in the last five years.
113. Bid documentation for consultant services must ensure that copyright in any document produced, and the patent rights or ownership in any plant, machinery, item, system or process designed or devised by a consultant in terms of an appointment by the Municipality, shall vest in the Municipality.

Bids exceeding R10 million

114. the estimated value of the transaction exceeds R10 million, the bid documentation must require the bidders to furnish:
- 114.1 if the bidder is required by law to prepare annual financial statements for auditing, their audited annual financial statements -
 - 114.1.1 for the past three years, or
 - 114.1.2 since their establishment if established during the past three years,
 - 114.2 a certificate signed by the bidder certifying that the bidder has no undisputed commitments for municipal services towards a municipality or other service provider in respect of which payment is overdue for more than 30 days,
 - 114.3 particulars of any contracts awarded to the bidder by an organ of state during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract, and
 - 114.4 a statement indicating whether any portion of the goods or services are expected to be sourced from outside the Republic and, if so, what portion and whether any portion of payment from the Municipality is expected to be transferred out of the Republic.

Alternative Bids

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

Public Invitation for Competitive Bids

118. On completion of the bid specification and bid document processes the Municipality shall publicly invite bids.
119. Bid invitation shall be by notice published in the press, in newspapers

circulating in the Mopani District Municipality area, in English and on the Municipality's official website.

120. The bid notice shall, as soon as possible after the publication contemplated above, be posted on official notice boards designated by the Municipality Manager.
121. The bid notice may require payment of a non-refundable tender fee by bidders wanting to collect bid documents. This tender fee shall be determined by the Assistant Director: Supply Chain Management from time to time.
122. The public notice contemplated by clause 119 above shall specify:
 - 122.1 the title of the proposed contract and the bid or contract reference number;
 - 122.2 such particulars of the contract as the Municipality deems fit;
 - 122.3 the date, time and location of any site inspection, if applicable;
 - 122.4 the place where the bid documentation is available for collection and the times between which bid documentation may be collected;
 - 122.5 that bids may only be submitted on the bid documentation provided by the Municipality;
 - 122.6 the deposit payable, if any;
 - 122.7 the place where bids must be submitted;
 - 122.8 the closing date and time for submission of bids; and
 - 122.9 the required CIDB contractor grading for construction work.
123. The bid notice shall further state that all bids for the contract must be submitted in a sealed envelope on which it is clearly stated that such envelope contains a bid and the contract title and contract or bid reference number for which the bid is being submitted.
124. Bid documentation shall be available for collection until the closing date of bids.

Issuing of Bid Documents

125. Bid documents and any subsequent notices may only be issued by officials designated by the Assistant Director: Supply Chain Management from time to time.
126. Details of all prospective bidders who have been issued with bid documents must be recorded by the issuing office but shall remain **confidential** for the duration of the bid period.
127. Details of prospective bidders must, wherever possible, include the full name of the person drawing documents, a contact person, a contact telephone and fax number and a postal and email address.

Site Inspections

128. In general, site inspections, where applicable will not be compulsory. In exceptional circumstances however, a site inspection may be made compulsory with the approval of the Assistant Director: Supply Chain Management, provided that the minimum bid period is extended by at least 7 (seven) days
(Refer to clauses 156 to 158 in this regard).
129. If site inspections are to be held, full details must be included in the bid notice, including whether or not the site inspection is compulsory.
130. Where site inspections are made compulsory, the date for the site inspection shall be at least 7 (seven) days after the bid has been advertised, and a certificate of attendance signed by the responsible agent must be submitted with the bid.
131. If at a site meeting, any additional information is provided or clarification of vague points is given, such additional information or clarification must be conveyed to all bidders in accordance with clauses 163 to 165 of this Policy.

Two-stage (Prequalification) Bidding Process

132. In a two-stage (prequalification) bidding process, bidders are first invited to prequalify in terms of predetermined criteria, without being required to submit detailed technical proposals (where applicable) or a financial offer.
133. In the second stage, all bidders that qualify in terms of the predetermined criteria will be shortlisted and invited to submit final technical proposals (where applicable) and/or a financial offer.

134. This process may be applied to bids for large complex projects of a specialist or long term nature or where there are legislative, design, technological and/or safety reasons to restrict bidding to firms who have proven their capability and qualification to meet the specific requirements of the bid, including projects where it may be undesirable to prepare complete detailed technical specifications or long term projects with a duration exceeding three years.
135. The notice inviting bidders to pre-qualify must comply with the provisions of public invitation for competitive bids (clauses 118 to 124 refer).
136. Once bidders have pre-qualified for a particular project, they shall be given not less than 7 (seven) days to submit a final technical proposal (where applicable) and/or a financial offer.

Two Envelope System

137. A two envelope system differs from a two-stage (prequalification) bidding process in that a technical proposal and the financial offer are submitted in separate envelopes at the same place and time. The financial offers will only be opened once the technical proposals have been evaluated (clauses 184 to 189 refer).

Validity Periods

138. The period for which bids are to remain valid and binding must be indicated in the bid documents.
139. The validity period is calculated from the bid closure date and bids shall remain in force and binding until the end of the final day of that period.
140. This period of validity may be extended by the Chairperson of the Bid Evaluation Committee, provided that the original validity period has not expired, and that all bidders are given an opportunity to extend such period. Any such extension shall be agreed to by a bidder in writing.
141. Bidders who fail to respond to such a request before their tender lapses, or who decline such a request shall not be considered further in the bid evaluation process.
142. The responsible official must ensure that all bidders are requested to extend the validity period of their bids where necessary in order to ensure that the bids remain valid throughout the appeal period or until the appeal is finalised. If bidders are requested to extend the validity period of their bids as a result of an appeal being lodged it must be made clear to bidders that this is the reason for the request.

Contract Price Adjustment

143. For all contract periods equal to or exceeding one year, an appropriate contract price adjustment formula must be specified in the bid documents.
144. In general, if contract periods do not exceed one year, the bid shall be a fixed price bid and not subject to contract price adjustment.
145. However, if as a result of any extension of time granted, the duration of a fixed price contract exceeds one year, the contract will automatically be subject to contract price adjustment for that period by which the extended contract period exceeds such one year. An appropriate contract price adjustment formula must be specified in the bid documents.
146. Notwithstanding clause 144, if the bid validity period is extended, then contract price adjustment may be applied.

Contracts providing for Compensation Based on Turnover

147. If a service provider acts on behalf of the 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;

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

147.2 that such compensation must be performance based.

Provisional Sums and Prime Cost Items

148. If monetary allowances in excess of R200 000 for provisional sums or prime cost items have been included in the bid documents, and where the work or items to which the sums relate are to be executed/supplied by sub-contractors/suppliers, then a competitive bidding process, as determined by the Assistant Director: Supply Chain Management from time to time, shall be followed in respect of these sums/items.

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

Samples

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

Closing of Bids

155. Bids shall close on the date and at the time stipulated in the bid notice.
156. For bids for goods and services the bid closing date must be at least 14 (fourteen) days after publication of the notice.
157. For construction works the bid closing date must be at least 21 (twenty one) days after publication of the notice.
158. Notwithstanding the above, if the estimated contract value exceeds R10 million (VAT included), or if the contract is of a long term nature with a duration period exceeding one year, then the bid closing date must be at least 30 (thirty) days after publication of the notice.
159. For banking services, the bid closing date must be at least 60 (sixty) days after publication of the notice.
160. For proposal calls using a two envelope system, the bid closing date must be at least 30 (thirty) days after publication of the notice.
161. The bid closing date may be extended by the Assistant Director : Supply Chain Management if circumstances justify this action; provided that the closing date may not be extended unless a notice is published in the press prior to the original bid closing date. This notice shall also be posted on the official notice boards designated by the Municipality Manager, and a notice to all bidders to this effect shall be issued.
162. The Municipality Manager may determine a closing date for the submission of bids which is less than any of the periods specified in clauses 156 to 160 above, but only if such shorter period can be justified on the grounds of urgency or emergency or any exceptional case where it is impractical or impossible to follow the official procurement process.

Communication with bidders before bid closing

163. The Bid Specification Committee Chairperson may, if necessary, communicate with bidders prior to bids closing.
164. Such communication shall be in the form of a notice issued to all bidders by the Assistant Director: Supply Chain Management by either e-mail, facsimile, or registered post as appropriate. A copy of the notice together with a transmission verification report/proof of posting shall be kept for record purposes. Notices should be issued at least one week prior to the bid closing date, where possible.
165. Notwithstanding a request for acknowledgement of receipt of any notice issued, the bidder will be deemed to have received such notice if the procedures in clause 164 have been complied with.

Submission of Bids

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

Late Bids

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

Opening of Bids

177. At the specified closing time on the closing date the applicable bid box shall be closed.
178. The bid box shall be opened in public as soon as practical after the closing time.

179. Immediately after the opening of the bid box, all bids shall be opened in public and checked for compliance.
180. The official opening the bids shall in all cases read out the name of the bidder and, if practical, the amount of the bid.
181. As soon as a bid or technical proposal has been opened:
- 181.1 the bid/proposal shall be stamped with the official stamps, and endorsed with the opening official's signature;
 - 181.2 the name of the bidder, and where possible, the bid sum shall be recorded in a bid opening record kept for that purpose; and
 - 181.3 the responsible official who opened the bid shall forthwith place his/her signature on the bid opening record.
182. Bids found to be inadvertently placed in the incorrect bid box will be redirected provided that the applicable bids either closed on the same day at the same time, or are still open (in which case the Municipality disclaims any responsibility for seeing that the bids are in fact lodged in the correct bid box). A record of all bids placed in an incorrect box shall be kept.
183. Bids received in sealed envelopes in the bid box without a bid number or title on the envelope will be opened at the bid opening and the bid number and title ascertained. If the bid was in the correct bid box it will be read out. If the bid is found to be in the incorrect bid box, it will be redirected provided that the applicable bids either closed on the same day at the same time, or are still open. If the bid closes at a later date, the bid will be placed in a sealed envelope with the bid number and title endorsed on the outside, prior to being lodged in the applicable box. The Municipality however disclaims any responsibility for seeing that the bid is in fact lodged in the correct box.

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

184. If a two envelope system is followed, only the technical proposal will be opened at the bid opening.
185. The unopened envelope containing the financial proposal shall be stamped and endorsed with the opening official's signature, and be retained by him/her for safekeeping.
186. When required the financial offers/bids corresponding to responsive technical proposals, shall be opened by the opening official in accordance with clauses 180 and 181.
187. All bidders who submitted responsive technical proposals must be invited to attend the opening of the financial offers/bids.

188. Envelopes containing financial offers/bids corresponding to non-responsive technical proposals shall be returned unopened along with the notification of the decision of the Bid Adjudication Committee in this regard (clause 228 refers).
189. After being recorded in the bid opening record, the bids/technical proposals shall be handed over to the official responsible for the supervision of the processing thereof and that official shall acknowledge receipt thereof by signing the bid opening record.

Invalid Bids

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

Bid Sum

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

Bid Evaluation

General

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

Bid Evaluation Committee

196. An ad-hoc Bid Evaluation Committee shall be constituted for each project or procurement activity to evaluate bids received.
197. The Bid Evaluation Committee shall be comprised of at least three Municipality officials, an appointed Chairperson (who may be the same person as the Chairperson of the Bid Specification Committee), a responsible official and at least one Supply Chain Management Practitioner of the Municipality.
198. Where appropriate, a representative of Internal Audit and/or Legal Services may form part of this committee, which may also include other internal specialists/experts as necessary. External specialists/experts may advise the Bid Evaluation Committee, as required.
199. The Municipality Manager, or his delegated authority, shall, taking into account section 117 of the MFMA, appoint the members of the Bid Evaluation Committees.
200. Bid Evaluation Committee meetings must be conducted in accordance with the applicable Rules of Order Regulating the Conduct of Meetings.

Bid Evaluation

201. The Responsible Agent shall carry out a preliminary evaluation of all valid bids received and shall submit a draft bid evaluation report to the Bid Evaluation Committee for consideration.
202. Any evaluation of a bid shall consider the bids received and shall note for inclusion in the evaluation report, a bidder:
- 202.1 bid does not comply with the provisions for combating abuse of this Policy;

- 202.2 whose bid does not comply with the general conditions applicable to bids and quotations of this Policy;
- 202.3 whose bid is not in compliance with the specification;
- 202.4 whose bid does meet the minimum score for functionality, if applicable;
- 202.5 whose bid price is lower -10% and more than the 10% of the contract price.
- 202.6 whose bid is not in compliance with the terms and conditions of the bid documentation;
- 202.7 whose bid does not comply with any minimum goals stipulated in terms of the preferential procurement section of this Policy;
- 202.8 who is not registered and verified on the Municipality's supplier database. In this regard bid documentation shall state that the responsibility for registration and verification rests solely with the bidder;
- 202.9 who, in the case of construction works acquisitions, does not comply with the requirements of the Construction Industry Development Board Act regarding registration of contractors;
- 202.10 who has failed to submit an original and valid tax clearance certificate from the South African Revenue Services (SARS) certifying that the taxes of the bidder are in order or that suitable arrangements have been made with SARS, and
- 202.11 who fails to comply with any applicable Bargaining Council agreements.

203. Bids shall be evaluated according to the following as applicable:
- 203.1 bid price (corrected if applicable and brought to a comparative level where necessary),
 - 203.2 the unit rates and prices,
 - 203.3 the bidder's ability to execute the contract,
 - 203.4 any qualifications to the bid,
 - 203.5 the bid ranking obtained in respect of preferential procurement as required by this Policy,
 - 203.6 the financial standing of the bidder, including its ability to furnish the required institutional guarantee, where applicable,
 - 203.7 any other criteria specified in the bid documents.
204. No bidder may be recommended for an award unless the bidder has demonstrated that it has the resources and skills required to fulfil its obligations in terms of the bid document.
205. The Bid Evaluation Committee shall check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not in arrears.
206. Additional information or clarification of bids may be called for if required but only in writing.
207. Alternative bids may be considered, provided that a bid free of qualifications and strictly in accordance with the bid documents is also submitted. The Municipality shall not be bound to consider alternative bids.

208. If a bidder requests in writing, after the closing of bids, that his/her bid be withdrawn, then such a request may be considered and reported in the bid evaluation report for decision by the Bid Adjudication Committee.
209. The bidder obtaining the highest number of points should be recommended for acceptance unless there are reasonable and justifiable grounds to recommend another bidder.
210. If, after bids have been brought to a comparative level, two or more score equal total adjudication points, the recommended bidder shall be the one scoring the highest preference points.
211. If two or more bids are equal in all respects, the Bid Evaluation Committee shall draw lots to decide on the recommendation for award, or may, in the case of goods and services, recommend splitting the award proportionately, where applicable.
212. All disclosures of a conflict of interest shall be considered by the Bid Evaluation Committee and shall be reported to the Bid Adjudication Committee.

Recommendation to Bid Adjudication Committee

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

Bid Adjudication

Bid Adjudication Committee

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

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

Adjudication and Award

217. The Bid Adjudication Committee shall consider the report and recommendations of the Bid Evaluation Committee and make a final award or make another recommendation to the Municipality Manager on how to proceed with the relevant procurement.
218. The Bid Adjudication Committee may make an award to a preferred bidder, subject to the Municipality Manager negotiating with the preferred bidder in terms of clause 231 of this Policy.
219. The Municipality Manager may at any stage of the bidding process, refer any recommendation made by the Bid Evaluation or Bid Adjudication Committee back to that committee for reconsideration of the recommendation.

Approval of Bid not Recommended

220. If a Bid Adjudication Committee decides to award a bid other than the one recommended by the Bid Evaluation Committee, the Bid Adjudication Committee must, prior to awarding the bid:

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

220.2 check in respect of the preferred bidder that it has the resources and skills required to fulfil its obligations in terms of the bid document.

220.3 notify the Municipality Manager.

221. The Municipality Manager may:

after due consideration of the reasons for the deviation ratify or reject the decision of the Bid Adjudication Committee referred to in clause 220 above.

If the decision of the Bid Adjudication Committee is rejected, refer the decision of the adjudication committee back to that committee for consideration.

222. If a bid other than the one recommended in the normal course of implementing this Policy is approved, then the Municipality Manager must, in writing and within ten working days, notify the Auditor-General, the Provincial Treasury and the National Treasury of the reasons for deviating from such recommendation.

223. The requirement of clause 220.3 does not apply if a different bid was approved in order to rectify an irregularity.

Reconsideration of Recommendations

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

Right of Appeal

225. In terms of Section 62 of the Systems Act, a person whose rights are affected by a decision taken by the Municipality, in terms of a delegated authority, in the implementation of its supply chain management system, may appeal against that decision by giving written notice of the appeal and reasons to the Municipality Manager within 21 days of the date of receipt of the notification of the decision.
226. Tender documents must state that any appeal in terms of clause 225 must be submitted to the Municipality Manager at the address stated, and must contain the following:
- a. reasons and/or grounds for the appeal;
 - b. the way in which the appellants rights have been affected; and
 - c. the remedy sought by the appellant.
227. No tender shall be formally accepted until either the expiry of the 21 day appeal period, or confirmation in writing before the expiry of the 21 day appeal period that none of the affected parties intend to appeal, or confirmation of the satisfactory resolution of any appeals.

Notification of Decision

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