

CITY OF JOHANNESBURG

SUPPLY CHAIN MANAGEMENT POLICY

Adopted in terms of section 111 of the Municipal Finance Management Act, No 56 of 2003.



SUPPLY CHAIN MANAGEMENT - Revision 002

July 2009

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DEFINITIONS

CHAPTER 1

1. DEFINITIONS

In this Policy, unless the context otherwise indicates, a word or expression to which a meaning has been assigned in the Act has the same meaning as in the Act, and –

“the Act” means the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);

“CIDB” means the Construction Industry Development Board;

“CIDB Act” means the Construction Industry Development Board Act, 2000 (Act No 38 of 2000);

“the City” means the City of Johannesburg Metropolitan Municipality, a metropolitan municipality duly established by virtue of Provincial Notice 6766 dated 1 October 2000, as amended;

“City Manager” means the official appointed by the City as City Manager and whom will be acting as the accounting officer of the City as contemplated in the Act;

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“Code of Conduct”	means the code of conduct attached to this Policy as Annexure A;
“competitive bidding process”	means a competitive bidding process contemplated in paragraph 17.3 of this Policy;
“competitive bid”	means a bid in terms of a competitive bidding process;
“construction works”	means the provision of a combination of goods and services arranged for the development, extension, installation, repair, maintenance, renewal, removal, renovation, alteration, dismantling or demolition of a fixed asset including building and engineering infrastructure;
“emergency”	means an unforeseeable and/or sudden event, with materially harmful or potential harmful consequences for the City that requires immediate action;
“final award”	in relation to bids or quotations submitted for a contract, means the final decision on which bid or quote to accept;

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“Heads of Departments” means any Executive Director or Regional Director of the City, including any Director or other official on the second reporting level who reports directly to the City Manager;

“Fruitless and wasteful expenditure” means expenditure that was made in vain and would have been avoided had reasonable care been exercised;

“in the service of the state” means:–

- (a) an official of any municipality who has a contract of employment with the municipality and is employed on a permanent, temporary or short term basis;
- (b) an official or public servant of any national or provincial government as defined in terms of Public Services Act;
- (c) a person who –
 - (i) is a councillor of any municipal council as defined in the Local Government Municipal Structures Act (Act No 117 of 1998);
 - (ii) is a politician serving in any provincial legislature; or

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- (iii) is a politician serving in the National Assembly or the National Council of Provinces;
- (d) a member of the board of directors of the City of Johannesburg entities;
- (e) an official and a member of a government owned entity as defined in the Public Finance Management Act (Act No 1 of 1999); and such meaning ascribed to it by National Legislation from time to time;
- (f) 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
- (g) who is an advisor or consultant contracted with the municipality or municipal entity.

“list of accredited prospective service providers” means a list of accredited prospective providers which the City must keep in terms of paragraph 37 of this Policy

“long term contract” means a contract with a duration period exceeding one year;

National Treasury Circulars / Guidelines means Supply Chain Management Circulars / Guidelines issued by National Treasury from time to time;

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“other applicable legislation”	<p>means any other legislation applicable to Municipal Supply Chain Management, including, but not limited to:–</p> <ul style="list-style-type: none">(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);
“Practice Notes”	<p>means all Supply Chain Management Practice Notes issued from time to time by the Director: Supply Chain Management in accordance with paragraph 37 of this Policy.</p>
“Regulations”	<p>means the Municipal Supply Chain Management Regulations promulgated in terms of the Local Government: Municipal Finance Management Act 56, of 2003;</p>
“SCM Procedure Manual”	<p>means all Supply Chain Management Procedure Manual(s) issued by the Executive Director: Finance from time to time in accordance with paragraph 37 of this Policy;</p>

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“Service provider”	means a provider of goods and services required from time to time by the City, duly accredited by the City in terms of paragraph 36 of this Policy;
“SMME”	Any business enterprise with a turnover of less than R5 million in terms of the Broad Based Black Empowerment Act (Act no 53 of 2003);
“Sole supplier”	means a sole supplier contemplated in paragraph 17.5 of this Policy;
“Supply Chain Management”	means the systems approach to manage the entire flow of goods and services that will create and optimise value for customers in the form of products and services, which is specifically aimed at satisfying customer demands
“Systems Act”	means the Local Government: Municipal Systems Act No 32 of 2000, as amended.
“the/this Policy”	means the Supply Chain Management Policy adopted by the City in terms of Section 111 of the Act, as amended from time to time;
“Two stage bidding process”	means two stage competitive bidding process contemplated in paragraph 17.3.2 of this Policy
“Written quotations”	means written quotations contemplated in paragraph 17(2) of this Policy; and

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“Unsolicited bid” means unsolicited bids contemplated in paragraph 17.6 of this Policy.

CHAPTER 2

**ESTABLISHMENT AND IMPLEMENTATION OF SUPPLY CHAIN
MANAGEMENT POLICY**

2. PURPOSE OF THE POLICY

The purpose of this Policy is to regulate all Supply Chain Management practices within the City. This Policy implements the Supply Chain Management practices as envisaged by the Act and its Regulations. All employees shall adhere, implement and observe the provisions and requirements of this Policy.

3. EFFECTIVE DATE

This Policy is effective from the date of adoption thereof by the City.

4. PRINCIPLES ASCRIBED TO IN THIS POLICY

This Policy ascribes to a procurement system which:

- (a) Is fair, equitable, transparent, competitive and cost effective in terms of Section 217 of the Constitution of South Africa No 108 of 1996;
- (b) Enhances uniformity in Supply Chain Management systems between organs of state in all spheres;
- (c) Is consistent with the Supplier Management and Development Policy;

- (d) Is consistent with the enterprise development programmes as approved by the City which are not limited to EPWP, Indigency Policy, job pathway and other policies and programmes that seeks to aggressively advance the empowerment of the SMMEs and previously disadvantaged communities;
- (e) Embraces the principles of efficient environmental management;
- (f) Is consistent with the Broad Based Black Economic Empowerment Act 53 of 2000 and any Codes promulgated thereunder in the Government Gazette; and
- (g) Is consistent with the Preferential Procurement Policy Framework Act 5 of 2000 and its Regulations as promulgated.

5. COMMITMENT OF THE CITY

The City through its officials, individually and collectively, shall be committed to:

- (a) The implementation and full compliance of Supply Chain Management policies and practices as envisaged by the Act and its Regulations.
- (b) Fair, equitable, transparent and competitive Supply Chain Management practices and processes. To this extent, the City will accord all a fair administrative process whenever procuring or disposing of goods and services.

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- (c) Sourcing goods and services at competitive market prices taking into account the Total Cost of Ownership (TCO) concept and value adding principles;
- (d) Enhancing healthy and mutually beneficial relationships with suppliers of goods and services and user departments and regions, based on integrity, honesty, professionalism and ethics.
- (e) Utilization of the City's buying power as leverage to ensure effective implementation of broad based black economic empowerment objectives.
- (f) Enhancing the City's viability and competitiveness through effective and efficient supply chain practices and systems.
- (g) Economic development of local communities, small medium and micro enterprises, women-owned enterprises, youth-owned and disabled-owned enterprises within the area of jurisdiction of the City.
- (h) High ethical business practices and conduct, and expects the same of suppliers doing business with the City as set out in the Code of Conduct for supply chain management practitioners and other role players attached as Annexure A.
- (i) Confidential treatment of all information received and held within.
- (j) Fulfilling the objectives and provisions of the Competitions Act, 89 of 1989 and shall use their best endeavours to ensure full compliance by all suppliers thereto.

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- (k) The principles and provisions contained in the Promotion of Access to Information Act, 2 of 2000.
- (l) Fully support the Proudly South African Campaign and will as far as practical seek to award business to service providers with high local content in their products and services.
- (m) The principles and provisions of the Promotion of Administrative Justice Act, 3 of 2000.

6. APPLICABILITY OF THIS POLICY

- (1) This Policy shall apply to the entire City and must be strictly adhered to when:-
 - (a) procuring goods or services;
 - (b) disposing of goods no longer needed; and
 - (c) selecting service providers other than in circumstances where Chapter 8 of the Systems Act applies.
- (2) Sub-paragraph (1) above does not apply when procuring goods and services under contracts secured by other organs of state under the circumstances contemplated in paragraph 22.

7. REVIEW AND AMENDMENT OF THIS POLICY

- (1) The City Manager must submit all subsequent amendments of this Policy to the Council for approval. Such amendments must be in line with the Regulations and Model Policy as compiled by National Treasury, and any National Treasury Guidelines. Deviations from the Model Policy or Regulations must be reported to National and Provincial Treasury.
- (2) The City Manager, through the Executive Director: Finance, must at least annually, or more frequently if required, review the implementation of this Policy to determine to what extent, if any, this Policy needs to be amended in order to remain relevant to changed circumstances.
- (3) Amendments to this Policy shall be presented to and approved by the Council.
- (4) When amending this Policy, the need for uniformity in supply chain practices, procedures and forms between organs of state in all spheres, particularly to promote accessibility of supply chain management systems for small business, must be taken into account.
- (5) The City Manager shall in terms of section 62 (1)(f)(iv) of the Act, take all reasonable steps to ensure that the City implements this Policy.

8. OVERSIGHT ROLE OF COUNCIL

- (1) The Council has and must maintain an oversight role over the implementation of this Policy.

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- (2) For the purposes of such oversight, the City Manager shall submit the various reports contemplated in paragraph 10.1 and 10.2 below respectively for consideration by the Council and the MMC: Finance.

9. DELEGATIONS OF SUPPLY CHAIN MANAGEMENT POWERS AND DUTIES

- (1) The City Manager, in terms of section 79(1) of the Act, hereby delegates Supply Chain Management Powers and duties as set out in Annexure B.
- (2) The City Manager shall be entitled at all times to withdraw or amend the delegations contained in Annexure or to determine new delegations, should the need therefore arise.

10. REPORTING REQUIREMENTS

10.1 Reporting by the City Manager to the Council through the Finance, Strategy Committee and the Mayoral Committee

The City Manager must submit the following reports to the Council through established channels –

- (a) Monthly reports, or as soon as it is practically possible, containing particulars of each final award made by the Adjudication Committees during that month, including:–
 - (i) the amount of the award;
 - (ii) the name of the person to whom the award was made;
 - (iii) the reason why the award was made to that service provider;
 - (iv) the BEE status of the service provider; and

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- (v) details of the acquisition plan versus the spend for the month.
- (b) Quarterly consolidated reports on the implementation of this Policy within 10 days of the end of each quarter, or as soon as it is practically possible;
- (c) Annual consolidated reports on the implementation of this Policy within 30 days of the end of each financial year, or as soon as it is practically possible;
- (d) Report on a monthly basis all deviations and ratifications in the implementation of this Policy and any remedial action taken or envisaged, where applicable;
- (e) Reports on awards of unsolicited bids, as soon as it is practically possible after the award of such bids;
- (f) Reports on all awards to close family members or persons in the service of the State or has been in the service of the State in the previous 12 months, or as soon as it is practically possible after such awards;
- (g) Report on any abuses found and the remedial actions taken;
- (h) Report on all declarations made and gifts received by employees; and
- (i) Report monthly or as soon as it is practically possible, the reasons for any deviations or ratifications approved by him in the preceding month in accordance with paragraph 21(4).

10.2 Reporting by the Director: Supply Chain Management to Executive Director: Finance, Heads of Department and CIDB

The Director: Supply Chain Management must submit the following reports to the Executive Director: Finance, Heads of Departments, and CIDB through established channels:–

- (a) Report to the relevant Heads of Departments on non-compliance, deviations and remedial action proposed or taken;
- (b) Report to CIDB on construction works awarded;
- (c) Report to the Executive Director: Finance on the operations of the Supply Chain Management Unit on a monthly basis;
- (d) Report containing particulars of each final award made by Director or Heads of Departments during that month within 5 days of the end of each month, including, or as soon as it is practically possible after such awards:–
 - (i) the amount of the award;
 - (ii) the name of the person to whom the award was made;
 - (iii) the reason why the award was made to that person;
 - (iv) the BEE status of the service provider; and
 - (v) details of the acquisition plan versus the spend for the month.
- (e) Report to the ED: Finance on all practice notes issued and proposed amendments to the SCM Procedure Manual.

**10.3 Reporting by the Heads of Departments to the Executive Director:
Finance (via the Director: Supply Chain Management)**

- (a) Heads of Departments must submit monthly petty cash procurement reports to the Executive Director: Finance. All such reports shall be routed through the Director: Supply Chain Management;

- (b) Heads of Departments must submit monthly reports to the Executive Director: Finance on final awards of transactions below R30 000, or such higher threshold as may be determined from time to time, within 5 days of the end of each month, or as soon as it is practically possible after such awards, including:–
 - (i) the amount of the award;
 - (ii) the name of the person to whom the award was made;
 - (iii) the BEE status of the service provider
 - (iv) the reason why the award was made to that person;
 - (v) details of the acquisition plan versus the spend for the month, and
 - (vi) The BEE status of service providers referred to in 10.4 above must not be interpreted as the City's performance towards BEE targets as monitored by Department of Economic Department.

10.4 Reporting by the Heads of Departments to the Executive Adjudication Committee on the utilization of Approved and Established Panels of Service Providers (via the ED: Finance Department)

Heads of Departments must submit quarterly reports to the Executive Adjudication Committee on the appointment of service providers on its approved and established panels of service providers. All such reports shall be routed through the Director: Supply Chain Management.

10.5 Reporting by the ED Finance to the MMC: Finance Department

The ED: Finance Department must submit on a quarterly basis to the MMC Finance Department reports outlined in paragraphs 10.2 to 10.4, including reports on the following:

- (a) Proposed amendments to the SCM Policy and Procedure Manual if any;
- (b) Proposed frameworks and practice notes and circulars issued by the National Treasury.

10.6 Reporting by the City to National Treasury and/or Provincial Treasury

The Director: Supply Chain Management Unit shall, on behalf of the City, submit the following reports to National Treasury and/or Provincial Treasury-

- (a) Reports on all purchases paid for in foreign currency;

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- (b) Reports on contracts and/or transaction to the value of R100 million and more;
- (c) Reports on supplier or director thereof that has abused the Supply Chain Management system and has been found guilty of improper conduct;
- (d) Reports on awards of unsolicited bids;
- (e) Report on any sponsorship promised, offered or granted, whether directly or through a representative or intermediary, by any person who is:-
 - (i) a provider or prospective provider of goods or services;
 - (ii) a recipient or prospective recipient of goods disposed or to be disposed;
- (f) Reports on any service provider that has been found guilty of inducing or bribing City officials for the award of business;
- (g) Reports on all awards of more than R2 000 to a close family member of persons in the service of the state or has been in the service of the state in the previous 12 months;
- (h) Reports on abuses of Supply Chain Management and the remedial steps taken;
- (i) Reports on contracts awarded that the duration extends beyond three years; and

- (j) Reports on any deviation from the Model Policy or Regulations as contemplated in paragraph 7(1) above.

10.7 Reporting by the City to Department of Trade and Industry-

The Director: Supply Chain Management Unit shall, on behalf of the City, submit to the Department of Trade and Industry a report on all transactions/contracts to the value of R100 million and more with a foreign content of USD 10 million.

10.8 Publication of Reports on the Official Website of the City

All reports indicated above, excluding reports referred to in subparagraph (3) above, will be made public by the Director: Supply Chain Management Unit through the official website of the City.

11. REPORTING STATUS OF THE SUPPLY CHAIN MANAGEMENT UNIT

The Supply Chain Management Unit of the City shall report to the Executive Director: Finance, as the Group Chief Financial Officer.

12. TRAINING OF SUPPLY CHAIN MANAGEMENT EMPLOYEES

The training of employees involved in implementing this Policy shall comply with any applicable National Treasury Guidelines on Supply Chain Management training, the South African Qualification Authority Act 58 of 1995, the Skills Development Act 97 of 1998.

13. PERFORMANCE MANAGEMENT

- (i) Compliance to this Policy will form an integral part of the City's performance measurement system for all Heads of Department and Supply Chain Management practitioners.

- (ii) The necessary Supply Chain Management Unit objectives will be set and measured annually as per the City's Integrated Development Plan.

CHAPTER 3

FORMAT OF SUPPLY CHAIN MANAGEMENT

14. SUPPLY CHAIN MANAGEMENT SYSTEMS

- (1) This Policy provides systems for –
 - (a) Demand Management (**PART 1**);
 - (b) Acquisition Management (**PART 2**);
 - (c) Logistics Management (**PART 3**);
 - (d) Disposal Management (**PART 4**);
 - (e) Risk Management (**PART 5**); and
 - (f) Performance Management (**PARAGRAPH 14 ABOVE**).

PART 1

DEMAND MANAGEMENT

15. DEMAND MANAGEMENT

- (1) To implement an effective and efficient Supply Chain Management system that espouses cost savings, the City ascribes to the following principles of demand management:-
 - (a) Consolidation of the City's requirements through the Supply Chain Management Unit to maximize economies of scale. To this extent all requirements must be processed through the Supply Chain Management Unit;

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- (b) Clearly articulated requirements and specifications that meet the needs and expectations of multiple users. The specifications shall be unbiased, functional and not brand specific;
- (c) Acquisition of all goods and services required must be outlined in terms of the Integrated Development Plan, quantified on monthly or quarterly basis;
- (d) Similar requirements will necessitate one contract;
- (e) Where necessary, industry analysis and research should be undertaken to ensure best value for money.

PART 2

ACQUISITION MANAGEMENT

16. SYSTEM OF ACQUISITION MANAGEMENT

- (1) The City shall, subject to sub-paragraph (5) below, only proceed with the acquisition of goods and services for which there is an approved budget. The onus will be on the relevant Head of Department to ensure that funds are available. All procurement of goods and services will be measured against approved acquisition plans. For any unplanned needs, permission shall be sought from the respective Heads of Departments.
- (2) The City's acquisition management will ensure:
 - (a) that goods and services are procured by the City in accordance with authorised processes only;

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- (b) that expenditure on goods and services is incurred in terms of an approved budget;
 - (c) that the threshold values for the different procurement mechanisms as contained in 17 below are complied with;
 - (d) that bid documentation including compiled bid specification where applicable, evaluation and adjudication criteria, and general conditions of a contract, are in accordance with any applicable legislation; and
 - (e) that any National Treasury guidelines on acquisition management are properly taken into account.
- (3) This Policy, except where otherwise provide for herein, 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.
- (4) The following information will be made public whenever goods or services contemplated in section 110 (2) of the Act are procured other than through the Supply Chain Management system –
- (a) the kind of goods or services;

- (b) the name of the supplier;
 - (c) the total value of the contract or project; and
 - (d) delivery /completion period for the kind of goods or service.
- (5) Notwithstanding the provisions of sub-paragraph (1) above, the City may during any given financial year commence with the procurement processes with the view of procuring goods or services in respect of an ensuing financial year, provided that:
- (a) the order for such goods or services shall only be placed after the commencement of the ensuing financial year; and
 - (b) budgetary provision has been made for the resultant expenditure.

17. PROCUREMENT MECHANISMS

- (1) The City shall adhere to the principles of fair, equitable and transparent procurement systems whenever sourcing goods and services from the market.
- (2) All cost escalations pertaining to established contracts are to be reported to the Mayoral Committee
- (3) When procuring goods and services on behalf of the City, the appropriate procurement mechanisms as listed in Table 17 hereunder, shall apply:

TABLE 17

Procurement Mechanism	Total Transaction Value
Petty Cash Purchases	R nil to R2 000 (VAT Inclusive)
Written Quotations	1. R 2000 to R200 000 (VAT Inclusive); and 2. When procuring goods or services from accredited service providers, subject to paragraph 17.2(8) below.
Competitive Bidding Process	Above R200 000 (VAT Inclusive)
Negotiations	Any Value
Sole Suppliers	Any Value
Unsolicited Bids	Any Value

17.1 PETTY CASH PURCHASES

- (1) Petty cash purchases may be allowed in cases where it is not possible or economically viable to procure goods and services through written quotation or competitive bidding processes. This situation will arise where the total costs of engaging in written quotation or competitive bidding far outweighs the value of the item(s) or services been sought.
- (2) Petty cash purchases shall be limited for the procurement of items or services below R2 000 (VAT inclusive) only. The amount of R2 000 (VAT inclusive) should be the total value of all of the Department's requirements for a particular item or service per occasion, or the requirements must be so incidental that it is not viable/feasible for the City to establish a contract or keep stock.

17.2 WRITTEN QUOTATIONS

- (1) To ensure that transparent and equitable objectives are adhered to at all times when procuring different goods and services, the City shall use the written quotation mechanism when:-
 - (a) The total value of goods and services is more than R2 000 but below R200 000 inclusive of VAT. These thresholds shall, where possible, apply to the yearly-consolidated requirements of the City; and
 - (b) Goods and services are required from service providers on any panel of service providers approved by the appropriate Adjudication Committee, in which event the provisions of sub-paragraph 8 below shall apply.
- (2) For this procurement mechanism, the City may only obtain quotations from accredited suppliers registered on its database. Only when there are no technically suitable suppliers on the database will the City be entitled to appoint suppliers not so registered: Provided that in such event, the relevant Head of Department shall ensure that the service provider so appointed shall submit a fully compliant application to register on the official database of the City within 14 days from date of appointment, failing which the City shall be entitled to terminate the appointment of such service provider with immediate effect.
- (3) Quotations must be obtained in writing from at least three different suppliers, subject to sub-paragraph 8 below. As far as possible all suppliers must be afforded an opportunity to quote on a rotational basis.

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- (4) Should it not be possible to obtain three quotations, the reasons must be recorded in the relevant report and supported by the Director Supply Chain Management or the Head of Department as per their individual delegated authorities.
- (5) If there are frequent requirements, in respect of which the amount per individual transaction is less than R200 000 per user, such requirements must be consolidated and a contract be established through competitive bidding process.
- (6) Splitting of requirements with the sole intention of circumventing any of the procurement mechanisms listed shall not be allowed.
- (7) All written quotations solicited above the R30 000 threshold must be processed in accordance with the Preferential Procurement Policy Framework Act and its Regulations.
- (8) In the event of the appointment of service providers on any panel of service providers approved by the appropriate authority, the successful bidder shall be appointed by the relevant Head of Department contemplated in Annexure B, after having obtained three quotations from any of the service providers on the approved panel of service providers: Provided that:
 - (a) service providers shall be afforded at least 3 days to provide their quotations ; and
 - (b) in the event of the appointment of attorneys, it shall not be necessary to obtain three quotations, on condition that as far as possible attorneys shall be appointed on a rotational basis.

- (9) All requirements in excess of R30 000 (VAT included) that are to be procured by means of written quotations, excluding goods or services available on contract and goods and services to be procured from service providers on any panel of service providers approved by the appropriate authority, must be advertised for at least seven days on the official website and notice board of the City.

17.3 COMPETITIVE BIDDING PROCESS

17.3.1 GENERAL CONDITIONS APPLICABLE TO A COMPETITIVE BIDDING PROCESS

- (1) In order to ensure transparency and equitability when procuring goods and services, the City shall use the competitive bidding process mechanism when: -
- (a) Procuring goods or services above a value of R200 000 (VAT inclusive);
 - (b) Procuring goods and services requiring long-term contracts as defined; and
 - (c) Procuring of banking services.
- (2) Services classified as essential shall only be procured through a competitive bidding process.
- (3) The competitive bidding process mechanism shall be utilised in the manner prescribed in the appropriate Procedure Manual.

- (4) Splitting of requirements with the sole intention of circumventing any of the procurement mechanisms listed in this Policy shall not be allowed.

17.3.2 TWO-STAGE COMPETITIVE BIDDING PROCESS

- (1) A two-stage bidding process may be followed:–
 - (a) When the requirements are not easily determinable and it is ideal to engage the market in firming up the requirements;
 - (b) When sensitive projects or services requiring security clearance prior to the award or where it is undesirable to prepare complete detailed technical specifications; or
 - (c) In the case of complex projects that require multiple stages before award and are requiring a period of three years;
- (2) A two-stage competitive bidding process shall ascribe to the following:
 - (a) The first stage shall entail the issuing by the City of a Request for Information to the market through public invitations;

- (b) The second stage shall entail the issuing by the City of a detailed Request for Proposals or an Expression of Interests to only short listed suppliers who have responded to the Request for Information referred to in sub-paragraph (a) above.

17.4 NEGOTIATIONS

- (1) The necessary prior approval or mandate to negotiate with any service providers must be obtained in writing from the relevant Adjudication Committee or City Manager, as the case may be.
- (2) The negotiation mechanism may be used only when:-
 - (a) procuring goods and services from single or sole suppliers;
 - (b) annual price increases in respect of existing contracts are requested;
 - (c) terms and conditions in respect of existing contracts require amendment;
 - (d) finalising the award of business with preferred bidders provided that:
 - (i) such negotiations do not allow any preferred bidder a second or unfair opportunity;
 - (ii) such negotiations are not to the detriment of any other bidder;

- (iii) such negotiations do not lead to a higher price than the bid as submitted; and
 - (iv) the circumstances contemplated in paragraph 18.2(6) below apply.
- (3) The approval or mandate to negotiate must at least include the following:
- (a) Reasons for negotiations;
 - (b) Negotiations parameters;
 - (c) Objectives of the negotiations;
 - (d) Names of identified service providers (s) to negotiate with; and
 - (e) Names of the persons authorised to conduct the negotiations.
- (4) The outcome of the negotiations must be approved by the relevant Adjudication Committee or City Manager, as the case may be, before award.
- (a) Records of all negotiations must be kept.

17.5 SOLE SUPPLIERS

- (1) Procuring goods and services from sole suppliers occur when:-
- (a) Only one service provider manufactures or renders goods and services due to the unique nature of the requirements;

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- (b) Goods and services already in the City's value chain / employ are only supplied by an Original Equipment Manufacturer (OEM) or by a licensed agent thereof; or
 - (c) There is a requirement for compatibility, continuity and/or alignment.
- (2) Authorized agents must produce:
- (a) an appropriate letter from the relevant OEM before the award is made; and
 - (b) documentary evidence confirming its status as a licensed owned agent.
- (3) For the sake of transparency and fairness all requirements categorized to be sourced from sole service providers shall be advertised for 14 calendar days, Provided that in respect of banking services and bids valued above R10 million (Inclusive of VAT), the periods contemplated in paragraph 19(1)(b)(i) shall apply.

17.6 UNSOLICITED BIDS

- (1) Unsolicited bids are bids that are pre-emptively submitted by the prospective service provider(s) to the City without any requirements being identified and advertised by the City. This situation arises when the service provider(s) identify an opportunity to render services or supply products not ordinarily required by the City, or where the need for such services or goods have not yet been identified by the City.

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- (2) The City shall not be obliged to consider unsolicited bids received outside the normal bidding process.
- (3) The City Manager may consider an unsolicited bid, but only if: –
 - (a) the product or service offered in terms of the bid is a demonstrably or proven unique innovative concept;
 - (b) the product or service will be exceptionally beneficial to, or have exceptional cost advantages;
 - (c) the person who made the bid is the sole provider of the product or service; and
 - (d) the reasons for not going through the normal bidding processes are approved by the accounting officer.
- (4) If the City Manager decides to consider an unsolicited bid that complies with sub-paragraph (3) above, 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 is accepted;
 - (c) an invitation to the public or other potential suppliers to submit their comments within 30 days of the date the decision has been published.

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- (5) The City Manager shall submit all written comments received pursuant to sub-paragraph (4), including any responses from the unsolicited bidder, to the National Treasury and the relevant provincial treasury for comment.
- (6) The Executive Adjudication Committee must consider the unsolicited bid and may award the bid or make a recommendation to the City Manager, depending on its delegations.
- (7) A meeting of the Executive Adjudication Committee to consider an unsolicited bid must be open to the public.
- (8) When considering the matter, the Executive Adjudication Committee must take into account –
 - (a) any comments submitted by the public, as well as the response received from the unsolicited bidder, if any; and
 - (b) any written comments and recommendations of the National Treasury or the relevant provincial treasury.
- (9) If any recommendations of the National Treasury or provincial treasury are rejected or not followed, the City Manager must submit to the Auditor General and the Provincial and National Treasury the reasons for rejecting or not following those recommendations.
- (10) The submission referred to in sub-paragraph (9) must be made within 7 days after the decision on the award of the unsolicited bid is taken, but no contract committing the City to the bid shall be entered into or signed within 30 days of the submission.

- (11) The City reserves the right:
- (a) not to award the business to the bidder that has made the unsolicited bid;
 - (b) to award the business to any competitive bidder instead of the unsolicited bidder; and/or
 - (c) to reject any bidder who may have generated an unsolicited bid having used privileged information owned by the City.

17.7 PROCUREMENT OF CONSULTING SERVICES (APPOINTMENT OF CONSULTANTS)

- (1) The City 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, subject to paragraph 17.2(8) above, 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

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- (b) any similar consultancy services provided to an organ of state in the last five years.
- (4) Copyright in any document produced, and the patent rights and ownership in any plant, machinery, thing, system or process designed or devised by a consultant in the course of the consultancy service shall vest in the City.
- (5) The City Manager shall introduce such steps as may be required to ensure that the provisions of sub-paragraph (4) above are complied with.

17.8. PROCUREMENT OF BANKING SERVICES

- (1) A contract for banking services –
 - (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 9 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 paragraph 19(1) below. Bids must be restricted to banks registered in terms of the Banks Act, 1990 (Act No. 94 of 1990).

17.9. PROCUREMENT OF IT RELATED GOODS OR SERVICES

- (1) The procurement of all of the IT related goods or services must be made in accordance with the City's approved IT strategy.
- (2) The City Manager may request the State Information Technology Agency (SITA) to assist with the acquisition of IT related goods or services through a competitive bidding process.
- (3) Both parties must enter into a written agreement to regulate the services rendered by, and the payments to be made to, SITA.
- (4) The City Manager 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).
- (5) If SITA comments on the submission and the City disagrees with such comments, the comments and the reasons for rejecting or not following such comments must be submitted to the Council, the National Treasury, the relevant provincial treasury and the Auditor General.

18. GENERAL CONDITIONS APPLICABLE TO THE CONSIDERATION OF WRITTEN QUOTATIONS OR BIDS

18.1 General Conditions

(1) The City shall not consider any written quotation or bid, unless the provider who submitted the quotation or bid has submitted:

(a) a signed binding quotation or bid that contains the service provider's:-

(i) full name; and

(ii) identity number or company or other registration number.

(b) a signed declaration form under oath –

(i) stating 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) stating 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) stating whether a spouse, child or parent of the service provider or of a director, manager, shareholder or stakeholder referred to in subparagraph (ii) is in the service of the state, or has

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been in the service of the state in the previous twelve months; and

- (iv) declaring any conflict of interest the provider may have in the transaction for which the quotation or bid is submitted;
- (c) a copy of Form VAT 103 as proof of VAT registration, if applicable;
- (d) an original valid Tax Clearance Certificate;
- (e) a certificate signed by the provider certifying that the service provider has no undisputed commitments for municipal services towards the City or other service provider in respect of which payment is overdue for more than 30 days, or certifying that an appropriate agreement has been entered into between the City and the relevant service provider for the repayment of all undisputed commitments for municipal services, in respect of which no payment is overdue for more than 30 days;
- (f) if the value of the transaction is expected to exceed R10 million (VAT included):
 - (i) and the service provider is required by law to prepare annual financial statements for auditing, its audited annual financial statements -
 - (aa) for the past three years; or

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- (bb) since its establishment, if established during the last three years.

- (ii) particulars of any contract awarded to the provider 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

- (iii) a statement indicating whether any portion of the goods or services are expected to be sourced from outside the Republic of South Africa, and, if so, what portion and whether any portion of payment from the City is expected to be transferred out of the Republic.

18.2 Rejection of Bids/Non-Responsive Bids

- (1) Bidding documents must provide for the rejection of all bids if and when deemed necessary. This is justified when there is lack of effective competition or bids are not substantially responsive, provided that lack of competition should not be determined solely on the basis of the number of bidders.

- (2) If all bids were rejected, the City must review the causes justifying the rejection and consider making revisions to the specific conditions of contract, design and specifications, scope of the contract, or a combination of these, before inviting new bids.

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- (3) If rejection is due to lack of competition, wider advertising should be considered.
- (4) If the rejection was due to most or all of the bids being non responsive, new bids may be invited from the initially pre-qualified bidders, or with the agreement of the City Manager, from only those that submitted bids in the first instance.
- (5) All bids should not be rejected solely for the purpose of obtaining lower prices. If the lowest evaluated responsive bid exceeds the City's pre-bid cost estimates by a substantial margin, the City must investigate the causes for the excessive cost and consider requesting new bids as described above.
- (6) Alternatively to sub-paragraph (5), the City may negotiate with the identified preferred bidder(s) to try to obtain a satisfactory contract through a reduction in the scope and/or a reallocation of risk and responsibility that can be reflected in a reduction of the contract price, provided that a substantial reduction in the scope or modification to the contract documents may require re-bidding.
- (7) The City Manager's prior approval must be obtained before rejecting all bids, soliciting new bids, or entering into negotiations with the identified preferred bidder. This approval should be recorded for auditing purposes.

19. PUBLIC INVITATION AND BID DOCUMENTATION FOR COMPETITIVE BIDS

- (1) The following procedure shall apply to the invitation of competitive bids:
- (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 City 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 60 days in the case of a banking tender contemplated in paragraph 18.8 below, or 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 sub-paragraphs (2) and (5) below;
 - (ii) a statement that bids may only be submitted on the bid documentation provided by the City; and
 - (iii) the date, time and venue of any proposed site meetings or briefing sessions.

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- (2) The City Manager 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) All bids submitted must be sealed.
- (4) Where bids are requested in electronic format, such bids must be supplemented by sealed hard copies.
- (5) In the case of a two-stage bidding process for transactions over R10 million (VAT included), a closing date of 30 days shall apply in respect of at least one of the stages whilst a closing date of 14 days shall apply to the other stage. The relevant Head of Department may determine which closing date period shall apply to which stage.
- (6) Bid documentation for a competitive bidding process must :–
 - (a) take into account –
 - (i) the general conditions of contract and any special conditions of contract, if specified;
 - (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;

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- (b) include the preference points system to be used, goals as contemplated in the Preferential Procurement Regulations and 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, or certifying that an appropriate agreement has been entered into between the City and the relevant service provider for the repayment of all undisputed commitments for municipal services, in respect of which no payment is overdue for more than 30 days;

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- (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 or municipal entity is expected to be transferred out of the Republic; and
- (e) stipulate that disputes must be settled by means of mutual consultation, mediation (with or without legal representation), or, when unsuccessful, in a South African Court of Law in accordance with the provisions of applicable South African Law.

20. PROCEDURE FOR HANDLING, OPENING AND RECORDING OF BIDS

- (1) The following procedures for the handling, opening and recording of bids shall apply:
- (a) Bids—
 - (i) must be opened in public;
 - (ii) must be opened at the same time and as soon as possible after the period for the submission of bids has expired; and
 - (iii) received after the closing time shall not be considered and shall be returned unopened without delay.

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- (b) Any bidder or member of the public has the right to request that the names of the bidders who submitted bids in time must be read out and, if practical, also each bidder's total bidding price;
- (c) No information, except the information referred to in subparagraph (b), relating to the bid shall be disclosed to bidders or other persons until the successful bidder is notified of the award; and
- (d) The City Manager must –
 - (i) record all bids received in time in an appropriate register;
 - (ii) make the register available for public inspection; and
 - (iii) publish the entries in the register and the bid results on the website.

21. DEVIATION FROM AND RATIFICATION OF MINOR BREACHES OF THE PROCUREMENT PROCESSES

- (1) Deviations from the procurement processes contained in this Policy are not encouraged and shall only be allowed in the circumstances provided for in this paragraph.
- (2) The City Manager may:
 - (a) deviate from the official procurement processes contained in this Policy and approve the procurement of any required goods or services through any convenient process, which may include direct negotiations, but only-

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- (i) in an emergency;
 - (ii) if such goods or services are produced or available from a single/sole provider as contemplated in paragraph 18.5 above;
 - (iii) for the acquisition of special works of art or historical objects where specifications are difficult to compile;
 - (iv) for the acquisition of animals for zoos, including the acquisition of animals for Johannesburg Metro Police Academy; and/or
 - (v) in any exceptional case where it is impractical or impossible to follow the official procurement processes.
- (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.
- (3) Reasons for the deviation or ratification must be motivated and recommended by the responsible Head of Department in the relevant report for consideration by the City Manager.
- (4) The City Manager must record the reasons for any approved deviation or ratification in terms of sub-paragraphs (2)(a) and (b), must report them to the next meeting of the Council and must include any such deviation or ratification as a note to the annual financial statements.

- (5) Sub-paragraph 3 does not apply to the procurement of goods and services contemplated in paragraph 16(3) of this Policy.

22. PROCUREMENT OF GOODS AND SERVICES UNDER CONTRACTS SECURED BY OTHER ORGANS OF STATE

- (1) The City Manager may approve the procurement of goods and/or services under a contract secured by another organ of state, but only if:–
- (a) the contract has been secured by such 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;
 - (d) the other organ of state and the provider has consented to such procurement in writing; and
 - (e) the goods or services required by the City are similar to those on contract.
- (2) The respective departments within the City must solicit prior approval from the Executive Adjudication Committee for participation in a contract established by other organs of state.

- (3) Sub-paragraphs (1) (c) and (d) above do not apply if the City procures goods or services through a contract secured by any municipal entity of the City.

23. SUPPLY CHAIN MANAGEMENT COMMITTEE SYSTEMS

- (1) The City shall, through its Supply Chain Management committee system, ensure that the acquisition process for goods and services is open, fair and transparent.
- (2) The committee system must ensure that objectivity, value for money and cost effectiveness principles are espoused in all phases of the acquisition process.
- (3) The City will make use of the following committees in the manner detailed hereunder:

TABLE 23

Committee	Function	Composition
Bid Specification Committee	Compiling technical specifications incorporating set criteria for the City's requirements to be acquired	At least three City officials, comprising: officials from the user department; and SCM representatives. When necessary: Representatives from the Legal and Compliance Department; and external specialist Advisors.
Bid Evaluation Committee	Evaluation of bids, compilation of comprehensive reports & making recommendations for consideration by the respective adjudication committees	At least 3 City officials, comprising: an official from the user department; SCM representatives; representatives from the Finance and Legal and Compliance Departments; and when necessary: external specialist advisors.
Bid Adjudication Committee	Consideration of the recommendations, making final awards and /or referring back to the Bid Evaluation Committee for further analyses	As per terms of reference

23.1 BID SPECIFICATION COMMITTEES

- (1) A bid specification committee must compile the technical specifications for each requirement.

- (2) The technical specifications: –
 - (a) must be drafted in an unbiased manner to allow all potential service providers to offer their goods or services;

 - (b) must take account of any accepted standards such as those issued by South Africa Bureau of Standards (SABS), the International Standards Organisation (ISO), or an authority accredited or recognised by the South African National Accreditation System (SANAS);

 - (c) must be functional and not be outcome based or brand inclined;

 - (d) must not create trade barriers in contract requirements in the forms of plans, drawings, designs, testing and test methods, packaging, marking or labelling of conformity certification;

 - (e) shall 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”;

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- (f) must indicate each specific goal for which points shall be awarded in terms of the points system set out in the Preferential Procurement Regulations 2001; and
- (g) must be approved by:
 - (i) The City Manager or his or her delegated authority for bids above R5 million, prior to publication of the invitation for bids in terms of paragraph 20 of this Policy;
 - (ii) The relevant Head of Department or his or her delegated authority for bids less than R5 million, prior to publication of the invitation for bids in terms of paragraph 19 of this Policy.
- (3) The bid specification committee must be composed of at least three officials of the City in compliance with Table 23, and preferably include the manager responsible for the function, and shall, 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, shall bid for any resulting bids.

23.2 BID EVALUATION COMMITTEES

- (1) A bid evaluation committee must;–
 - (a) evaluate bids in accordance with
 - (i) the approved specification; and

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- (ii) the points system set out in terms of paragraph 23.1(2)(f) above.
 - (b) evaluate each bidder's capability to execute the contract from a technical, financial and commercial perspective;
 - (c) ascertain whether the bidder complies to all the general conditions as set out in paragraph 18 above; and
 - (d) submit to the adjudication committee a report and recommendations regarding the award of the bid or any other related matter pertaining to the bid/s.
- (2) A bid evaluation committee must be composed of at least three officials of the City in compliance with Table 23, and preferably include-
- (a) officials from departments requiring the goods or services; and
 - (b) at least one supply chain management practitioner of the City.

23.3 BID ADJUDICATION COMMITTEES

- (1) A bid adjudication committee must –
 - (a) consider the report and recommendations of the bid evaluation committee; and

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- (b) either –
 - (i) depending on its delegations, make a final award or a recommendation to the City Manager to make the final award; or
 - (ii) make another recommendation to the City Manager on how to proceed with the relevant procurement.

- (2) A bid adjudication committee must consist of at least four senior managers of the City, which must include –
 - (a) the chief financial officer or, if the chief financial officer is not available, another manager in the Budget, Treasury or other office reporting directly to the chief financial officer and designated by the chief financial officer; and
 - (b) at least one senior supply chain management practitioner who is an official of the City;
 - (c) a technical expert in the relevant field who is an official, if such an expert exists; and
 - (d) any other officials which the City Manager may deem appropriate.

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

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- (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) ensure 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 City Manager.

- (b) The City Manager may –
 - (i) after due consideration of the reasons for the deviation, ratify or reject the decision of the bid adjudication committee referred to in paragraph (a) above; 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 City Manager 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.

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- (7) The City Manager shall, in accordance with Section 114 of the Act, notify the Auditor-General, the Provincial Treasury and National Treasury within 10 working days where a bid, other than the one recommended in the normal course of implementing this Policy, has been approved.
- (8) The bid adjudication committees must consider all reports and recommendations of the bid evaluation committee in terms of their respective mandates/Terms of References as determined from time to time.
- (9) The bid adjudication committees shall make the award based on their satisfaction with the integrity of the bid evaluation process being followed and compliance to this Policy.

24. SUPPLIER MANAGEMENT AND DEVELOPMENT

- (1) The City ascribes to sound principles and practices directed at supplier management and development to ensure the following:
 - (a) equal opportunities on a rotational basis where possible for all service providers, except for continuity, compatibility, alignment and cost effectiveness of the goods and / or professional services required by the City;
 - (b) development and management of SMME and BBBEE; and
 - (c) mutually beneficial relationships based on fairness, transparency, trust and good ethical conduct.

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- (2) To ensure that the above mentioned objectives are met the City must:-
 - (a) keep a list of accredited prospective service providers of goods and services;
 - (b) at least once a year through public invitation including the City's website <http://www.joburg.org.za/> invite prospective service providers of goods or services to apply for accreditation and registration;
 - (c) specify the listing criteria for accredited prospective service providers; and
 - (d) the list will be updated at least quarterly to make provision for new registrations
- (3) The City will not register and/or do business with service providers whose names appear on the National Treasury's database as a person or entity prohibited from doing business with the public sector.
- (4) The City will develop, implement and maintain a Supplier Management and Development Policy.

25. PENALTIES FOR ABUSE OF THIS POLICY

- (1) No abuse or contravention of this Policy shall be tolerated. Any abuse or contravention of this Policy shall be brought to the attention of the City Manager for his further consideration.
- (2) Any official who abuses or contravenes this Policy shall be dealt with in terms of clause 25 (1) above.

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- (3) Service providers and their directors/representatives who have been found guilty of abusing this Policy will be barred/suspended from doing business with the City and National Treasury will be informed accordingly.
- (4) The City reserves the right to criminally prosecute any person found to have contravened or abused this Policy.
- (5) The City reserves the right to cancel or not to award business to service providers found to have:
 - (a) unfairly influenced the process of award and have been found guilty of improper conduct;
 - (b) has been convicted for fraud or corruption during the past 5 years;
 - (c) has wilfully neglected, reneged on or failed to comply and deliver on any government, municipal or other public sector contract during the past five years; or
 - (d) has been listed in the Register for Bid Defaulters In terms of section 29 of the Prevention and Combating of Corrupt Activities Act 12 of 2004.
- (6) All officials are expected to assist the City in fighting corruption and to this extent are encouraged to report all suspicious acts in terms of the City's Anticorruption Policy.

PART 3

**LOGISTICS MANAGEMENT
(INVENTORY MANAGEMENT AND ASSET DISPOSAL)**

26. INVENTORY MANAGEMENT

- (1) The City is committed to the following principles of inventory management:-
 - (a) consolidation of stock items to avoid duplication and redundancy;
 - (b) operating and managing the stores in an efficient and cost effective manner;
 - (c) maintaining an effective item identification system;
 - (d) avoid fruitless and wasteful expenditure by disposing redundant material on time; and
 - (e) designing and implementing internal control systems that seeks to ensure that the City minimizes theft and avoid losses.

- (2) To ensure achievements of the goals set out in sub-paragraph (1) above, the City will ensure that:-
 - (a) Items are coded to ensure that each item has a unique identification number for the purposes of monitoring spending patterns on types or classes of goods and assets;

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- (b) Stock items are kept in clearly marked bins located in the store/ warehouses to enable ease of identification at all times;
 - (c) To prolong the lifespan of goods/stock kept in the stores / warehouse, the stores / warehouse must be kept in a clean, safe, tidy and systematic condition that complies with the health and safety standards;
 - (d) Inventory levels will be set that includes minimum and maximum levels and lead times wherever goods are placed in stock. Thus, the minimum and maximum re-order levels and safety stock levels will also be determined for each stock category by the Manager: Stores and the User Departments and Regions are responsible for providing demand forecasts to enable the Manager: Stores to determine these minimum and maximum levels;
 - (e) Appropriate measures will be taken to minimise the risk, associated with the keeping of stock/goods by the City, as well as management of stock- outs;
 - (f) Ordering and receiving of stock must be done according to the relevant SCM Procedure Manual.
- (3) The City will ensure appropriate standards of internal controls and stores/ warehouse management are in place to ensure goods placed in stores are safely secured and only used for the purpose they were purchased;

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- (4) The City will ensure that all assets including City vehicles utilized at the respective stores / warehouses are properly managed, appropriately maintained and only used for official purposes.

PART 4

DISPOSAL MANAGEMENT

27. ASSET DISPOSAL MANAGEMENT

- (1) The process of asset disposal shall be transparent, competitive, equitable, fair and comply with Supply Chain Management Processes and practices;
- (2) All asset disposal transactions shall be through a public bidding process or public auction;
- (3) The appointment of auctioneers shall be through a competitive bidding process;
- (4) Prior to the disposal of assets, reasonable efforts must be made to ensure that core departments and Regions have no need for any of the items, except for IT equipment, in which case the Provincial Department of Education must be given the first right of refusal.
- (5) Appropriate channels must be followed for disposing assets through donation mechanism.

PART 5

RISK MANAGEMENT

28. RISK MANAGEMENT

- (1) The City will effectively manage risk through a system of identification, consideration and avoidance of potential risks in the Supply Chain Management system.
- (2) The criteria for the identification, consideration and avoidance of potential risks in the Supply Chain Management system, are as follows:
 - (a) the identification of risks on a case-by-case basis;
 - (b) the allocation of risks to the risk owner 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.
- (3) Due care must be taken in the bid administration and management process to minimise the risk of litigation by unsatisfied service provider/s.

- (4) The Supply Chain Management Unit must ensure that where third party software or license agreement/s is used, the service provider must own / must have the right of use of any intellectual property attached to the license. Any damages for non-compliance will be for the suppliers account.

CHAPTER 4

GENERAL MATTERS

29. PROHIBITION ON AWARDS TO PERSONS WHOSE TAX MATTERS ARE NOT IN ORDER

- (1) Service providers whose tax matters are not known or have not been declared to be in order by the South African Revenue Services are not eligible to be awarded business by the City. Original Tax Clearance Certificate is a mandatory requirement for all procurement mechanisms listed in this Policy with the exception of Petty Cash purchases.
- (2) It is the service provider's responsibility to provide the City with a valid and original Tax Clearance Certificate and failure to do so shall result in the automatic disqualification of the relevant service provider. It is an offence to deregister for VAT purposes after obtaining business from the City, without advising the City accordingly. Should the City establish that a service provider has deregistered after the contract award and is claiming VAT, the City shall be entitled to summarily cancel the contract, prohibit the offender from doing future business with City and/or lay criminal charges against the offender.

30. PROHIBITION ON AWARDS TO PERSONS IN THE SERVICE OF THE STATE

(1) The City will not, subject to such amendments to the Act and exemptions as the Minister may promulgate from time to time, award contracts to service providers who are owned directly or indirectly by the following categories of persons-

- (a) Person is the service of the state;
- (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) Who is an advisor or consultant contracted with the municipality or municipal entity.

31. AWARDS TO CLOSE FAMILY MEMBERS OF PERSONS IN THE SERVICE OF THE STATE

(1) The awarding of contracts by officials in decision-making positions to close family members or friends shall not be encouraged. To this extent, all relevant officials shall make full disclosure of businesses owned by close family members and / or friends on an annual basis and no such officials shall directly or indirectly be involved in the awarding of such business transactions.

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- (2) The City Manager must ensure that the notes to the annual financial statements disclose particulars of any award of more than R2 000 to a person who is a spouse, child or parent of a person in the service of the state, or has been in the service of the state in the previous twelve months, which particulars shall include:–
 - (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.

32. HANDLING PROPRIETARY INFORMATION

- (1) All information designed and prepared for the City is deemed as proprietary. No such information may be distributed, modified or customized for third parties without written permission.
- (2) All information pertaining to service providers shall be treated confidential.
- (3) In appropriate instances, the City may require security clearance and confidentiality agreements to be entered into with service providers.

33. SPONSORSHIPS

- (1) The City Manager must promptly disclose to the National Treasury and the relevant provincial treasury any sponsorship promised, offered or granted, whether directly or through a representative or intermediary, by any person who is –

- (a) provider or prospective provider of goods or services; or
 - (b) a recipient or prospective recipient of goods disposed or to be disposed.
- (2) All sponsorships by the City to external organizations or parties shall be subject to such terms and conditions as the Council may determine from time to time, which terms and conditions shall be deemed to be incorporated into this Policy by means of Practice Notes contemplated in paragraph 37 below.

34. RESOLUTION OF DISPUTES, OBJECTIONS, COMPLAINTS AND QUERIES

- (1) Persons or service providers aggrieved by decisions or actions taken in the implementation of this Policy or in the awarding of business, may, within 10 working days of the decision or action lodge a written complaint, objection or query with the City Manager detailing the following:-
- (a) The tender/bid or the quotation reference number;
 - (b) The part of the City Policy, Regulations or Act that has been violated;
 - (c) The details of the violation;
 - (d) The department or region or utilities involved;

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(e) Relief sought:

Provided that no person aggrieved by any such decisions or actions shall be entitled to lodge such complaint, objection or query after expiry of the period of 10 days, unless the City Manager has on good cause shown, condoned the late lodging thereof.

- (2) The City Manager must appoint an independent and impartial person, from outside or within the City, to investigate the complaint, objection or query concerned and propose an appropriate resolution. The person so appointed must be someone who was not involved in the transaction in question.
- (3) Disputes relating to contracts will be resolved strictly according to the disputes resolution mechanism provided for in the contract document.
- (4) The provisions of this paragraph shall not prohibit or infringe on the rights of any party to approach a Court of Law for appropriate relief regarding the dispute in question, provided that:
 - (a) the laws of the Republic of South Africa shall apply to all and any disputes resulting from the implementation of this Policy, or any contract entered into in terms of this Policy; and
 - (b) only a South African Court of Law of competent jurisdiction shall decide such dispute.

35. CONTRACTS PROVIDING FOR COMPENSATION BASED ON TURNOVER

(1) Should the compensation payable to any service provider be determined as an agreed percentage of turnover for the service rendered or the amount collected on behalf of the City, the contract between the service provider and the City must:–

(a) contain a cap on the compensation payable to such service provider; and

(b) stipulate that such compensation shall be performance based.

36. LIST OF ACCREDITED SERVICE PROVIDERS

(1) The City Manager must ensure that:

(a) the City keeps a list of accredited prospective providers of goods and services that must be used for the procurement requirements of the City through written quotations and formal written price quotations;

(b) at least once a year through newspapers commonly in circulation in the area of jurisdiction of the City, the website of the City and any other appropriate ways, prospective providers of goods or services is invited to apply for evaluation and listing as accredited prospective providers;

(c) the listing criteria for accredited prospective providers is specified; and

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- (d) 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, is disallowed.
- (2) The list of accredited prospective providers must be updated at least quarterly to include any additional prospective providers and any new commodities or types of services.
- (3) Prospective providers shall be allowed to submit applications for inclusion on the list of accredited service providers at any time.
- (4) The list of accredited prospective providers must be compiled per commodity and per type of service.
- (5) Separate applications for inclusion on the list of accredited service providers must be submitted for each subsidiary company within a holding company that desires to be included on the list of accredited service providers.

37. SCM PROCEDURE MANUAL, PRACTICE NOTES AND NATIONAL TREASURY GUIDELINES

- (1) The Executive Director: Finance may from time to time through the Director: Supply Chain Management Unit issue practice notes and amendments to the SCM Procedure Manual as may be deemed expedient for the implementation of this Policy.
- (2) Any such amendments to the SCM Procedure Manual and Practice Notes referred to in sub-paragraphs (1) and (2) above, and any National Treasury Guidelines that may be issued by National Treasury

from time to time, shall upon the issuing thereof be deemed to be incorporated in and form part of this Policy.

38. PROCUREMENT OF GOODS NECESSITATING SPECIAL SAFETY ARRANGEMENTS

- (1) The acquisition and storage of goods in bulk (other than water), which necessitate special safety arrangements, including gasses and fuel, must be avoided wherever 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 City Manager.

39. INDUCEMENTS, REWARDS, GIFTS AND FAVOURS

- (1) No person who is a provider or prospective provider of goods or services, or a recipient or prospective recipient of goods disposed or to be disposed of may either directly or through a representative or intermediary promise, offer or grant –
 - (a) any inducement or reward to the City 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 this Policy.

- (2) The City Manager must promptly report any alleged contravention of sub-paragraph (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) Sub-paragraph (1) does not apply to gifts less than R350 in value.

40. ETHICAL STANDARDS

- (1) The Code Of Conduct For Supply Chain Management Practitioners And Other Role Players Involved In Supply Chain Management (**the Code of Conduct**) attached to this Policy as Annexure A, is hereby adopted for officials and other role players in the supply chain management system of the City 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) A breach of the Code of Conduct shall be dealt with as follows -
 - (a) in the case of an employee, in terms of the disciplinary procedures of the City envisaged in section 67(1)(h) of the Municipal Systems Act;

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- (b) in the case a role player who is not an employee, through other appropriate means in recognition of the severity of the breach;
and
- (c) in all cases, financial misconduct must be dealt with in terms of Chapter 15 of the Act.

**CODE OF ETHICAL CONDUCT FOR SUPPLY CHAIN
MANAGEMENT PRACTITIONERS AND OTHER ROLE PLAYERS**

1. PURPOSE

1.1 The purpose of this Code of Conduct is to ensure that all business transactions take place in an environment of honesty, integrity, fair competition and respect for South African Laws. This Code outlines the City's expectations from all its employees and service providers who participate, directly or indirectly, in the Supply Chain Management activities. The main aim is 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.

1.2 Failure to adhere to this Code shall not be tolerated and shall be punishable by the City.

2. GENERAL PRINCIPLES

2.1 The City commits itself to a policy of fair dealing and integrity in the conducting of its business. Employees and other role players involved in Supply Chain Management (SCM) are in a position of trust, implying a duty to act in the public interest. Employees and other role players should not perform their duties to unlawfully gain any form of compensation, payment or gratuities from any person, or provider/contractor for themselves, their family or their friends.

2.2 Employees and other role players involved in SCM should ensure that they perform their duties efficiently, effectively and with integrity, in accordance with the relevant legislation, policies and guidelines. They should ensure that public resources are administered responsibly.

2.3 Employees and other role players involved in SCM should be fair and impartial in the performance of their functions. They should at no time afford any undue preferential treatment to any group or individual or unfairly discriminate against any group or individual. They should not abuse the power and authority vested in them.

3. EMPLOYEE ETHICAL CONDUCT

3.1 An employee or other role player involved with Supply Chain Management:-

- (i) must treat all providers and potential providers equitably;
- (ii) may not use his or her position for private gain or to improperly benefit another person;
- (iii) must not infer with Supply Chain Management processes and system in order to influence the outcome of an award by tempering with any price quotations and bids;
- (iv) must keep all information, including service providers information, as confidential. Only the duly authorized official will communicate the outcome of the bidding process;

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- (v) must not be soliciting price quotations / bids from bidders / contractors whose names appear on the Register for Tender Defaulters;
- (vi) must not exploit errors in price quotations / bids;
- (vii) 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, of a value more than R350;
- (viii) must declare to the City Manager 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 and record them on the declaration register to be kept by each manager and signed off on quarterly basis by the respective delegated employee;
- (ix) must declare to the City Manager 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, or in any award of a contract by the City ;
- (x) 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;
- (xi) must declare any business, commercial and financial interests or activities undertaken for financial gain that may raise a possible conflict of interest;

- (xii) should not place him/herself under any financial or other obligation to outside individuals or organizations that might seek to influence them in the performance of their official duties;
- (xiii) should not take improper advantage of their previous office after leaving their official position; and
- (xiv) Employees must report to the City Manager any alleged irregular conduct in the Supply Chain Management system which that person may become aware of, including:-
 - (a) any alleged fraud, corruption, favouritism or unfair conduct;
 - (b) any alleged contravention of the policy on inducements, rewards, gifts and favours to the City or MoE's, employees or other role players; and
 - (c) any alleged breach of this code of conduct.

3.2 The City is committed to the highest standard of integrity and any official transgressing this code will be dealt with in accordance with the City's Disciplinary code of conduct.

4. RECORD KEEPING

- 4.1 Every Head of Department must keep an up to date gift register and record of all declarations made by the employees with regards to:-
 - (a) Business interest held by the employees;

- (b) Business interest held by the family members;
- (c) Interest in a business transaction where conflict of interest exist.

4.2 The City Manager must keep record of all declarations.

5. SERVICE PROVIDERS ETHICAL CONDUCT

5.1 Service providers are expected to assist the City in enforcing good ethical conduct from its employees and:–

- (a) must not induce or reward the employees for contract awarded or to be awarded;
- (b) must not put undue pressure on employees;
- (c) must not assist or offer financial relief to employees in financial difficulties;
- (d) must not request from employees information about the City's operations or competitors information; and
- (e) must not offer favours or hospitality to employees of which the value thereof is above R350.

5.2 Service providers are expected to comply with this Policy fully and failure to do so will lead to barring or black listing from doing business with the City. The names of service providers defaulting will be submitted to National Treasury for black listing.

**CITY'S DELEGATIONS OF SUPPLY CHAIN MANAGEMENT POWERS
AND DUTIES**

**1. DELEGATION OF SUPPLY CHAIN MANAGEMENT POWERS AND DUTIES
TO THE CITY MANAGER**

- (1) The Council hereby delegates the following powers and duties to the City Manager, excluding those directly assigned to the City Manager as accounting officer in terms of the Act and any other applicable legislation, which are necessary to enable the City Manager –
- (a) to discharge the Supply Chain Management responsibilities conferred on accounting officers in terms of:-
 - i. Chapters 8, 10 and 11 of the Act;
 - ii. This Policy;
 - (b) to maximise administrative and operational efficiency in the implementation of this Policy;
 - (c) to enforce reasonable cost-effective measures for the prevention of fraud, corruption, favouritism and unfair and irregular practices in the implementation of this Policy;
 - (d) to approve the composition of any Bid Specification and Bid Evaluation Committees; and
 - (e) to comply with his or her responsibilities in terms of section 115 and other applicable provisions of the Act.

- (2) The City Manager may sub-delegate any power and duty delegated to him in terms of sub-paragraph (1) to any official or to a committee which is exclusively composed of officials of the City.

2. DELEGATION OF SUPPLY CHAIN MANAGEMENT POWERS AND DUTIES BY THE CITY MANAGER

- (1) The City Manager, in terms of section 79(1) of the Act, hereby delegates, subject to sub-paragraph 2 below, the following Supply Chain Management powers and duties assigned to him in terms of the Act to:-

a. The Executive Director: Finance:

the implementation of Supply Chain Management responsibilities and activities in terms of the Act and its Regulations.

b. The Executive Adjudication Committee and Central Adjudication Committee:

- (i) the power to make final awards as follows:

Committee	Chairperson	Value
Executive Adjudication Committee (EAC)	City Manager	> R10 million VAT Inclusive
Executive Adjudication Committee (EAC)	City Manager or his nominated Executive Director	>R 5 million to R10 million VAT Inclusive for the contract / project duration
Central Adjudication Committee (CAC)	Executive Director: Finance or his or her nominated Director within Finance	R200 000.< R5million VAT Inclusive, for the contract / project duration.

- (ii) the authority to make decisions in accordance with their Terms of Reference. No advisor or consultant will have decision-making powers to make final awards on behalf of the City.

c. The Director: Supply Chain Management:

- (i) the authority to make final awards from R30 000 to R200 000 (inclusive of VAT), after having complied with paragraph 17.2 above;

d. Heads of Departments:

- (i) the authority to make final awards up to R30 000 (inclusive of VAT), including petty cash purchases contemplated in paragraph 17.1 above;
 - (ii) the authority to make appointments from established panels of service providers approved by an appropriate authority within the City, in the manner contemplated in paragraph 17.2(8) above, after having obtained a minimum of three quotations from any of the service providers on such a panel;
- (2) A Head of Department shall be entitled to further sub-delegate the authority referred to in sub-paragraph (d) above to any person under his or her control, subject to such conditions as the relevant Head of Department may determine.
- (3) The City Manager shall be entitled at all times to withdraw or amend the delegations contained in sub-paragraph (1) above or to determine new delegations, should the need therefore arise.