

**NGQUSHWA LOCAL  
MUNICIPALITY**



**SUPPLY CHAIN MANAGEMENT POLICY**

**In terms of the**

**LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT  
ACT, 2003**

**2022/2023**

Summary

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Review Date	19 March 2022	
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## 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:

*“accounting officer”* means a person appointed by the municipality in terms of section 82 of the Local Government: Municipal Structures Act, 1998 (Act 117/1998) and who is the head of administration and also the municipal manager of the municipality.

*“B-BBEE”* means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act

*“B-BBEE status level of contributor”* means the B-BBEE status received by a measured entity based on its overall performance using the relevant scorecard contained in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad Based Black Economic Empowerment Act.

*“close family member”* means

- (a) spouse or partner
- (b) parent
- (c) children

*“closing date”* means the time and day specified in the bid documents and/or advertisement of the receipt of bids.

*“competitive bid”* means a bid in terms of a competitive bidding process.

*“competitive bidding process”* means a competitive bidding process referred to in paragraph 12(1) (d) of this policy.

*“day(s)”* means calendar days unless the context indicates otherwise.

*“emergency”* means an unforeseeable and sudden event with harmful or potentially harmful consequences for the municipality which requires urgent action to address.

*“final award”*, in relation to bids or quotations submitted for a contract, means the final decision on which bid or quote to accept.

*“financial year”* means a twelve-month period ending 30 June of every year.

*“formal written price quotation”* means quotations referred to in paragraph 12(1) (c) of this policy.

*“in the service of the state”* means to be:

- (a) a member of:
  - (i) any municipal council;
  - (ii) any provincial legislature; or
  - (iii) the National Assembly or the National Council of Provinces;
- (b) a member of the board of directors of any municipal entity;
- (c) an official of any municipality or municipal entity;
- (d) an employee of any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1 of 1999;
- (e) a member of the accounting authority of any national or provincial public entity; or
- (f) an employee of Parliament or a provincial legislature.

*“long term contract”* means a contract with a duration period exceeding one (1) year.

*“list of accredited prospective providers”* means the list of accredited prospective providers which a municipality or municipal entity must keep in terms of paragraph 14 of this policy.

*“other applicable legislation”* means other legislation applicable to municipal supply chain management, including:

- (a) the Preferential Procurement Policy Framework Act, 2000 (Act 5 of 2000);
- (b) the Broad-Based Black Economic Empowerment Act, 2003 (Act 53 of 2003);

- (c) the Construction Industry Development Board Act, 2000 (Act 38 of 2000);
- (d) the Local Government Municipal Finance Act, 2003 (Act 56 of 2003);
- (e) the Local Government Municipal Systems Act, 2000 (Act 32 of 2000);
- (f) the Local Government Municipal Structures Act, 1998 (Act 117 of 1998);
- (g) the Prevention and Combating of Corrupt Activities Act, 2004 (Act 12 of 2004).
- (h) the Preferential Procurement Regulations, 2017; a n d
- (j) the Competitions Act, 1998 (Act 89/1998).

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*“principle shareholder”* means a person possessing such an interest or number of shares in an organization that he can influence decisions taken.

*“reckoning of number of days”* means when any particular number of days is prescribed for the doing of any act, or for any other purpose, the same shall be reckoned exclusively of the first and inclusively of the last day, unless the last day happens to fall on a Sunday or on any public holiday, in which case the time shall be reckoned exclusively of the first day and exclusively of every such Sunday and public holiday.

*“regulation”* means the Local Government: Municipal Finance Management Act, 2003, Municipal Supply Chain Management Regulations.

*“responsible person”* means a director or manager who is responsible for the procurement of goods and services in his/her department.

*“single provider”* means sole provider – one and only (alone of its kind) supplier (Oxford dictionary). If such goods or services are produced or available from a single provider only. There is no competition and only one

(1) provider exists in SA (for example, sole distribution rights).

*“stakeholder”* means any person with a vested interest in a particular organization.



*“strip and quote”* means when the repairs and maintenance on our machines, vehicles are done by one (1) supplier and/or strip/quote, for example a municipal vehicle enters the workshop that needs repairs, however to do the repairs, the vehicle has to be sent to a supplier that determines what repairs should be done.

*“Treasury guidelines”* means any guidelines on supply chain management issued by the Minister in terms of section 168 of the Act.

*“the Act”* means the Local Government: Municipal Finance Management Act, 56 of 2003.

*“validity period”* means the period for which a bid is to remain valid and binding on stipulated in the relevant tender document.

*“written quotations”* means quotations referred to in paragraph 12(1) (b) of this policy.

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**CHAPTER 1**  
**ESTABLISHMENT AND IMPLEMENTATION OF**  
**SUPPLY CHAIN MANAGEMENT POLICY**

**2. SUPPLY CHAIN MANAGEMENT POLICY**

2.1 The principles of this policy are that it:

- (a) Gives effect to:
  - (i) section 217 of the Constitution; and
  - (ii) part 1 of chapter 11 and other applicable provisions of the Act.
- (b) Is fair, equitable, transparent, competitive and cost effective;
- (c) Complies with:
  - (i) the regulatory framework prescribed in chapter 2 of the regulations; and
  - (ii) any minimum norms and standards that may be prescribed in terms of section 168 of the Act.
- (d) Is consistent with other applicable legislation;
- (e) Does not undermine the objective for uniformity in supply chain management systems between organs of state in all spheres; and
- (f) Is consistent with national economic policy concerning the promotion of investments and doing business with the public sector.

2.2 The municipality may not act otherwise than in accordance with this supply chain management policy when:

- (a) Procuring goods or services;
- (b) Disposing of goods, no longer needed;
- (c) Selecting contractors to provide assistance in the provision

of municipal services otherwise than in circumstances where chapter 8 of the Municipal Systems Act applies; o r

- (d) In the case of a municipality, selecting external mechanisms referred to in section 80 (1) (b) of the Municipal Systems Act for the provision of municipal services in circumstances contemplated in section 83 of that act.

2.3 Sub-paragraphs (1) and (2) of this policy do not apply in the circumstances described in section 110(2) of the act except where specifically provided otherwise in this policy.

### **3. ADOPTION & AMENDMENT OF THE SUPPLY CHAIN MANAGEMENT POLICY**

3.1 The accounting officer must:

- (a) At least annually review the implementation of this policy; and
- (b) When the accounting officer considers it necessary, submit proposals for the amendment of this policy to the council.

3.2 If the accounting officer submits a draft policy to the council that differs from the model policy, the accounting officer must ensure that such draft policy complies with the regulations. The accounting officer must report any deviation from the model policy to the National Treasury and the relevant provincial treasury.

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

3.4 The accounting officer of the municipality must in terms of section 62(1) (f) (iv) of the Act, take all reasonable steps to ensure that the municipality has and implements this supply chain management policy.

### **4. DELEGATION OF SUPPLY CHAIN MANAGEMENT POWERS & DUTIES**

4.1 The Council is hereby required to delegate such additional powers

and duties to the accounting officer so as to enable the accounting officer to:

- (a) Discharge the supply chain management responsibilities conferred on accounting officers in terms of:
    - (i) chapter 8 or 10 of the act; and
    - (ii) the supply chain management policy.
  - (b) Maximize administrative and operational efficiency in the implementation of the supply chain management policy;
  - (c) Enforce reasonable cost-effective measures for the prevention of fraud, corruption, favoritism and unfair and irregular practices in the implementation of the supply chain management policy; and
  - (d) Comply with his or her responsibilities in terms of section 115 and other applicable provisions of the act.
- 4.2 Section 79 of the act applies to the sub-delegation of powers and duties delegated to the accounting officer in terms of subparagraph (1) of this policy.
- 4.3 Pursuant to the exemption by the Minister published in the Government Gazette on 5 May 2020, Gazette No. 503, the Municipality is exempted from compliance with regulations 4(3) and 29 (2) of the MSC Regulations, 2005 and may Council and the Accounting Officer delegate or sub-delegate any supply chain management powers or duties to a person who is not an official of the municipality or to a committee which is not exclusively composed of officials of the municipality, subject to the following conditions:
- 4.3.1 For municipalities with four senior managers approved in their organogram but filled less than four and the posts are funded and are not subject to a moratorium emanating from implementing cost containment measures, the municipality or municipal entity will be given six to 12 months from the date of this exemption to fill the specific positions subject to the bid adjudication committee still having a senior supply chain management practitioner and a technical expert in the relevant field as contemplated in regulation 29(2)(ii) and (iii);
  - 4.3.2 Where it is not viable for the posts in subparagraph (4.3.1) above to be filled, yet there are vacant positions, the municipality or municipal entity may consider appointing an

official in an acting capacity to fulfill the role of senior manager in those instances;

- 4.3.3 For those municipalities or municipal entities with less than four senior managers approved in their organogram, they may utilise senior managers from neighbouring municipalities in accordance with section 88 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998); and
- 4.3.4 Senior Managers who are members of the bid adjudication committee will be allowed to sub-delegate, in writing, their responsibilities to competent staff members in cases where they cannot attend specific sittings of the committee.

4.4 This paragraph may not be read as permitting an official to whom the power to make final awards has been delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in paragraph 29 of this policy.

4.5 The accounting officer may delegate or sub-delegate the authority to enter into negotiations in terms of paragraph 25 of this policy.

## 5. SUB-DELEGATIONS

5.1 The accounting officer may in terms of section 79 of the act sub-delegate any supply chain management powers and duties, including those delegated to the accounting officer in terms of this policy, but any such sub-delegation must be consistent with sub-paragraph (2) and paragraph 4 of this policy.

5.2 The accounting officer hereby sub delegates the following and gives power to make a final award

- (a) Above R10-million (VAT included) may not be sub delegated and is thus to be awarded by the accounting officer;
- (b) Above R2-million (VAT included) but not exceeding R10-million (VAT included) may be sub delegated to: -
  - The chief financial officer;
  - A senior Manager (Section 57), or
  - The Bid Adjudication Committee.

(c) Above R200 000,00 (VAT included) but not exceeding R2-million (VAT included) maybe sub-delegated to: -

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- The chief financial officer;
- A senior Manager (Section 56), or
- A Manager Directly accountable to the CFO or Senior Manager; or
- The Bid Adjudication Committee.

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(d) Below R200 000,00 (VAT included) may be sub delegated as per council delegations pertaining to the procurement of goods and services.

5.3 An official or bid adjudication committee to which the power to make final awards has been sub-delegated in accordance with sub- paragraph (2) of this policy must within ten (10) working days of the end of each month submit to the official referred to in sub-paragraph (4) of this policy a written report containing particulars of each final award made by such official or committee during that month, including:

- (a) The contract numbers and descriptions of goods, services or infrastructure projects;
- (b) The amount of the award;
- (c) The B-BBEE level of contribution claimed;
- (d) The name of the person to whom the award was made; and
- (e) The reason why the award was made to that person.

5.4 A written report referred to in sub-paragraph (3) of this policy must be submitted:

- (a) To the accounting officer, in the case of an award by:
  - (i) the chief financial officer;
  - (ii) a director; or
  - (iii) a bid adjudication committee of which the chief financial officer or a director is a member; or
- (b) To the chief financial officer or the director responsible for the relevant bid, in the case of an award by:

- (i) a director referred to in sub-paragraph (2)(c)(iii) of this policy; or
  - (ii) a bid adjudication committee of which the chief financial officer or a director is not a member.
- 5.5 Sub-paragraphs (3) and (4) of this policy do not apply to procurements out of petty cash.
- 5.6 Bids awarded must be published on council's website in terms of section 75(g) of the Act.
- 5.7 This paragraph may not be interpreted as permitting an official to whom the power to make final awards has been sub-delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in paragraph 26 of this policy.
- 5.8 No supply chain management decision-making powers may be delegated to an advisor or consultant.

## **6. OVERSIGHT ROLE OF COUNCIL**

- 6.1 The council must maintain oversight over the implementation of this supply chain management policy.
- 6.2 For the purposes of such oversight the accounting officer must:
  - (a) within thirty (30) days of the end of each financial year, submit a report on the implementation of the supply chain management policy of the municipality and of any municipal entity under its sole or shared control, to the council of the municipality;
  - (b) whenever there are serious and material problems in the implementation of the supply chain management policy, immediately submit a report to the council.
- 6.3 The accounting officer must, within twenty (20) days of the end of each quarter, submit a report on the implementation of the supply chain management policy to the mayor.
- 6.4 The reports must be made public in accordance with section 21A of the Municipal Systems Act.

## **7. SUPPLY CHAIN MANAGEMENT UNIT**

- 7.1 A supply chain management unit is hereby established to implement this supply chain management policy.
- 7.2 The Chief financial officer is administratively in charge of the supply chain management unit which operates under the direct supervision of the Manager: supply chain management, to whom this duty has been sub-delegated in terms of section 82 of the Act.

## **8. TRAINING OF SUPPLY CHAIN MANAGEMENT OFFICIALS**

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

### **CHAPTER 2**

#### **FRAMEWORK FOR SUPPLY CHAIN MANAGEMENT**

## **9. FORMAT OF SUPPLY CHAIN MANAGEMENT**

This supply chain management policy provides systems for:

- 9.1 demand management;
- 9.2 acquisition management;
- 9.3 logistics management;
- 9.4 disposal management;
- 9.5 risk management; and
- 9.6 performance management.

#### ***PART 1 DEMAND MANAGEMENT***

## **10. SYSTEM OF DEMAND MANAGEMENT**

- 10.1 The demand management plan must be developed at the beginning of the financial year when the IDP, SDBIP and annual budget have been approved.
- 10.2 All user departments are required to submit their procurement plans to the SCM Unit within thirty (30) days of approval of the annual budget.



- 10.3 The procurement plan must be submitted to and approved by the accounting officer or his/her delegate before the 31 July of each year.
- 10.4 The procurement plan must be renewed regularly and submitted to the accounting officer or his/her delegate on a quarterly basis.
- 10.5 Demand management must be coordinated by SCM officials of the municipality in consultation with end-users.
- 10.6 The outcome of this activity should be a detailed planning document in order to ensure that the resources required to support the strategic and operational commitments are delivered at the correct time, at the right price and at the right location, and that the quantity and quality satisfy needs, an effective system of demand management must include the following:
- (a) Planning for future requirements. Acquisition and disposals of all goods required to meet the strategic goals outlined in the integrated development plan must be quantified, budgeted and planned to ensure timely and effective delivery, appropriate quality at a fair cost to meet the needs of the municipality and community. Critical delivery dates must be determined and adhered to.
  - (b) If the requirement is of a repetitive nature and there are benefits of economies of scale a contract for a specific commodity should be arranged.
  - (c) In order to compile the correct specifications [industry analysis/ research](#) should be undertaken to ensure future needs and technology benefits are maximized.

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## **PART 2 ACQUISITION MANAGEMENT**

### **11. SYSTEM OF ACQUISITION MANAGEMENT**

- 11.1 Through operational procedures, an effective system of acquisition management is established in part 2 of this policy in order to ensure:
- (a) That goods and services are procured by the municipality in

accordance with authorized processes only;

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

11.2. This supply chain management policy, except were provided otherwise in the policy, does not apply in respect of the procurement of goods and services contemplated in section 110(2) of the act, including:

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- (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.

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

- (a) The kind of goods or services; and
- (b) The name of the supplier.

## 12. RANGE OF PROCUREMENT PROCESSES

12.1 The procurement of goods and services through this policy is provided by way of:

- (a) One (1) written quotation for procurement of a transaction value up to R2 000,00 (VAT included);
- (b) Three (3) written price quotations for procurements of a

transaction value over R2 000,01 up to R30 000,00 (VAT included);

- (c) Formal written price quotations for procurements of a transaction value over R30 000,01 up to R200 000,00 (VAT included); and
- (d) A competitive bidding process for:
  - (i) procurements above a transaction value of R200 000,01 (VAT included); and
  - (ii) the procurement of long-term contracts.

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12.2 The accounting officer may, in writing:

lower, but not increase, the different threshold values specified in sub-paragraph (1); or

- (a) Direct that:
  - (i) written or verbal quotations be obtained for any specific procurement of a transaction value lower than R2 000,00;
  - (ii) formal written price quotations be obtained for any specific procurement of a transaction value lower than R30 000,00; or
  - (iii) a competitive bidding process be followed for any specific procurement of a transaction value lower than R200 000,00.

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

### 13. GENERAL PRECONDITIONS FOR CONSIDERATION OF WRITTEN QUOTATIONS OR BIDS

13.1 A written quotation or bid may not be considered unless the provider who submitted the quotation or bid:

- (a) Has furnished that provider's:

- (i) full name;
  - (ii) identification number or company or other registration number; and
  - (iii) tax reference number and VAT registration number, if any; and
  - (iv) registration number on central database system.
- (b) Tax status on the central supplier database reflects compliant and/or the supplier has authorized Ngqushwa Local Municipality via a tax pin to confirm with the South African Revenue Services that their tax status is compliant; and
- (c) Has indicated:
- (i) whether he or she is in the service of the state, or has been in the service of the state in the previous twelve (12) months;
  - (ii) if the provider is not a natural person, whether any of its directors, managers, principal shareholders or stakeholder is in the service of the state, or has been in the service of the state in the previous twelve (12) months; or
  - (iii) whether a spouse, child or parent of the provider or of a director, manager, shareholder or stakeholder referred to in sub-paragraph (ii) is in the service of the state, or has been in the service of the state in the previous twelve (12) months. before making an award the supply chain management unit must check on central supplier database whether the bidder or any of its directors are not listed/indicated as a person prohibited from doing business with the public sector.

#### **14. LISTS OF ACCREDITED PROSPECTIVE PROVIDERS**

14.1 The accounting officer must:

- (a) In terms of MFMA circular 81, transact with only vendors registered on National Treasury central supplier database. Vendors not registered on the National Treasury central supplier database will not be considered for transactions above the petty cash threshold;
- (b) At least once a year through newspapers commonly

circulating locally, the website and any other appropriate ways, invite prospective providers of goods or services to apply for evaluation and listing as accredited prospective providers on the National Treasury central supplier database;

- (c) Specify the listing criteria for accredited prospective providers;
- (d) All listed accredited prospective providers of goods and services must register on the central database system.
- (e) 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.

14.2 The central database system (CSD) will automatically validate the following registration documents:

- (a) Confirmation and status of business registration documents.
- (b) Proof of bank account registration.
- (c) Tax compliance status.
- (d) Employee in the services of the state.
- (e) Identity documents.
- (f) Tender defaulters and restrictions status.

14.3 The following documents will remain the responsibility of the municipality to obtain and verify:

- (a) BBBEE status.
- (b) CIDB.
- (c) Municipal account status.
- (d) whether a spouse, child or parent of the provider or of a director, manager, shareholder or stakeholder referred to in sub-paragraph (ii) is in the service of the state, or has been in the service of the state in the previous twelve (12) months

14.4 Failure to be registered on the National Treasury central supplier database and to be non-compliant with the registration documents will result in the written quotations or bids to be non-responsive on closing date.

**15. ONE (1) WRITTEN QUOTATIONS UP TO R2 000,00 (VAT INCLUDED)**

The conditions for the procurement of goods by means of one (1) written quotation, referred to in [paragraph 12\(1\)\(b\)](#) of this policy for minor items are as follows:

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- (a) written quotations for transactions must be obtained from at least one (1) prospective supplier or service provider.
- (b) Rotation of suppliers will not be applicable in this range of procurement.

**16. WRITTEN QUOTATIONS ABOVE R2 000,00 (VAT INCLUDED) UP TO R30 000,00 (VAT INCLUDED)**

The conditions for the procurement of goods or services through written quotations are as follows:

- (a) Quotations must be obtained from at least three (3) different providers listed on the accredited prospective provider of the National Treasury central supplier database;
- (b) Quotations obtained must promote ongoing competition amongst providers by inviting providers to submit quotations on a rotation basis.
- (c) Prospective providers/suppliers "Tax status" must be "compliant" during the total validity period of quotation (procurement process).
- (d) If it is not possible to obtain at least three (3) quotations, the reasons must be recorded and reported quarterly to the accounting officer or another official designated by the accounting officer.

**17. FORMAL WRITTEN PRICE QUOTATIONS ABOVE R30 000,00 UP TO R200 000,00 (VAT INCLUDED)**

17.1. The conditions for the procurement of goods or services through formal written price quotations, are as follows:

- (a) Quotations must be obtained in writing from at least three (3) different providers whose names appear on the list of

accredited prospective providers of the National Treasury central supplier database;

- (b) If it is not possible to obtain at least three (3) quotations, the reasons must be recorded and approved by the chief financial officer or an official designated by the chief financial officer; and
- (c) The accounting officer must record the names of the potential providers and their written quotations.

17.2. A designated official referred to in sub-paragraph 17(1) c must within five (5) working days of the end of each month report to the chief financial officer on any approvals given during that month by that official in terms of that sub-paragraph.

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## 18. PROCEDURES FOR PROCURING GOODS OR SERVICES THROUGH FORMAL WRITTEN PRICE QUOTATIONS

18.1. The operational procedure for the procurement of goods or services through written quotations or formal written price quotations, are as follows:

- (a) Detail specifications for formal written quotations above R30 000,00 must be signed off by the relevant department head for inclusion on the official quotation document before advertisement.

All requirements in excess of R30 000,00 (VAT included) that are to be procured by means of formal written price quotations must, in addition to the requirements of paragraph 18, be advertised for at least seven (7) calendar days on the website and all official notice boards of the municipality;

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All quotes received above R30 000,00 (VAT included) are to be placed in the official quotation boxes as designated for each department from time to time. No late quotations will be accepted or opened after closing date and time;

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All acceptable orders above R30 000,00 (VAT included) are subjected to preference points system and be awarded to

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the bidder of the highest points;

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- (b) All acceptable orders above R30 000,00 (VAT included) must be evaluated on a competitive basis, based on compliance with specifications and conditions of contract, ability and capability to deliver the goods and services.
- (c) Prospective bidders/supplier Tax status must be compliant on closing date of the formal written price quotations and remain compliant during the total validity period of quotation (procurement process);
- (d) The accounting officer must take all reasonable steps to ensure that the procurement of goods and services through written quotations or formal written price quotations is not abused;
- (e) The accounting officer or chief financial officer must on a monthly basis be notified in writing of all written quotations and formal written price quotations accepted by an official acting in terms of a sub-delegation;
- (f) The chief financial officer must set procedures for the procuring of goods and services through written quotations and formal written price quotations and the proper recordkeeping thereof; and
- (g) Record of approved specifications, minutes of evaluation and approval memorandums and emails must be kept for audit purposes.

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## 19. COMPETITIVE BIDS

19.1. Goods or services above a transaction value of R200 000,01 (VAT included) and long-term contracts (contracts exceeding one (1) year) may only be procured through a competitive bidding process, subject to paragraphs 11(2) of this policy; and

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19.2. No requirement for goods or services above an estimated transaction value of R200 000,01 (VAT included), may deliberately be split into parts or items of lesser value merely for the sake of procuring the goods or services otherwise than through a competitive bidding process.

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## 20. PROCESS FOR COMPETITIVE BIDDING



The procedures for a competitive bidding process are established in part 2 of this policy for each of the following stages:

- (a) The compilation of bidding documentation as per paragraph 22;
- (b) The public invitation of bids as per paragraph 23;
- (c) Site meetings or briefing sessions, if applicable;
- (d) The handling of bids submitted in response to public invitation as per paragraph 24;
- (e) The evaluation of bids as per paragraph 31;
- (f) The award of contracts as per paragraph 32;
- (g) The administration of contracts; and
- (h) Proper record keeping.

## 21. BID DOCUMENTATION FOR COMPETITIVE BIDS

21.1. The criteria to which bid documentation for a competitive bidding process must comply, must:

- (a) Take into account:
  - (i) the general conditions of contract;
  - (ii) any special conditions of contract if specified;
  - (iii) any Treasury guidelines on bid documentation;
  - (iv) the requirements of the Construction Industry Development Board (CIDB), in the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure;
  - (v) compliant tax status on closing date and duration of tender validity period; and
  - (vi) registration on National Treasury central supplier database.
- (b) Include the preference points system to be used as contemplated in the Preferential Procurement Regulations, 2017, evaluation and adjudication criteria, including any criteria required by the applicable legislation;

Compel bidders to declare any conflict of interest they may have in the transaction for which the bid is submitted;

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

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financial statements for auditing, their audited annual financial statements:

- (aa) for the past three (3) years; or
- (bb) since their establishment if established during the past three (3) 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 thirty (30) days;
- (iii) particulars of any contracts awarded to the bidder by an organ of state during the past five (5) years, including particulars of any material non-compliance or dispute concerning the execution of such contract;

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;

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- (c) 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; and

21.2. In instances where the Ngqushwa Molopo Local Municipality decide to apply pre-qualifying criteria to advance designated groups on the basis of B-BBEE, the tender must be advertised with specific tendering conditions that only one (1) or more of the following tenderers may respond –

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- (a) a tenderer having a stipulated minimum B-BBEE status level of contributor;
- (b) an exempted micro enterprise (EME) or qualifying small business enterprise (QSE); and a tenderer sub-contracting a minimum of 30% to:

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- (i) an EME or QSE which is at least 51% owned by black people;
- (ii) an EME or QSE which is at least 51% owned by black people who are youth;
- (iii) an EME or QSE which is at least 51% owned by black people who are women;
- (iv) an EME or QSE which is at least 51% owned by black

- people with disabilities;
- (v) an EME or QSE which is 51% owned by black people living in rural or underdeveloped areas or townships;
- (vi) a cooperative which is at least 51% owned by black people;
- (vii) an EME or QSE which is at least 51% owned by black people who are military veterans;
- (viii) an EME or QSE

21.3. A tender that fails to meet any pre-qualifying criteria stipulated in the tender documents is an unacceptable tender and may therefore be rejected, unless there are justifiable reasons not to do so.

21.4. If feasible to sub contract for a contract above R30-million to advance designated groups, the tender must be advertised with specific tender conditions that the successful tender must sub contract a minimum of 30% of the value of the contract to –

- (a) an EME or QSE;
- (b) an EME or QSE which is at least 51% owned by black people;
- (c) an EME or QSE which is at least 51% owned by black people who are youth;
- (d) an EME or QSE which is at least 51% owned by black people who are women;
- (e) an EME or QSE which is at least 51% owned by black people with disabilities;
- (f) an EME or QSE which is 51% owned by black people living in rural or underdeveloped areas or townships;
- (g) a cooperative which is at least 51% owned by black people;
- (h) an EME or QSE which is at least 51% owned by black people who are military veterans;
- (i) more than one of the categories referred to in paragraphs (a) to (h) above.

21.5 The municipality must make available the list of all suppliers registered on a database approved by National Treasury to provide the required goods or services in respect of the applicable designated groups mentioned in sub regulation (2) from which the tenderer must select a supplier.

21.6 A fee as determined from time to time shall be raised for bid forms, plans, specifications, samples and any other bid documentation, depending on the nature, magnitude and value of technical

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information or samples provided by the municipality for tenders in excess of R200 000,00 (VAT included).

## 22. PUBLIC INVITATION FOR COMPETITIVE BIDS

22.1. The procedure for the invitation of competitive bids, are as follows:

- (a) Any invitation to prospective providers to submit bids must be by means of a public advertisement in newspapers commonly circulating locally, the website of the municipality, i-Tender website of CIDB 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 thirty (30) calendar days in the case of transactions over R10-million (VAT included), or which are of a long-term nature, or fourteen (14) calendar days in any other case, from the date on which the advertisement is placed in a newspaper, subject to sub-paragraph (2);
  - (ii) a statement that bids may only be submitted on the bid documentation provided by the municipality;
  - (iii) date, time and venue of any proposed site meetings or mandatory briefing sessions. (If bidder did not attend his bid will not be considered);
  - (iv) the required CIDB contractor category and grading designation for construction procurement;
  - (v) a statement that bids will only be considered if it was deposited into the bid box indicated in the bid invitation;
  - (vi) the period for which bids are to be valid and binding must be indicated in the bid invitation; and
  - (vii) the notice shall state that all bids 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.

22.2. The accounting officer may determine a closure date for the submission of bids which is less than the thirty (30) or fourteen (14) calendar 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

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procurement process.

22.3. Amendments before the closing date:

The municipality is entitled to amend any bid condition, validity period, specification or plan, or extend the closing date of such a bid or quotation before the closing, provided that such amendments or extensions are advertised and/or that all bidders whom bid documents have been issued, are advised in writing per e-mail or by fax of such amendments or of the extension clearly reflecting the new closing date and time. For this reason, officials and authorized service providers issuing bids shall keep a record of the names, addresses and contact numbers of the persons or enterprises to whom bid documents have been issued.

22.4. Pre-qualifying criteria must be stipulated in the advertisement.

Compliant tax status on closing bid and duration of bid validity period must be stipulated in the advertisement.

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**23. PROCEDURE FOR SUBMISSION, HANDLING, OPENING & RECORDING OF BIDS**

23.1 The procedures for the submission of bids are:

- (a) Bids must be submitted before the closing time, at the address and in accordance with the directives in the bid documents.
- (b) 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.
- (c) 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.
- (d) The municipality may accept tenders where envelopes have been inadvertently marked with the name of the bidder.
- (e) The onus shall be on the bidder to place the sealed envelope in the official, marked and locked bid box provided for this

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purpose, at the designated venue, not later than the closing date and time specified in the bid notice.

(f) Postal bids will not be accepted for consideration, nor shall proof of posting or proof of delivery be accepted as proof that bids were delivered if received after the closing date of bid.

(g) No bids forwarded by telegram, facsimile or similar apparatus shall be considered unless stated otherwise in tender document.

(h) Electronic bids will not be accepted.

(i) The bidder shall choose a *domicile 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.

(j) No person may amend or tamper with any bids or quotations after their submission.

23.2 The procedures for the handling, opening and recording of bids, are as follows:

23.2.1 Opening of bids:

23.2.1.1 must be opened only in public; and

23.2.1.2 must be opened at the same time and as soon as possible after the period for the submission of bids has expired; and

23.2.2 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; and

No information, except the provisions in sub-paragraph (b), relating to the bid should be disclosed to bidders or other persons until the successful bidder is notified of the award; and

23.2.3 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

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the correct bid box). A record of all bids placed in an incorrect box shall be kept; and

23.2.4 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; and

23.2.5 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; and

The accounting officer must:

- 23.2.5.1 record in a register all bids received in time;
- 23.2.5.2 make the register available for public inspection;
- 23.2.5.3 publish the entries in the register and the bid results on the website.

23.3 Stamping of bids and reading out of names:

23.3.1 As each bid is opened the name of the bidder and the amount, if practical, shall be read out.

Bids opened shall be checked for compliance with mandatory document

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23.3.3 An official shall date-stamp and endorse with the opening official's signature and endorse with the opening the bid or quotation and all enclosures related to prices, delivery periods and special conditions.

23.3.4 Bids and quotations shall be numbered in the sequence in which they have been opened and the words "*and last*" shall be endorsed on the last bid or quotation.

23.3.5 In instances where only one (1) bid has been received the words "*and only*" shall be endorsed such bid.

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23.3.6 Where prices have not been inserted in all relevant spaces on the form and such items have not been deleted by bidders, such spaces shall be stamped "no price" by the employee who opens the bid or quotations; and

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23.3.7 The name of the bidder, and where possible, the bid sum shall be recorded in a bid opening record kept for that purpose.

#### 23.4 Late bids:

23.4.1 A bid is late if it is not placed in the relevant bid box by the closing time.

23.4.2 Bids or quotations arriving after the specified closing time shall not be considered and where practicable and cost effective shall be returned to the bidder unopened with a letter explaining the circumstances.

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23.4.3 Where it is necessary to open a late bid or quotation to obtain the name and address of the sender, each page of the document shall be stamped "late bid" before the bid is returned to the bidder. The envelope must be stamped and initialed in like manner and must be retained for record purpose.

23.4.4 No councilor of any municipality may be present at the opening of bids.

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#### 23.5 Dealing with bids and quotations if the closing date thereof has been extended:

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23.5.1 Where the closing date of a bid or quotation is extended, bids or quotations already received, will be retained unopened in the bidding box and be duly considered after the expiry of the extended period, unless the bidder cancels it by submitting a later dated bid or quotation before the extended closing date.

### 24. NEGOTIATIONS WITH PREFERRED BIDDERS & COMMUNICATIONS WITH PROSPECTIVE PROCESS AND BIDDERS

24.1 The accounting officer may, subject to paragraph 4(5) of this policy, negotiate the final terms of a contract with bidders identified through a competitive bidding process as preferred bidders, provided that



such negotiation:

- (a) Does not allow any preferred bidder a second or unfair opportunity;
- (b) Is not to the detriment of any other bidder;
- (c) Does not lead to a higher price than the bid as submitted; and
- (d) Does not lead to a lower price in respect of the sale of land/goods.

24.2 Minutes of such negotiations must be kept for record purposes and as far as possible be made part of the final contract. No unauthorized communication with bidders and perspective providers is allowed;

24.2.1 Where bids and/or quotations have been submitted to the municipality, a bidder may not communicate with any councilor or official on any matter regarding his/her bid, quotation or offer other than a notice of withdrawal.

24.2.2 No municipal employee may communicate with a bidder or any other party who has an interest in a bid or quotation during the period between the closing date for the receipt of the bid and the date of notification to successful bidder of acceptance of his/her bid, quotation or offer except as provided for in paragraph 25.4 below. Every such case of unauthorized communication shall forthwith be reported to the SCM as well as the chairperson of BAC.

24.2.3 A bid or quotation in respect of which unauthorized communication has occurred may be disqualified.

24.3 The accounting officer may authorize an employee, in writing, to communicate with a bidder during the period mentioned in subsection 25.3 above for the purpose of:

24.3.1 Obtaining an explaining and verification of declaration made in the bid response.

24.3.2 Confirming technical particulars and the compliance thereof with specifications.

24.3.3 Clarifying delivery times/quantities.

24.3.4 Extending the validity period of a bid.

24.3.5 Clarifying any other commercial aspect.

24.3.6 For the submission of substantiating documents.

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25.6 Where authority has been granted to communicate with bidders in terms of paragraph 25.4 it should be clearly stated in the submission to the bid adjudication committee the nature of the communication as well as by whom such authority to communicate has been granted.

25.7 A bid will not 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 and shall be deemed to be the bid amount.

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## 25. TWO-STAGE BIDDING PROCESS

26.1 A two-stage bidding process is allowed for:

- (a) Large complex projects;
- (b) Projects where it may be undesirable to prepare complete detailed technical specifications, or,
- (c) Long term projects with a duration period exceeding three (3) years.

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26.2 In a two-stage (prequalification) bidding process, bidders are first invited to pre-qualify in terms of predetermined criteria, without being required to submit detailed technical proposals (where applicable) or a financial offer.

26.3 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.

26.4 The notice inviting bidders to pre-qualify must comply with the provisions of public invitation for competitive bids.

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## 26. EXTENSION OF VALIDITY PERIODS

27.1 The period for which bids are to remain valid and binding must be indicated in the bid documents. For goods and services as well as infrastructure projects the validity period is ninety (90) calendar days.

27.2 Extensions must be done prior to the expiry date of the bid validity period.

27.3 When validity lapses the contractual obligation that the bidder accepted on signing the relevant bid documentation falls away, therefore when a bid expires there is nothing to extend.

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27.4 The bid cannot be evaluated further and it must be cancelled and re-advertised, when applicable.

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27.5 Reasons for extensions of bid must be investigated.

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27.6 Extensions must be granted based on good reasons and must be approved by the accounting officer.

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27.7 All bidders must be notified in writing and submit their intentions to abide by the terms and conditions and participate further in the bid. Only those bidders who agree to the extension will be evaluated.

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27.8 Extension for validity period can be obtained for the extended period not exceeding sixty (60) calendar days for goods and services as well as for infrastructure projects.

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27.9 Once an extension is granted, proper planning has to be done to ensure that the process of evaluation and awarding bids is carried out before the expiry of a bid validity period.

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27.10 Should the validity period expire on a Sunday, Saturday or Public Holiday, the bid must be remaining valid and open for acceptance until the closure on the following working day.

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**27. SAMPLES**

28.1 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 by no later than the closing time of the bid.

28.2 Bids may not be included in parcels containing samples.

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28.3 If samples are not submitted as required in the bid documents, then the bid concerned may be declared invalid.

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28.4 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.

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28.5 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.

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**28. COMMITTEE SYSTEM FOR COMPETITIVE BIDS**

29.1 The following committees are hereby established:

- (a) A bid specification committee;
  - (b) A bid evaluation committee; and
  - (c) A bid adjudication committee;
- 29.2 The accounting officer is required to appoint the members of each committee, taking into account section 117 of the act, and the accounting officer is required to provide for an attendance or oversight process by a neutral or independent observer, appointed by the accounting officer, when this is appropriate for ensuring fairness and promoting transparency.
- 29.3 The committee system must be consistent with:
- (a) Paragraphs 30, 31 and 32 of this policy; and
  - (b) Any other applicable legislation.
- 29.4 The accounting officer may apply the committee system to formal written price quotations.

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**29. BID SPECIFICATION COMMITTEES**

30.1 The bid specification committee must compile the specifications for each procurement of goods or services by the Ngqushwa Local Municipality.

30.2 Specifications for all bids:

- (i) Must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services;
- (ii) Must take account of any accepted standards such as those issued by Standards South Africa, the International Standards Organization, or an authority accredited or recognized by the South African National Accreditation System with which the equipment or material or workmanship should comply;
- (iii) Where possible, be described in terms of performance required rather than in terms of descriptive characteristics for design;
- (iv) May not create trade barriers in contract requirements in the forms of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labeling of conformity certification;
- (v) May not make reference to any particular trade mark, name,

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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 word "equivalent";

(vi) Must indicate each specific goal for which points may be awarded in terms of the points system set out in the Preferential Procurement Regulations, 2017:

- 80/20 preference point system for the acquisition of good or services for Rand value above R30 000,00 up to R50-million.
- 90/10 preference point system for acquisition of goods or services for Rand value above R50-million.

(vii) Must be approved by the accounting officer or relevant delegated official prior to publication of the invitation for bids in terms of paragraph 23 of this policy.

30.3 The bid specification committee must be composed of the following:

- (a) a delegated supply chain management practitioner as chairperson.
- (b) the project manager of the project for whom the bid is called.
- (c) a legal advisor or administration officer.  
any other official delegated by supply chain or other directorate.
- (d) where appropriate a representative of internal audit and/or external specialist advisor may form part of this committee.

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

30.5 Bid specifications may only be completed and advertised on sufficient budgetary provision as was approved on the annual budget.

30.6 Bid specification committee meetings must be conducted in accordance with the applicable rules in order regulating the conduct of meetings.

## 31. BID EVALUATION COMMITTEES

31.1 The bid evaluation committee must:

- (a) Evaluate bids in accordance with:

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- (i) the specifications for a specific procurement; and
- (ii) the points system set out in terms of paragraph 21(b) above.

- (b) Evaluate each bidder's ability to execute the contract;
- (c) Check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not in arrears; and
- (d) Submit to the adjudication committee a report and recommendations regarding the award of the bid or any other related matter.

31.2 An **ad-hoc bid evaluation committee** **?????** shall be constituted for each project or procurement activity to evaluate bids received.

31.3 The bid evaluation committee shall be comprised of the following municipal officials:

- (a) a delegated senior official as chairperson.
- (b) the project manager / responsible official.
- (c) a legal advisor or administrative officer.
- (d) a delegated by supply chain management practitioner.
- (e) where appropriate, a representative of internal audit and/or an internal or external specialist/expert as necessary.

31.4 The municipal manager, or his delegated authority, shall, taking into account section 117 of the MFMA, appoint the members of the bid evaluation committee.

31.5 Bid evaluation committee meetings must be conducted in accordance with the applicable rules of order regulating the conduct of meetings.

31.6 Where consultants or agents were tasked with the invitation of bids the responsible consultant or 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.

31.7 Any evaluation of a bid shall consider the bids received and shall note for inclusion in the evaluation report, a bidder:

- (a) Whose bid was endorsed as being invalid by the responsible official at the bid opening;
- (b) Bid does not comply with the provisions for combating abuse of this policy (section 43 of this policy);
- (c) Whose bid does not comply with the general conditions applicable to bids and quotations of this policy;
- (d) Whose bid is not in compliance with the specification;

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- (e) Whose bid is not in compliance with the terms and conditions of the bid documentation;
- (f) Whose bid does not comply with any minimum goals stipulated in terms of the preferential procurement section of this policy;
- (g) 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;
- (h) 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;
- (i) Whose tax status is non-compliant on the National Treasury central database on closing date of the bid; and
- (j) **Who fails to comply with any applicable Bargaining Council agreements?????**

31.8 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.

Bids shall be evaluated according to the following as applicable:

- (a) Bid price (corrected if applicable and brought to a comparative level where necessary);
- (b) The unit rates and prices;
- (c) The bidder's ability to fulfill its obligations in terms of the bid documents, any qualifications to the bid;
- (d) The bid ranking obtained in respect of preferential procurement as required by this policy;
- (e) The financial standing of the bidder, including its ability to furnish the required institutional guarantee, where applicable;
- (f) Any other criteria specified in the bid documents.

31.9 BEE status level

- (a) **A tenderer must submit proof of its B-BBEE status level of contributor. A tenderer failing to submit proof of B-BBEE status level of contributor or is a non-compliant contributor to B-BBEE may not be disqualified, but scores 0 points for B- BBEE.**
- (b) A tenderer may not be awarded points for B-BBEE status

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level of contributor if the tender documents indicate that the tenderer intends sub-contracting more than 25% of the value of the contract to any other person not qualifying for at least the points that the tenderer qualifies for, unless the intended sub-contractor is an EME that has the capability to execute the sub contract.

(c) The points scored must be rounded off to the nearest two (2) decimal places.

(d) If the price offered by the tenderer scoring the highest points is not market-related, the organ of state may not award the contract to that tenderer.

(e) The organs of the state may

- (i) negotiate a lower market-related price with the tenderer scoring the highest points or cancel the tender;
- (ii) if the tenderer does not agree to the lower market-related price, negotiate a market-related price with the tenderer scoring the second highest points or cancel the tender;
- (iii) if the tenderer scoring the second highest points does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the third highest points or cancel the tender.

(f) If a market-related price is not agreed as envisaged in [sub-paragraph \(iii\) above](#), the organ of state must cancel the tender.

### 31.10 Criteria for breaking deadlock in scoring

(a) If two (2) or more tenderers score an equal total number of points, the contract must be awarded to the tenderer that scored the highest points for B-BBEE.

(b) If functionality is part of the evaluation process and two (2) or more tenderers score equal total points and equal preference points for B-BBEE, the contract must be awarded to the tenderer that scored the highest points for functionality.

(c) If two (2) or more tenderers score equal points in all respects, the award must be decided by the drawing of lots.

**31.11** The SCM delegated official responsible for attending of BEC meetings must verify above SCM compliance check is per bid

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evaluation committee checklist and sign off the BEC checklist with chairperson of the committee.

**31.12** No bidder may be recommended for an award unless the bidder has demonstrated that it has the resources and skills required to fulfill its obligations in terms of the bid document.

**31.13** 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 alternatively, if the recommended bidder has not furnished the proof of municipal rates, taxes and municipal service charges, the committee can request such for verification only as per paragraph 31.15 below.

**31.14** Additional information or clarification of bids may be called for if required but only in writing as per subsection 25.4 of this policy.

**31.15** The municipality shall not be bound to consider alternative Bids.

**31.16** 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.

**31.17** The bidder obtaining the highest number of points should be recommended for acceptance unless there are reasonable and justifiable grounds to recommend another bidder.

**31.18** All disclosures of a conflict of interest shall be considered by the bid evaluation committee and shall be reported to the bid adjudication committee.

**31.19** Bids may only be recommended for award if it was confirmed that sufficient budgetary provision exists for the acquisition of the goods, infrastructure projects and/or services.

## 32. BID ADJUDICATION COMMITTEES

32.1 The bid adjudication committee must:

Consider the report and recommendations of the bid evaluation committee; and

(a) Either:

- (i) depending on its delegations, make a final award or a recommendation to the accounting officer to make the final award; or
- (ii) make another recommendation to the accounting officer on how to proceed with the relevant procurement.

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32.2 The bid adjudication committee may be composed of directors or managers reporting directly to directors including the following:

- (a) the chief financial officer or, if the chief financial officer is not available, any another senior finance official designated by the chief financial officer;
- (b) head of supply chain management;
- (c) legal advisor in advisory capacity; and
- (d) a technical expert in the relevant field who is an official, if such an expert is needed in advisory capacity.

32.3 The accounting officer must appoint the chairperson of the committee. If the chairperson is absent from a meeting, the deputy chief financial officer has to stand in as chairperson of the meeting.

32.4 A quorum for the adjudication committee shall be three (3) members.

32.5 In the event of an equally of votes the chairperson shall have the casting vote over and above a deliberate vote.

32.6 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.

32.7 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:

- (a) The bid adjudication committee—must -
  - (i) check in respect of the preferred bidder whether that bidder's municipal rates and taxes and municipal service charges are not in arrears; and or, if the recommended bidder has not furnished the proof of municipal rates, taxes and municipal service charges, the committee can request such for verification only as per paragraph 31.15,
  - (ii) notify the accounting officer.
- (b) The accounting officer may:
  - (i) after due consideration of the reasons for the deviation, ratify or reject the decision of the bid adjudication committee referred to in paragraph (a); and
  - (ii) if the decision of the bid adjudication committee is

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rejected, refer the decision of the adjudication committee back to that committee for reconsideration.

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

**32.9** The accounting officer must comply with section 114 of the act within ten (10) working days:

- (a) If a tender other than the one recommended in the normal course of implementing the supply chain management policy is approved, the accounting officer must, in writing, notify the Auditor-General, the relevant provincial treasury and the National Treasury of the reason for deviating from such recommendation.

- (b) Subsection (a) does not apply if a different tender was approved in order to rectify an irregularity.

### 33. EXTENSION OR EXPANSION OF VARIATION ORDER AGAINST THE ORIGINAL CONTRACT

**33.1** It is recognized that in exceptional cases, an accounting officer may deem it necessary to expand or vary orders against the original contract.

**33.2** In order to mitigate the risk to abuse the supply chain management system the following thresholds will apply:

- (a) Contracts may be expanded or varied by not more than 20% of the original contract or R20-million (including all applicable taxes) for construction related goods, works and/or services whichever is the lower amount.

- (b) Contracts may be expanded or varied by not more than 15% of the original contract value or R15-million (including all applicable taxes for all other goods and/or services whichever is the lower amount.

- (c) The period of extension of a contract may not exceed a period of more than twelve (12) months.

**33.3** Once approved by the accounting officer to allow an expansion or variation order a report must be submitted to the bid evaluation committee to consider the following:

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- sufficient funds on the budget exist;
- bidder comply with supply chain management requirements.

33.4 The bid evaluation committee must then make recommendations to the bid adjudication committee to approve the expansions or variation order.

33.5 The bid adjudication committee must consider the recommendations by the evaluation committee and approve the expansion or variation order in terms of the delegation's framework as per paragraph 4 of the supply chain management policy.

#### 34. PROCUREMENT OF BANKING SERVICES

34.1 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 (5) years at a time.

34.2 The process for procuring a contract for banking services must commence at least nine months before the end of an existing contract.

34.3 The closure date for the submission of bids may not be less than sixty (60) days from the date on which the advertisement is placed in a newspaper in terms of paragraph 22(1).

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

#### 35. PROCUREMENT OF IT RELATED GOODS OR SERVICES

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

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

35.3 SITA.

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

- (a) The transaction value of IT related goods or services required in any financial year will exceed R50-million (VAT included); or

35.4 The transaction value of a contract to be procured whether for one

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(1) or more years exceeds R50-million (VAT included) If SITA comments on the submission and the municipality disagree with such comments, the comments and the reasons for rejecting or not following such comments must be submitted to the council, the National Treasury, the relevant provincial treasury and the Auditor-General.

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### 36. PROCUREMENT OF GOODS & SERVICES UNDER CONTRACTS SECURED BY OTHER ORGANS OF STATE

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36.1 The accounting officer may procure goods or services under a contract secured by another organ of state, but only if:

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

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36.2 Sub-paragraph (c) and (d) do not apply if:

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

36.3 The bid evaluation committee must consider the following documents of the other organ of state but not limited thereto when the bid is evaluated:

- (i) Consent letter from organ of state;
- (ii) Tender closing register;
- (iii) Copy of tender documents;
- (iv) Approved tender specifications;
- (v) Tender evaluation report;
- (vi) Tender adjudication report; and
- (vii) Appointment letter to service provider.

36.4 Municipalities may participate in a transversal term contract facilitated by National Treasury, relevant treasury. When considering to participate in a transversal contract the following will

apply:

- (a)
- (b) Confirm the transversal contract meets the directive of supply chain management regulation 32(1)(a) to (d);
- (c) Submit an application to National Treasury on the transversal term contracts participation template.
- (d) Ensure adequate budgets for the transversal term contract is available;
- (e) Ensure transversal term contract meets the technical specifications and quantities of the department;
- (f) Obtain transversal term contract from National Treasury;
- (g) Submit report to bid evaluation for recommendation to bid adjudication;
- (h) Approval by bid adjudication to utilize transversal term contract according to the supply chain delegations.

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### 37. PROCUREMENT OF GOODS NECESSITATING SPECIAL SAFETY ARRANGEMENTS

37.1 The acquisition and storage of goods in bulk (other than water), which necessitate special safety arrangements, including gasses and fuel, should be avoided wherever possible.

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

### 38. PROUDLY SA CAMPAIGN

38.1 The municipality supports the Proudly SA campaign to the extent that, all things being equal, preference is given to procuring local goods and services as per council's preferential procurement policy.

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### 39. APPOINTMENT OF CONSULTANTS

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

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Consultancy services must be procured through competitive bids if:

- (a) The value of the contract exceeds R200 000,00 (VAT included); or

The duration period of the contract exceeds one(1) year.

39.2 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 (5) years; and
- (b) Any similar consultancy services provided to an organ of state in the last five (5) years.

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

#### 40. DEVIATION FROM, & RATIFICATION OF MINOR BREACHES OF, PROCUREMENT PROCESSES

40.1 The accounting officer may:

- (a) Dispense with the official procurement processes established by this policy and to procure any required goods or services through any convenient process, which may include direct negotiations, but only
  - (i) in an emergency;
  - (aa) Circumstances that warrant emergency dispensation includes the existence of one or more of the following but not limited to:
    - The possibility of human injury or death;
    - The prevalence of human suffering or deprivation of rights;
    - The possibility of damage to property, or

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- suffering and death of livestock and animals;
- The interruption of essential services, including transportation and communication facilities or support services critical to the effective functioning of the municipality as a whole;
- The possibility of serious damage occurring to the natural environment
- The possibility that failure to take necessary action may result in the municipality not being able to render an essential community service; and
- The possibility that the security of the municipality could be compromised.

(bb) The prevailing situation, or imminent danger, should be of such a scale and nature that it could not readily be alleviated by interim measures, in order to allow time for the formal procurement process. Emergency dispensation shall not be granted in respect of circumstances other than those contemplated above.

(cc) Where possible, in an emergency situation, three quotes in accordance with general acquisition management principles should be obtained and a report submitted to the city manager for approval. However, where time is of the essence, the emergency shall be immediately addressed, and the process formalized in a report to the municipal manager as soon as possible thereafter.

- (ii) If such goods or services are produced or available from a single provider only.
- (iii) For the acquisition of special works of art or historical objects where specifications are difficult to
- (iv) compile.
- (v) Acquisition of animals for zoos and/or nature and game reserves.
- (vi) In any other exceptional case where it is impractical or impossible to follow the official procurement processes including but not limited to:

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- Ad hoc repairs to plant and equipment (strip and quote) where it is not possible to ascertain the nature or extent of the work required.
- Any contract relating to the publication of notices and advertisements by the municipality where applicable legislation or council policy dictates.
- The acquisition of accommodation, car rental and air travel for official purposes, subject thereto that the acquisition of such services be dealt with in terms of the applicable council policy.
- Membership and subscription to preferential bodies and any training provided by such bodies for purposes of achieving the skills development plan.
- Attendance of conferences and workshops.
- Extension of contracts subject to new tender process to be followed.

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- (b) Ratify any minor breaches of the procurement processes by an official committee acting in terms of delegated powers or duties which are purely of a technical nature.
- (c) May condone any irregular expenditure incurred in contravention of, or that is not in accordance with a requirement of this policy and which is not also a contravention of the municipal supply chain management regulation, provided that such consideration and the reasons therefore be reported to at the next council meeting.

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#### 41. UNSOLICITED BIDS

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

41.2 The accounting officer may decide in terms of section 113(2) of the act to consider an unsolicited bid

- (a) For the provision of goods and services, only if:
  - (i) the product or service offered in terms of the bid is a demonstrably or proven unique innovative concept;

- (ii) the product or service will be exceptionally beneficial to, or have exceptional cost advantages;
- (iii) the person who made the bid is the sole provider of the product or service; and
- (iv) the reasons for not going through the normal bidding processes are found to be sound by the accounting officer.

(b) For the disposal of immovable assets only if:

- (i) the proposed development offered in terms of the bid is a demonstrably or proven unique innovative concept;
- (ii) the proposed development will be exceptionally beneficial to the council, or have exceptional local economic advantages;
- (iii) the person who made the bid is the innovative designer of the proposed development;
- (iv) the reasons for not going through the normal bidding processes are found to be sound by the accounting officer;
- (v) only if also the selling price is not less than market related except when the plight of the poor or public interest demand otherwise;
- (vi) that the person who made the proposal will be prejudiced if a competitive bidding process is followed.

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

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

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

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

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

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41.7 When considering the matter, the adjudication committee must take into account:

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(a) Any comments submitted by the public; and

(b) Any written comments and recommendations of the National Treasury or the relevant provincial treasury.

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

41.9 Such submission must be made within seven (7) days after the decision on the award of the unsolicited bid is taken, but no contract committing the municipality to the bid may be entered into or signed within thirty (30) days of the submission.

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## 42. COMBATING OF ABUSE OF SUPPLY CHAIN MANAGEMENT SYSTEM

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The following measures are established to combat the abuse of the supply chain management system:

42.1 The accounting officer must:

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

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

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

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

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

- (d) Reject any bid from a bidder:
  - (i) if any municipal rates and taxes or municipal service charges owed by that bidder or any of its directors to the municipality, or to any other municipality or municipal entity, are in arrears for more than three (3) months; or
  - (ii) who during the last five (5) years has failed to perform satisfactorily on a previous contract with the municipality or any other organ of state after written notice was given to that bidder that performance was unsatisfactory;
- (e) Reject a recommendation for the award of a contract if the recommended bidder, or any of its directors, has committed a corrupt or fraudulent act in competing for the particular contract;
- (f) Cancel a contract awarded to a person if:
  - (i) the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract; or
  - (ii) an official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of the contract that benefited that person.
- (g) Reject the bid of any bidder if that bidder or any of its directors:
  - (i) has abused the supply chain management system of the municipality or has committed any improper conduct in relation to such system;
  - (ii) has been convicted for fraud or corruption during the past five (5) years;
  - (iii) has willfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five (5) years; or
  - (iv) has been listed in the Register for Tender Defaulters in terms section 29 of the Prevention and Combating of Corrupt Activities Act, 12 of 2004.

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

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**PART 3  
LOGISTICS, DISPOSAL, RISK AND PERFORMANCE  
MANAGEMENT**

**43. LOGISTICS MANAGEMENT**

The Ngqushwa Local Municipality may not enter into any contract that will impose financial obligations beyond the three (3) years covered in the annual budget for that financial year, unless the requirements of section 33 of the Municipal Finance Management Act (MFMA) have been fully complied with, for example, the rendering of the compilation of the valuation and supplementary valuation roll services, bank services or where grant/loan funding has been affected.

An effective system of logistics management must include the following:

- a. Monitoring of spending patterns on types or classes of goods and services which should where practical incorporate the coding of items to ensure that each item has a unique number for the purposes of monitoring;
- b. Setting of inventory levels that includes minimum and maximum levels and lead times wherever goods are placed in stock;
- c. Placing of manual or electronic orders for all acquisitions other than petty cash;
- d. Before payment is approved, a certification from the responsible officer that the goods and services are received or rendered on time and is in accordance with the order, the general conditions of contract and specifications where applicable and that the price charged is as quoted in terms of a contract;
- e. Appropriate standards of internal control and warehouse management to ensure goods placed in stores are secure and only used for the purpose they were purchased;
- f. Regular checking to ensure that all assets including official vehicles are properly managed, appropriately maintained and only used for official purposes; and
- g. Monitoring and review of the supply vendor performance to ensure compliance with specifications and contract conditions for a particular good or service.

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**44. DISPOSAL MANAGEMENT**

44.1 The criteria for the disposal or letting of assets, including

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unserviceable, redundant or obsolete assets must be done according to the municipal asset transfer regulation and the municipality's asset management policy of Ngqushwa Local Municipality, subject to section 14 of the Act, which are as follows:

(a) Movable assets:

- (i) the asset is uneconomical to repair;
- (ii) the asset is irreparable;
- (iii) the relevant department has no further use for the asset; and
- (iv) no other department requires the asset.

(b) Immovable assets:

- (i) the relevant department has no further use for the asset;
- (ii) no other department requires the asset;
- (iii) a member of the public wishing to acquire the asset can utilize the asset to the advantage of the community; and
- (iv) where created specifically for sale or rental to public.

44.2 The disposal of assets must:

(a) Be by one of the following methods:

- (i) transferring the asset to another organ of state in terms of a provision of the act enabling the transfer of assets;
- (ii) transferring the asset to another organ of state at market related value or, when appropriate for a lesser amount or free of charge;
- (iii) selling the asset; or destroying the asset.

(b) Provided that:

- (i) immovable assets may be sold at not less than market related prices except when the public interest or the plight of the poor demands otherwise, by means of public tenders, public auction or over the counter on a first come first serve basis;
- (ii) movable assets may be sold either by way of written price quotations, public tenders, public auction whichever is the most advantageous;

- (iii) in the case of the free disposal of computer equipment, the provincial department of education must first be approached to indicate within thirty (30) days whether any of the local schools are interested in the equipment; and
    - (iv) in the case of the disposal of firearms, the National Conventional Arms Control Committee has approved any sale or donation of firearms to any person or institution within or outside the Republic.
  - (c) Furthermore, ensure that:
    - (i) immovable property is let at market related rates except when the public interest or the plight of the poor demands otherwise; and
    - (ii) all fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property are annually reviewed.
  - (d) Ensure that where assets are traded in for other assets, the highest possible trade-in price is negotiated.
- 44.3 The alienation of immovable assets is subject to the municipal asset transfer regulation.
- The alienation of immovable assets is subject to the following
- 44.4 principles:
- The payment of the purchase price and costs will be
- 44.5 subject to:
- 44.5.1 Cash payment of the full purchase price and estimated cost pertaining to the transaction upon signature of the deed of sale.

44.5.2 An acceptable bank guarantee for the full purchase price and estimated cost pertaining to the transaction upon signature of the deed of sale.

44.6 Should the property not be transferred to the purchasers' name within a period of hundred and eighty (180) days, 10% of the purchase price will be retained as "raauwkoop".

44.7 Failure to register within the prescribed period the deed of sale will be cancelled.

44.8 The standard conditions pertaining to the sale are, but not limited to:

44.8.1 All costs pertaining to a transaction shall be borne by the successful bidder/purchaser example survey, engineering fees, advertisement, rezoning et cetera. The municipality may waive the costs subject to council policy.

44.8.2 The purchaser shall commence with the development of the property within thirty-six (36) months after the date of transfer and shall complete the development within eighteen (18) months thereafter.

44.8.3 Should the purchaser fail to commence with or complete the development as stipulated in (l) above the deed of sale shall be cancelled the property revert to the municipality and be transferred back to the municipality.

44.8.4 Should the property revert to the municipality, the municipality shall refund to the purchaser an amount equal to the amount paid by the purchaser in respect of the purchase price, less the *rauwkoop* amount and all costs attached to the retransfer of the property into the name of the municipality, which costs shall be for the account of the purchaser. The municipality will only compensate the purchaser for any improvements erected on the property after the property has been resold to another purchaser and the purchase price and evaluated value of the improvements have been paid by the new purchaser.

## 45. RISK MANAGEMENT

45.1 The criteria for the identification, consideration and avoidance of potential risks in the supply chain management system, are as follows:

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- (a) Non-compliance by the supplier to deliver within the agreed timeframes;
- (b) Supply of inferior goods or services by the supplier;
- (c) Inability of the supplier to provide goods or services as ordered;
- (d) Non-adherence to the municipality policy with regards to utilization of preferred suppliers; and
- (e) Procurement of goods or services at prices or of a quality not in the best interest of the municipality.

45.2 Risk management must include:

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

## 46. PERFORMANCE MANAGEMENT

46.1 The accounting officer must ensure that an effective internal monitoring system is implemented in order to determine, on the basis of a retrospective analysis, whether the authorized supply chain management processes were followed and whether the measurable performance objectives linked to and approved with the budget and the service delivery and budget implementation plan, were achieved.

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**PART 4  
OTHER MATTERS**

**47. MEASURES TO PROMOTE LOCAL SUPPLIERS AND SMME'S**

47.1 As far as possible, quotations, with value less than R30 000,00, must be awarded to local SMME's or suppliers for the following services:

- (i) catering services,
- (ii) Paupers' burial services,
- (iii) furniture and décor
- (iv) travel coordination and commuting services
- (v) stationery stock and printing
- (vi) advertisement, media, communications

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

48.1 The accounting officer must ensure that, irrespective of the procurement process followed, no award above R15 000,00 is given to a person whose tax matters have not been declared by the South African Revenue Service to be in order.

48.2 Before making an award to a provider or bidder, a tax clearance certificate from SARS must first be provided as contemplated in paragraph 13(a)(iv).

48.3 Should a bidder's tax clearance certificate expire during the evaluation process, the bidder will be afforded an opportunity to submit a new tax clearance certificate before final award.

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**49. PROHIBITION ON AWARDS TO PERSONS IN THE SERVICE OF THE STATE**

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

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

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

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The notes to the annual financial statements must disclose particulars of any award of more than R2 000,00 to a person who is a spouse, child or parent of a person in the service of the state, or has been in the service of the state in the previous twelve (12) months, including:

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

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**51. ETHICAL STANDARDS**

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51.1 A code of ethical standards is hereby established, in accordance with subparagraph (2), for officials and other role players in the supply chain management system in order to promote:

- (a) Mutual trust and respect; and
- (b) An environment where business can be conducted with integrity and in a fair and reasonable manner.

51.2 An official or other role player involved in the implementation of the supply chain management policy:

- (a) Must treat all providers and potential providers equitably;
- (b) May not use his or her position for private gain or to improperly benefit another person;
- (c) May not accept any reward, gift, favor, hospitality or other benefit directly or indirectly, including to any close family member, partner or associate of that person, of a value more than R350,00;
- (d) Notwithstanding subparagraph (51.2) (c), must declare to the accounting officer details of any reward, gift, favor, hospitality or other benefit promised, offered or granted to that person or to any close family member, partner or associate of that person;
- (e) Must declare to the accounting officer details of any private or business interest which that person, or any close family member, partner or associate, may have in any proposed procurement or disposal process of, or in any award of a contract by, the municipality;
- (f) Must immediately withdraw from participating in any manner whatsoever in a procurement or disposal process or in the award of a contract in which that person, or any close family

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member, partner or associate, has any private or business interest;

(g) Must be scrupulous in his or her use of property belonging to the municipality;

(h) Must assist the accounting officer in combating fraud, corruption, favoritism and unfair and irregular practices in the supply chain management system; and

(i) Must report to the accounting officer any alleged irregular conduct in the supply chain management system which that person may become aware of, including:

(i) any alleged fraud, corruption, favoritism or unfair conduct;

(ii) any alleged contravention of paragraph 54(1) of this policy; or

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

51.3 Declarations in terms of subparagraph (2)(d) and (e):

(a) Must be recorded in a register which the accounting officer must keep for this purpose;

(b) A report by the accounting officer must be made to the mayor of the municipality who must ensure that such declarations are recorded in the register.

51.4 The National Treasury's code of conduct must also be taken into account by supply chain management practitioners and other role players involved in supply chain management.

51.5 A breach of the code of conduct adopted by the municipality must be dealt with in accordance with schedule 2 of the Local Government: Municipal Systems Act, 2000.

## 52. INDUCEMENTS, REWARDS, GIFTS & FAVOURS TO MUNICIPAL OFFICIALS & OTHER ROLE PLAYERS

No person who is a provider or prospective provider of goods or services, or a recipient or prospective recipient of goods disposed or to be disposed of may either directly or through a representative or intermediary promise, offer or grant:

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

(b) Any reward, gift, favour or hospitality to:

(i) any official; or

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

52.2 The accounting officer 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.

52.3 Sub-paragraph (1) does not apply to gifts less than R350,00 in value.

### 53. SPONSORSHIPS

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

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

### 54. OBJECTIONS AND COMPLAINTS

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

### 55. RESOLUTION OF DISPUTES, OBJECTIONS, COMPLAINTS & QUERIES

55.1 The accounting officer must appoint an independent and impartial person, not directly involved in the supply chain management processes:

- (a) To assist in the resolution of disputes between the municipality and other persons regarding -
  - (i) any decisions or actions taken in the implementation of the supply chain management system; or
  - (ii) any matter arising from a contract awarded in the course of the supply chain management system; or

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

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

55.3 The person appointed must:

- (a) Strive to resolve promptly all disputes, objections, complaints or queries received; and
- (b) Submit monthly reports to the accounting officer on all disputes, objections, complaints or queries received, attended to or resolved.

55.4 A dispute, objection, complaint or query may be referred to the relevant provincial treasury if:

- (a) The dispute, objection, complaint or query is not resolved within sixty (60) days; or
- (b) No response is forthcoming within sixty (60) days.

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

55.6 This paragraph must not be read as affecting a person's rights to approach a court at any time.

## 56. CONTRACTS PROVIDING FOR COMPENSATION BASED ON TURNOVER

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

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

## 57. CANCELLATION OF CONTRACTS

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57.1 Contracts may only be terminated in accordance with the termination provisions set out in the contract. Legal advice may be sought as appropriate.

## 58. CANCELLATION OF TENDERS

58.1 The municipality may accept or reject any variation, deviation, tender offer, or alternative tender offer, and may cancel the tender process and reject all tender offers at any time before the formation of a contract. The municipality shall not accept or incur any liability to a tenderer for such cancellation and rejection, but will give written reasons for such action upon written request to do so.

58.2 The municipality may, prior to the award of a tender, cancel a tender if –

- (a) Due to changed circumstances there is no longer a need for the services, works or goods requested;
- (b) The funds are no longer available to cover the total envisaged expenditure;
- (c) No acceptable tenders are received; or
- (d) The incorrect application of the preference point system applied.
- (e) In the event of an incorrect preference point system the following will applied:

(i) In the application of the 80/20 preference point system as stipulated in the tender documents, all tenders received exceed the estimated Rand value of R30-million, the tender invitation must be cancelled.

(ii) If one or more of the acceptable tenders received are within the prescribed threshold of R50-million, all tenders received must be evaluated on the 80/20 preference point system.

(iii) In the event of the application of the 90/10 preference point system as stipulated in the tender documents, all tenders received are equal to or below the estimated Rand value of R50-million, the tender invitation must be cancelled.

(b) If one or more of the acceptable tenders received are above the prescribed threshold of R50-million, all tenders received must be evaluated on the 90/10 preference point system.

58.3 A cancellation of a tender invitation as contemplated in sub-regulation (3)(a) and (3)(c), must re-invite tenders and must, in the tender documents, stipulate the correct preference

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point system to be applied.

58.3 The decision to cancel a tender in terms of sub-regulation 58(2) must be published in the government tender bulletin for the media in which the original tender invitation was advertised.

58.4 The municipality may not, subsequent to the cancellation or abandonment of the tender process, or the rejection of all responsive tender offers, re-issue a tender covering substantially the same scope of work within a period of six (6) months unless only one tender was received and such tender was returned unopened to the tenderer.

58.5 The period of six (6) months "cooling off period" commence from the official cancellation or abandonment date (CIDB standard condition of tender).

## 59. BLACKLISTING

59.1 Tenderers and service providers can be blacklisted/prohibited from doing business with the municipality for a prescribed period due to an improper practice or non-performance as defined in the blacklisting policy.

59.2 A tenderer who is blacklisted or included on the National Treasury register of tender defaulters, shall not be allowed to participate in any procurement processes for work offered by the municipality during the period of disqualification. Maximum period of restriction shall be five (5) years and shall be determined on a case-by-case-basis.

59.3 The blacklisting of tenderers, service providers, persons and/or business will be conducted according to the procedures as stipulated in the blacklisting policy.

## 60. GENERAL

60.1 The municipality supports labor intensive construction and other services relating to where physical labor is required. All labor-intensive projects a minimum of 80% local labor will apply to bids.

60.2 All relevant EPWP documents and reports must be completed in full and be submitted as part of the bid documents and thereafter on implementation of the project.

## 61. RETENTION

61.1 Retention for procurement of goods and services (including consultancy services) will not generally be called for, but where

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required, will be in accordance with the limits set for construction works below:

61.1.1 In respect of a Rand value less than or equal to R1 000 000,00, 5% of the value of work carried out with no limit, reducing by half for the duration of the defects liability period. In respect of a Rand value exceeding R1 000 000,00, 10% of the value of work carried out with no limit, reducing by half for the duration of the defects liability period unless otherwise provided for in the standard conditions of contract as may be prescribed.

61.2 No interest shall be paid or claimed on retention monies kept by the municipality on behalf of service providers.

61.3 The following line items are not required to be procured through SCM process.

The end user to complete and submit documents with the original invoice to SCM unit to check for legal compliancy:

- audit fees
- bursaries and student practical work
- compensation for injuries and dismissals
- congresses/professional meetings (S&T)
- donations/grants by council
- entertainment: finance – cash collection
- telecommunications (Telkom)
- license fees
- postage
- mayoral donations
- membership fees
- insurance claims
- ward committee allowances
- Eskom
- debit orders
- bank charges
- Rand Water
- inter-departmental charges
- employee/councilors related costs

## 62. NO FORMAL BID PROCESS

62.1 The following items are not required to be procured through the normal supply chain management process as required by any legislation:

- (a) Audit fees;

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- (b) Statutory payments;
- (c) License fees;
- (d) Postage fees;
- (e) Membership fees;
- (f) Telecommunications (Telkom);
- (g) DWAF (water purchases);
- (h) Eskom (electricity purchases); a n d /or
- (i) Purchases less than R2 000,00
- (j) Strip and quote
- (k) Bidders: Municipal Vehicle Services or repairs at their own dealers
- (l) Advertisement in the local newspaper, and
- (m) Circular 98 Regulation 32 (Cost containment)

**63. REVIEW**

This policy will be reviewed annually to be in line with municipal practices, legislation and regulations.

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**64. SHORT TITLE**

This policy shall be called the Ngqushwa Local Municipality Supply Chain Management Policy.

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**REVIEWED BY COUNCIL ON .....2022 UNDER AGENDA ITEM NO.....**

\_\_\_\_\_  
**MUNICIPAL MANAGER**

\_\_\_\_\_  
**MAYOR OBO COUNCIL**

## ANNEXURE A

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

The **purpose** of this Code of Conduct is to promote mutual trust and respect and an environment where business can be conducted with integrity and in a fair and reasonable manner.

#### 1. GENERAL PRINCIPLES

- 1.1 The municipality commits itself to a policy of fair dealing and integrity in the conducting of its business. Officials 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. Officials 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.

Officials 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.

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Officials 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.

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#### 2. CONFLICT OF INTEREST

- 2.1 An official or other role player involved with supply chain management –
- (a) must treat all providers and potential providers equitably;
- may not use his or her position for private gain or to improperly benefit another person;

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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;

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(b) must declare to the accounting officer details of any reward, gift, favour, hospitality or other benefit promised, offered or granted to that person or to any close family member, partner or associate of that person;

must declare to the accounting officer details of any private or business interest which that person, or any close family member, partner or associate, may have in any proposed procurement or disposal process, or in any award of a contract by

(c) the municipality;

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 b

(d) business interest;

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must declare any business, commercial and financial interests or activities undertaken for financial gain that may raise a possible conflict of interest;

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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; and

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should not take improper advantage of their previous office after leaving their official position.

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### 3. ACCOUNTABILITY

3.1 Practitioners are accountable for their decisions and actions to the public.

Practitioners should use public property scrupulously.

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Only accounting officers or their delegates have the authority to commit the municipality to any transaction for the

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- 3.2 procurement of goods  
and/or services.

All transactions conducted by a practitioner should be recorded and accounted for in an appropriate accounting system. Practitioners should not make any false or misleading entries into such a system for any reason whatsoever.

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- 3.3 Practitioners must assist the accounting officer in combating fraud, corruption, favoritism and unfair and irregular practices in the supply chain management system.

Practitioners must report to the accounting officer any alleged irregular conduct in the supply chain management system which that person may become aw

- 3.4 are of, including

(a) any alleged fraud, corruption, favoritism or unfair conduct;

any alleged contravention of the policy on inducements, rewards, gifts and favors to municipalities or municipal entities, officials or other

(b) role players; and

any alleged breach of this

(c) code of conduct.

- 3.5 Any declarations made must be recorded in a register which the accounting officer must keep for this purpose. Any declarations made by the accounting officer must be made to the **executive mayor** who must ensure that such declaration is recorded in the register.

#### 4. OPENNESS

- 4.1 Practitioners should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only if it is in the public interest to do so.

#### 5. CONFIDENTIALITY

- 5.1 Any information that is the property of the municipality or its providers should be protected at all times. No information regarding

any bid/contract/bidder/contractor may be revealed if such an action will infringe on the relevant bidder's/contractors personal rights.

6. **Matters of confidential nature in the possession of officials and other role players involved in SCM should be kept confidential unless legislation, the performance of duty or the provisions of law requires otherwise. Such restrictions also apply to officials and other role players involved in SCM after separation from service.**

BID SPECIFICATION / EVALUATION / ADJUDI

7. **CATION COMMITTEES**

- 7.1 Bid specification, evaluation and adjudication committees should implement supply chain management on behalf of the municipality in an honest, fair, impartial, transparent, cost-effective and account- able manner.

Bid evaluation/adjudication committees should be familiar with and adhere to the prescribed legislation, directives and procedures in respect of supply chain management in order to perform effectively

- 7.2 and efficiently.

- 7.3 All members of bid adjudication committees should be cleared by the accounting office "at the level" of "CONFIDENTIAL" and should be required to declare their financial interest annually.

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- 6.3 No person should -

- (a) interfere with the supply chain management system of the municipality; or  
(b) amend or tamper with any price quotation/bid after its submission.

8. **COMBATIVE PRACTICES**

- 8.1 Combative practices are unethical and illegal and should be avoided at all cost.

They include but are not limited to:

- (a) Suggestions to fictitious lower quotations;

- (b) Reference to non-existent competition;
  - (c) Exploiting errors in price quotations/bids;
  - (d) Soliciting price quotations.
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