

FRANCES BAARD DISTRICT MUNICIPALITY

FRANCES BAARD DISTRICT MUNICIPALITY

Supply Chain Management Policy



APPROVED BY COUNCIL ON 28 November 2007

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1. INTRODUCTION

The Frances Baard District Municipality's (FBDM) Supply Chain Management policy seeks to promote an innovative form of targeted procurement, which will encourage socio-economic transformation within its region. The Supply Chain Management policy will empower the Frances Baard District Municipality to continue to redress the skewed distribution of wealth. The policy will also assist in achieving the goals of poverty alleviation and job creation within its region.

The policy will achieve the above by providing employment opportunities to Historically Disadvantaged Individuals (HDIs) and disadvantaged communities, enabling socio-economic transformation objectives to be linked to fair, transparent, equitable, competitive and cost effective procurement practices.

2. 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 –

Agent

Means a person mandated by another person ("the principal") to do business for and on behalf of, or to represent in a business transaction, the principal, and thereby acquire rights for the principal against an organ of state and incur obligations binding the principal in favour of an organ of state

Break-out Procurement

Means the procurement of goods and services for any project of the Municipality in the smallest possible quantities without compromising the quality, coverage, cost or developmental impact of the goods and services

Comparative Price

Means the price after the factors of a non-firm price and all unconditional discounts that can be utilised have been taken into consideration

Competitive bid

Means a bid in terms of a competitive bidding process

Competitive bidding process

Means a competitive bidding process referred to in this policy

Consortium or Joint Venture

Means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity necessary for the execution of a contract

Contract

Means the agreement that results from the acceptance of a tender by the Municipality

Control

Means the possession and exercise of legal authority and power to manage the assets, goodwill and daily operations of a business and the active and continuous expertise of appropriate managerial authority and power in determining the policies and directing the operations of the business

Councillor

Means a member of a municipal council

Disability

Means, in respect of a person, a permanent impairment of a physical, intellectual, or sensory function, which results in restricted or lack of ability to perform an activity in the manner or within the range considered normal for a human being

District Municipality

Means a municipality that has municipal executive and legislative authority in an area that includes more than one municipality and which is described in section 155(1) of the Constitution as a category C municipality

Employer

Means the Frances Baard District Municipality

Executive Mayor

Means an executive mayor elected in terms of section 55 of the Municipal Structures Act, Act 32 of 1998

Final award

Means the final decision on which bid or quote to accept

Firm price

Means the price that is only subject to adjustments in accordance with the actual increase or decrease resulting from the change, imposition, or abolition of customs or excise duty and any other duty, levy or tax which in terms of a law or regulation is binding on the contractor and demonstrably has an influence on the price of any supplies, or the rendering costs of any service, for the execution of the contract

Formal written price quotation

Means quotations referred to in this policy

Historically Disadvantaged

Means a South African Citizen or any **service, individual provider;**

(a) who, due to the apartheid policy that had been in place, had no franchise in national elections prior to the introduction of the Constitution of the Republic of South Africa, 1983 (Act No. 110 of 1983) or the Constitution of the Republic of South Africa, 1983 (Act No. 2000 of 1993) (“the Interim Constitution”); and/or

(b) who is a female; and/or

(c) who has a disability;

Provided that a person who obtained South African citizenship on or after the coming to effect of the Interim Constitution, is deemed not to be an HDI.

In the service of the state

Means to be –

1. a member of –

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

List of accredited prospective providers

Means the list of accredited prospective providers which a municipality or municipal entity must keep in terms this policy

Local Municipality

Means a municipality that shares municipal executive and legislative authority in its area with a district municipality within whose area it falls and which is described in section 155(1) of the Constitution as a category B municipality

Long term contract

Means a contract with a duration period exceeding one year

Management

In relation to an enterprise or business means an activity inclusive of control and performed on a daily basis, by any person who is a principal executive officer of the company, by whatever name that person may be designated, and whether or not that person is a director

Municipal Council or Council

Means a municipal council referred to in section 157(1) of the Constitution, 1996

Municipality

When referred to as –

- (a) An entity, means a municipality as described in the definitions section, and
- (b) A geographic area means a municipal area determined in terms of the Local Government: Municipal Demarcation Act, 1998 (Act No. 27 of 1998)

Municipal Manager

Means a person appointed by the Municipality in terms of section 82 of the Municipal Structures Act and who is the head of administration and also the accounting officer for the Municipality

Non-firm prices

Means all prices other than “firm” prices

Organ of State

Means an organ of state as defined in section 239 of the Constitution

Other applicable legislation

Means any other legislation applicable to municipal supply chain management, including –

1. the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000);
2. the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
and
3. the Construction Industry Development Board Act, 2000 (Act No.38 of 2000)

Owned

Means having all the customary incidents of ownership, including the right of disposition, and sharing in all the risks and profits commensurate with the degree of ownership interest, as demonstrated by an examination of the substance, rather than the form of ownership arrangements

Person

Includes reference to a juristic person

Procurement Officer

Means an official appointed/designated by the Frances Baard District Municipality to fulfill a vital role in the implementation, the monitoring and the continued application of the Frances Baard District Municipality Supply Chain Management Policy

Rand Value

Means the total estimated value of a contract in Rand denomination which is calculated at the time of tender invitations and includes all applicable taxes and excise duties

Regulations

Means the Local Government: Municipal Supply Chain Management Regulations No 27636 of 30 May 2005

Service Providers

a) "Professional Service Provider":

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

b) "General Service Provider":

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

SMMEs

Means a separate and distinct business entity, including cooperative enterprises and non-governmental organizations, managed by one owner or more which, including its branches or subsidiaries, if any, is predominantly carried on in any sector or sub-sector of the economy

Sub-Contracting

Means the primary contractor's assigning or leasing or making out work to, or employing, another person to support such primary contractor in the execution of part of a project in terms of the contract

Tender

Means a written offer or bid in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of services or goods

Tender Committee

Means a committee established by the Frances Baard District Municipality in terms of the Municipal Finance Management Act and the Regulations for supply chain management

The Act

Means the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003)

Treasury guidelines

Means any guidelines on supply chain management issued by the Minister in terms of section 168 of the Act

Written or verbal quotations

Means quotations referred to in this policy

3. OBJECTIVES

To provide a policy framework within which the municipal manager and chief financial officer can institute and maintain a supply chain management system which is transparent, efficient, equitable, competitive, ensures best value for money for the municipality, applies the highest possible ethical standards, and promotes local economic development.

By adopting this policy the council further pledges itself and the municipal administration to the observance of all applicable national legislation, including specifically the:

1. Preferential Procurement Policy Framework Act No. 5 of 2000 and its regulations;
2. Broad Based Black Economic Empowerment Act No. 53 of 2003 and any applicable code of practice promulgated in terms of that Act;
3. Municipal Finance Management Act No. 56 of 2003; including the regulations relating to the prescribed framework for supply chain management;
4. Municipal Supply Chain Management Regulations No 27636 of 30 May 2005;
5. Construction Industry Development Board Act, 2000 (Act No.38 of 2000).

The Supply Chain Management Policy will seek to:

1. give effect to legislation as set out above;
2. ensure that public funds are managed in an efficient way so that all segments of the South African population benefit from such expenditure;
3. address the imbalances of the past;
4. strike a balance between empowering Historically Disadvantaged Individuals (HDIs) and value for money procurement;

5. stimulate and promote local economic development; and
6. promote small and emerging business, especially locally based enterprise.
7. obtain the best services and products at the most competitive prices within the framework of existing legislation applicable to procurement.

4. GOALS

- 1) Over and above the awarding of preference points in favour of HDIs, the following activities may be regarded as a contribution towards achieving the goals of the RDP (published in Government Gazette No.. 16085 dated 23 November 1994):
 - a) The promotion of South African owned enterprises;
 - b) The promotion of export orientated production to create jobs;
 - c) The promotion of SMMEs;
 - d) The creation of new jobs or the intensification of labour absorption;
 - e) The promotion of enterprises located in a specific province for work to be done or services to be rendered in that province;
 - f) The promotion of enterprises located in a specific region for work to be done or services to be rendered in that region;
 - g) The promotion of enterprises located in a specific municipal area for work to be done or services to be rendered in that municipal area;
 - h) The promotion of enterprises located in rural areas;
 - i) The empowerment of the work force by standardising the level of skill and knowledge of workers;
 - j) The development of human resources, including by assisting in tertiary and other advanced training programmes, in line with key indicators such as percentage of wage bill spent on education and training and improvement of management skills; and
 - k) The upliftment of communities through, but not limited to, housing, transport, schools, infrastructure donations, and charity organisations.
- 2) Specific goals will be measurable and quantifiable and the municipality will monitor the execution of the contract for compliance with such goals.
- 3) The goals used will be determined by the specification committee based on the nature of the tender.

5. ESTABLISHMENT AND IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY

- 4) The FRANCES BAARD DISTRICT MUNICIPALITY resolves in terms of section 111 of the Act to have and implement a supply chain management policy that –
 - a) gives effect to –
 - i) section 217 of the Constitution; and
 - ii) Part 1 of Chapter 11 and other applicable provisions of the Act;
 - b) is fair, equitable, transparent, competitive and cost effective;
 - c) complies with –
 - i) the regulatory framework prescribed in Chapter 2 of the Regulations; and
 - ii) any minimum norms and standards that may be prescribed in terms of section 168 of the Act
 - d) is consistent with other applicable legislation;
 - e) does not undermine the objective for uniformity in supply chain management systems between organs of state in all spheres; and
 - f) is consistent with national economic policy concerning the promotion of investments and doing business with the public sector.
- 5) 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; or
 - d) selecting external mechanisms referred to in section 80 (1) (b) of the Municipal Systems Act for the provision of municipal services in circumstances contemplated in section 83 of that Act.
- 6) This Policy, except where provided otherwise, does not apply in respect of the procurement of goods and services contemplated in section 110(2) of the Act, including –
 - a) water from the Department of Water Affairs or a public entity, another municipality or a municipal entity; and
 - b) electricity from Eskom or another public entity, another municipality or a municipal entity.

6. SUPPLY CHAIN MANAGEMENT

6.1 Adoption

- 1) In accordance with the Supply Chain Management regulations the accounting officer of the municipality will:
 - a) Promptly prepare and submit a draft supply chain management policy to council for adoption;

- b) At least annually review the implementation of the policy; and
 - c) When deemed necessary by the Chief Financial Officer submits proposals for the amendment of this policy to council.
- 2) If the accounting officer submits proposed amendments to the council that differ from the model policy issued by the National Treasury, the accounting officer must –
- a) ensure that such proposed amendments comply with the Regulations; and
 - b) report any deviation from the model policy to the National Treasury and the relevant provincial treasury.
- 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.
- 7) The accounting officer of a 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.

6.2 Delegation

The council hereby delegates such additional powers and duties to the accounting officer so as to enable the accounting officer –

- 1) to discharge the supply chain management responsibilities conferred on accounting officers in terms of –
 - a) Chapter 8 or 10 of the Act; and
 - b) the supply chain management policy;
- 2) to maximize administrative and operational efficiency in the implementation of this policy;
- 3) to enforce reasonable cost effective measures for the prevention of fraud, corruption, favouritism and unfair and irregular practices in the implementation of this policy;
- 4) to comply with his or her responsibilities in terms of section 115 of the MFMA;
- 5) The council or accounting officer may not 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.
- 6) 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 this policy.

6.3 Sub delegations

The accounting officer may in terms of sections 79 or 106 of the Act sub delegate any supply chain management powers and duties, including those delegated to the accounting officer in terms the regulation, but any such sub delegation must be consistent with the Supply Chain Management regulations and delegation of powers of the municipality.

The power to make a final award –

- 1) above R10 million (VAT included) may not be sub delegated by the accounting officer;
- 2) above R2 million (VAT included), but not exceeding R10 million (VAT included), may be sub delegated but only to –
 - a) the chief financial officer;
 - b) a senior manager; or
 - c) a bid adjudication committee of which the chief financial officer or a senior manager is a member; or
- 3) not exceeding R2 million (VAT included) may be sub delegated but only to –
 - a) the chief financial officer;
 - b) a senior manager;
 - c) a manager directly accountable to the chief financial officer or a senior manager; or
 - d) a bid adjudication committee.

An official or bid adjudication committee to which the power to make final awards has been sub delegated, must within five days of the end of each month submit a written report containing particulars of each final award made by such official or committee during that month,

- 4) to the accounting officer, in the case of an award by –
 - a) the chief financial officer;
 - b) a senior manager; or
 - c) a bid adjudication committee of which the chief financial officer or a senior manager is a member; or
- 5) to the chief financial officer or the senior manager responsible for the relevant bid, in the case of an award by –
 - a) delegated manager; or
 - b) a bid adjudication committee of which the chief financial officer or a senior manager is not a member.

The written report should include -

- 1) the amount of the award;
- 2) the name of the person to whom the award was made; and
- 3) the reason why the award was made to that person
- 4) a summary of the final scores achieved

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

(6) The above 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 this policy.

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

The current FBDM Delegation of powers policy will be applicable. The accounting officer / authority will delegate officials within his / her SCM unit, to deal with SCM processes. The bid evaluation/adjudication committees will be delegated to adjudicate and award bids, or make recommendations to the accounting officer / authority regarding the award of any bid. The principle is vested such that no individual official will be in a position to take a decision in isolation regarding the award of a bid.

The accounting officer may lower, but not increase, the different threshold values specified. Goods and services will not be split into parts or items of lesser value merely to avoid following the requirements of this policy.

GOODS/SERVICE VALUE	PROCUREMENT METHOD MINIMUM	APPROVAL AUTHORITY
R0 – R2000	Petty Cash	Section Head/Head of Department
R2001 – R30 000	Three Quotations	Divisional Head/Head of Department
R30 001 – R100 000	Public notice on FBDM notice boards, FBDM Website and use point scoring system for evaluation	Head of Department
R100 001 - R199 999	Public notice on FBDM notice boards, FBDM Website and use point scoring system for evaluation	Municipal Manager
Above R200 000	Public Notice/Tender Procedures	Bid Committee/ Municipal Manager

7. OVERSIGHT ROLE OF COUNCIL

The council must maintain oversight over the implementation of this supply chain management policy.

For the purposes of such oversight the accounting officer must –

- 1) within 30 days of the end of each financial year, submit a report on the implementation of the supply chain management policy of the municipality and of any municipal entity under its sole or shared control, to the council of the municipality;
- 2) whenever there are serious and material problems in the implementation of the supply chain management policy, immediately submit a report to the council;
- 3) within 10 days of the end of each quarter, submit a report on the implementation of the supply chain management policy to the mayor.
- 4) The reports must be made public in accordance with section 21A of the Municipal Systems Act.

8. SUPPLY CHAIN MANAGEMENT UNIT

The municipality will establish a supply chain management unit to implement this policy. This unit will operate under the direct supervision of the CFO. The training of officials in this unit will be in accordance with section 119 of the MFMA and any guidelines issued by the National Treasury.

9. FORMAT OF SUPPLY CHAIN MANAGEMENT

This supply chain management policy provides systems for –

- 1) demand management;
- 2) acquisition management;
- 3) logistics management;
- 4) disposal management;
- 5) risk management; and
- 6) performance management.

9.1 Demand management

The accounting officer must establish and implement an appropriate demand management system in order to ensure that the resources required by the municipality support its operational commitments and its strategic goals outlined in the Integrated Development Plan.

The demand management system must –

- 1) include timely planning and management processes to ensure that all goods and services required by the municipality are quantified, budgeted for and timely and effectively delivered at the right locations and at the critical delivery dates, and are of the appropriate quality and quantity at a fair cost;
- 2) take into account any benefits of economies of scale that may be derived in the case of acquisitions of a repetitive nature; and
- 3) provide for the compilation of the required specifications to ensure that its needs are met;
- 4) undertake appropriate industry analysis and research to ensure that innovations and technological benefits are maximized.

9.2 Acquisition management

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

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

When procuring goods or services contemplated in section 110(2) of the Act, the accounting officer must make public the fact that such goods or services are procured otherwise than through the municipality's supply chain management system, including -

- 1) the kind of goods or services; and
- 2) the name of the supplier.

10. MANAGEMENT OF PROCUREMENT REQUIREMENTS

All requests for the procurement of goods and services shall be submitted by the heads of departments concerned to the Supply Chain Management unit. All requests shall -

- 3) be in writing;
- 4) clearly specify the nature of the goods and services required;

- 5) where applicable, specify quantity or duration, as the case may be, of the goods and services required;
- 6) avoid the use of brand names;
- 7) avoid the preparation of specifications aimed at procuring goods or services provided by only specific suppliers;
- 8) bear the certification by the official responsible for financial management in the department concerned;
- 9) bear the certification by the official responsible that provision has also been included in the draft annual budgets for the ensuing financial year(s); and
- 10) be signed by the head of department concerned or by a senior official in the department designated by the head of department and the Procurement officer for this purpose.

10.1 Range of procurement processes

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

1. petty cash purchases, up to a transaction value of R2 000 (VAT included);
2. written quotations for procurements of a transaction value over R2 000 up to R10 000 (VAT included);
3. formal written price quotations for procurements of a transaction value over R10 000 up to R200 000 (VAT included); and
4. a competitive bidding process for–
 - (a) procurements above a transaction value of R200 000 (VAT included); and
 - (b) the procurement of long term contracts.

The accounting officer may in writing lower, but not increase, the different threshold values specified or direct that –

1. written or verbal quotations be obtained for any specific procurement of a transaction value lower than R2 000;
2. formal written price quotations be obtained for any specific procurement of a transaction value lower than R10 000;
3. or a competitive bidding process be followed for any specific procurement of a transaction value lower than R200 000.

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.

10.2 General preconditions for consideration of written quotations or bids

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

1. has furnished that provider's –

- a. full name;
 - b. identification number or company or other registration number; and
 - c. tax reference number and VAT registration number, if any;
2. has authorised the municipality [or municipal entity] to obtain a tax clearance from the South African Revenue Services that the provider's tax matters are in order; and
3. has indicated –
- a. whether he or she is in the service of the state, or has been in the service of the state in the previous twelve months;
 - b. if the provider is not a natural person, whether any of its directors, managers, principal shareholders or stakeholder is in the service of the state, or has been in the service of the state in the previous twelve months; or
 - c. whether a spouse, child or parent of the provider or of a director, manager, shareholder or stakeholder referred to in subparagraph (b) is in the service of the state, or has been in the service of the state in the previous twelve months.

10.3 List of accredited prospective providers

The accounting officer or the person designated must-

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

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

Procedure

The Supply Chain Unit of the finance department shall at least quarterly, by notice and advertisement, request prospective suppliers, either generally or for specified ranges of goods and services, to submit their names and other relevant details to the Supply Chain Unit for inclusion in a database of suppliers.

The Supply Chain Unit shall then forward – either electronically or by facsimile – copies of any notices of quotations and tenders to the relevant suppliers. However, failure by the Supply Chain Unit to forward such notices or the non-receipt of such notices by any supplier shall not invalidate the procurement process. The onus remains on the prospective suppliers to apprise them of the municipality's requirements, and the additional notification by virtue of the supplier's inclusion in the database of suppliers shall be viewed simply as a courtesy on the part of the municipality. The inclusion of any supplier in the database of suppliers by no means obviates the need for such supplier to respond in the prescribed manner to notices of the municipality's procurement requirements.

Prospective providers will be allowed to submit applications for listing at any time during the year.

10.4 Assistance to Prospective Suppliers

To ensure the equitable treatment of prospective suppliers who do not have the educational skills to complete the required documentation in response to notices calling for quotations or bidders, the chief financial officer shall designate an official to provide assistance during normal office hours to such suppliers. The availability of such assistance shall be indicated in the relevant notices.

10.5 Petty cash purchases

The accounting officer will establish the conditions for the procurement of goods by means of petty cash purchases which must include conditions –

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

10.6 Quotations

The chief financial officer shall manage procurement requisitions for amounts estimated not to exceed R200 000 [including VAT] by calling for quotations. The request for such quotations shall be prepared by the Supply Chain Unit of the finance office, and shall be prominently displayed on the municipality's main notice board, on the main notice board of the department concerned and on the notice

board provided for the purpose of displaying quotations and tenders in the Supply Chain Unit of the finance office. Notices calling for quotations shall indicate the closing date and time for the submission of quotations, and such closing date shall be at least 14 (fourteen) calendar days after the date on which the request for quotations is first displayed.

Written or verbal quotations

The procurement officer will record the names of potential providers and their quoted prices. Quotations will be obtained from at least three different providers preferably from, but not limited to, providers whose names appear on the list of accredited prospective providers. If quotations are obtained from providers who are not listed, such providers must meet the listing criteria in this policy. To the extent feasible, providers must be requested to submit such quotations in writing. If it is not possible to obtain at least three quotations, the reasons must be recorded and reported to the CFO or another official designated by the CFO. The CFO must record the names of the potential providers requested to provide such quotations with their quoted prices. The order will only be placed against a written confirmation by the selected provider.

10.7 Formal written price quotations

Written quotations will be obtained from at least three different providers whose names appear on the list of accredited prospective providers. Quotations may be obtained from providers that are not listed, provided that such providers meet the listing criteria set in this policy. If it is not possible to obtain at least three quotations, the reasons must be recorded and approved by the CFO or another official designated by the CFO. The CFO must record the names of the potential providers requested to provide such quotations with their quoted prices. The designated official must within three days of the end of the month report to the CFO on any approvals given.

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

The procedure for the procurement of goods or services through written or verbal quotations or formal written price quotations is as follows:

- 1) when using the list of accredited prospective providers the accounting officer must promote ongoing competition amongst providers by inviting providers to submit quotations on a rotation basis;
- 2) all requirements in excess of R30 000 (VAT included) that are to be procured by means of formal written price quotations must, be advertised for at least seven days on the website and an official notice board of the municipality;

- 3) offers received must be evaluated on a comparative basis taking into account unconditional discounts;
- 4) the accounting officer or chief financial officer must on a monthly basis be notified in writing of all written or verbal quotations and formal written price quotations accepted by an official acting in terms of a sub delegation;
- 5) offers below R30 000 (VAT included) must be awarded based on compliance to specifications and conditions of contract, ability and capability to deliver the goods and services and lowest price;
- 6) acceptable offers, which are subject to the preference points system (PPPFA and associated regulations), must be awarded to the bidder who scored the highest points;
- 7) insert requirements for proper record keeping.

Quotations must

- 1) substantially comply with the specifications set out in the notice calling for quotations;
- 2) be received by the Supply Chain Unit of the finance office on or before due date and time;
- 3) be accompanied by proof that all municipal rates and service charges have been paid to date;
- 4) be accompanied by proof of a valid tax clearance certificate issued by the South African Revenue Service;
- 5) be accompanied by proof of a valid tax (levy) clearance certificate issued by the relevant district municipality; and
- 6) be accompanied by a completed form, as prescribed by the chief financial officer, setting out details of the supplier's PDI empowerment credentials and involvement in the local or regional economy.

For a quotation to be considered in respect of services to be provided to, or works to be undertaken for the municipality, the bidder must provide satisfactory proof that it possesses the skills and resources to execute the bid properly.

When using the list of accredited prospective providers the accounting officer will:

- 1) Promote ongoing competition among providers, including by inviting providers to submit quotations on a rotation basis;
- 2) Promote the objectives of the BBBE Act; and
- 3) Apply the Preferential Procurement Policy Framework Act.

10.9 Competitive Bidding process

Goods or services above a transaction value of R200 000 (VAT included) and long term contracts may only be procured through the competitive bidding process.

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

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- 1) the compilation of bidding documentation;
- 2) the public invitation of bids;
- 3) site meetings or briefing sessions, if applicable;
- 4) the handling of bids submitted in response to public invitation;
- 5) the evaluation of bids;
- 6) the award of contracts;
- 7) the administration of contracts -
 - a) After approval of a bid, the accounting officer and the bidder must enter into a written agreement;
- 8) proper record keeping -
 - a) Original / legal copies of written contracts / agreements should be kept in a secure place for reference purposes.

The chief financial officer shall manage procurement requisitions for amounts estimated to be in excess of R200 000 [including VAT] by competitive bids. The request for such tenders shall

- 1) be prepared by the Supply Chain Unit of the finance office;
- 2) be prominently displayed on all the notice boards.

The procedure for the invitation of competitive bids is as follows:

- 1) Any invitation to prospective providers to submit bids must be by means of a public advertisement in newspapers commonly circulating locally, the website of the municipality or any other appropriate ways (which may include an advertisement in the Government Tender Bulletin); and
- 2) The information contained in a public advertisement, must include –
 - a) the closing date for the submission of bids, which may not be less than 30 days in the case of transactions over R10 million (VAT included), or which are of a long term nature, or 14 days in any other case, from the date on which the advertisement is placed in a newspaper, subject to subparagraph (2) of this policy;
 - b) a statement that bids may only be submitted on the bid documentation provided by the municipality / municipal entity; and
 - c) date, time and venue of any proposed site meetings or briefing sessions.
- 3) The accounting officer may determine a closing date for the submission of bids which is less than the 30 or 14 days requirement, but only if such shorter period can be justified on the grounds of urgency or emergency or any exceptional case where it is impractical or impossible to follow the official procurement process.
- 4) Bids submitted must be sealed.
- 5) Where bids are requested in electronic format, such bids must be supplemented by sealed hard copies.

The procurement officer shall ensure that such tender boxes are sealed until the date and time of their official opening, and that they are properly secured at the

time. Where the relevant notice specifies that prospective bidders must complete certain documentation which must be obtained from the municipality, failure to complete such documentation shall render the bid invalid. The relevant notice may also specify that a fee or deposit, as determined from time to time by the council, is payable in order to obtain such documentation. In the case of deposits, the amount concerned shall be refundable to the bidder within 7 (seven) working days after the bids have been opened.

No requirement for goods or services above the estimated transaction value of R200 000 (VAT included) may be procured by the municipality other than through competitive processing. The requirement for goods and services will not be split into parts or items of lesser value merely for the sake of procuring through other mechanisms than competitive bidding. Goods and service required that consist of different parts will as far as possible be treated and dealt with as a single transaction. Notwithstanding the above-stipulated requirements for consideration, quotations and tenders which are not to specification may be considered, but only if no quotations or tenders are received which substantially comply with the specification.

10.10 Bid documentation

The accounting officer must establish the criteria to which bid documentation for a competitive bidding process must comply. The bid documentation must –

- 1) take into account –
 - a) the general conditions of contract;
 - b) any Treasury guidelines on bid documentation; and
 - c) the requirements of the Construction Industry Development Board, in the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure;
- 2) include evaluation and adjudication criteria, including any criteria required by other applicable legislation;
- 3) compel bidders to declare any conflict of interest they may have in the transaction for which the bid is submitted;
- 4) if the value of the transaction is expected to exceed R10 million (VAT included), require bidders to furnish–
 - a) if the bidder is required by law to prepare annual financial statements for auditing, their audited annual financial statements –
 - i) for the past three years; or
 - ii) since their establishment if established during the past three years;
 - b) a certificate signed by the bidder certifying that the bidder has no undisputed commitments for municipal services towards a municipality or other service provider in respect of which payment is overdue for more than 30 days;

- c) particulars of any contracts awarded to the bidder by an organ of state during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract;
- d) a statement indicating whether any portion of the goods or services are expected to be sourced from outside the Republic, and, if so, what portion and whether any portion of payment from the municipality or municipal entity is expected to be transferred out of the Republic; and
- e) stipulate that disputes must be settled by means of mutual consultation, mediation (with or without legal representation), or, when unsuccessful, in a South African court of law.

10.11 Handling, opening and recording of bids

Every tender addressed to the municipality shall be enclosed in a sealed envelope or package bearing on its exterior any number which may have been attached by the municipality to the invitation to tender and the nature of the goods or works to which the tender relates.

No tender shall be considered unless it has been placed not later than the closing time specified in the invitation to tender in the tender box that the Frances Baard District Municipality shall provide for the purpose and keep locked at all times except when tenders are being collected there from.

A tender received otherwise than by deposit in the tender box shall as soon as it has been so received be placed, by the employee authorised so, in the tender box mentioned. When a tender received otherwise than by deposit in the tender box is found not to comply with the requirements it shall forthwith be placed in a sealed enclosure on which shall be noted;

1. the date and time of receipt of the tender;
2. the nature of the goods or works to which it relates; and
3. the condition in which the tender was received;

and it shall thereupon be placed in the tender box.

When a tender is found on the opening of the tender box not to comply with the requirements the person opening tenders shall declare and endorse upon it the respects in which it fails so to comply. Any tender received after the advertised closing time shall not be considered provided that the municipality may admit a late tender when;

1. in the case of a tender submitted through the post there is proof that the tender was posted in sufficient time to reach the municipal manager before the closing date and time advertised for the receipt of tenders, and the tenderer had taken

reasonable steps against ordinary delays and was in no way to blame for the late receipt of his/her tender;

2. in the case of a tender delivered by hand there is proof that the tenderer had taken reasonable steps against ordinary delays and was in no way to blame for the late delivery of his/her tender.

The municipality may accept a tender that was received late and has for that reason been disallowed in terms of the provisions of this regulation, provided it was the only tender received.

Bids will be opened in public and will be opened at the same time and as soon as possible after the period for submission of bids has expired. Any bidder or member of the public have the right to request the names of the bidders who submitted in time be read out and, if practical, also each bidder's total bidding price.

The Procurement Officer will:

1. Record all bids received in time in a register;
2. Endorse tenders with the approved tender stamp; and
3. Ensure that the officials endorse their initials next to the value on the form of acceptance;
4. Make the register available to the public for inspection;
5. Publish the entries in the register and the bid results on the website of the municipality.

No member or employee of the municipality shall disclose to any person other than a member or employee of the municipality who in the course of his/her official duties are concerned with the tender any information relating to same. If at any time after publication of an invitation to tender the municipality considers it necessary to depart from the original conditions of tender, fresh tenders shall be called for.

10.12 Negotiations with preferred bidders

The accounting officer may negotiate the final terms of a contract with bidders identified through a competitive bidding process as preferred bidders, provided that such negotiation –

1. does not allow any preferred bidder a second or unfair opportunity;
2. is not to the detriment of any other bidder; and
3. does not lead to a higher price than the bid as submitted.

Minutes of such negotiations must be kept for record purposes.

10.13 Two stage bidding process

For large complex plants or projects of a special nature where it may be undesirable to prepare complete detailed technical specifications a two stage bidding process will be allowed as well as with projects with a duration period exceeding three years.

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

In the **second stage** final technical proposals and priced bids will be invited.

11. PREFERENCE POINT SYSTEM, EVALUATION OF TENDERS, CANCELLATION AND RE-INVITATION OF TENDERS

11.1 Stipulation of preference point system to be used

The Frances Baard District Municipality must, in the tender documents, stipulate the preference point system which will be applied in the adjudication of tenders.

11.1.1 The 80/20 preference point system

The following formula must be used to calculate the points for price in respect of tenders / procurement with a Rand value equal to, or above R 30 000 and up to a Rand value of R500 000. Frances Baard District Municipality may, however, apply this formula for procurement with a value less than R 30 000, if and when appropriate:

$$Ps = 80 \left\{ 1 - \frac{Pt - Pmin}{Pmin} \right\}$$

Where

Ps = Points scored for price of tender under consideration

Pt = Rand value of offer tender consideration

Pmin = Rand value of lowest acceptable tender

A maximum of 20 points may be awarded to a tenderer for being an HDI and / or subcontracting with an HDI and / or achieving any of the specified goals stipulated in regulation 17.

The points scored by a tenderer in respect of the goals contemplated in sub-regulation (2) must be added to the points scored for price.

Only the tender with the highest number of points scored may be selected.

11.1.2 The 90/10 preference point system

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

$$Ps = 90 \left\{ 1 - \frac{Pt - Pmin}{Pmin} \right\}$$

Where

Ps = Points scored for price of tender under consideration

Pt = Rand value of tender under consideration

Pmin = Rand value of lowest acceptable tender

A maximum of 10 points may be awarded to a tenderer for being an HDI and / or subcontracting with an HDI and / or achieving any of the specified goals stipulated in regulation 17.

The points scored by a tenderer in respect of the goals contemplated in regulation 17 must be added to the points scored for price. Only the tender with the highest number of points scored may be selected.

11.1.3 The 80/20 preference point system for the sale and letting of assets.

The following formula must be used to calculate the points for price in respect of tenders with a Rand value equal to, or above R 30 000 and up to a Rand value of R500 000 and which relate to the sale and letting of assets. The Frances Baard District Municipality may, however, apply this formula for sales and letting of assets with a rand value less than R30 000, if and when appropriate:

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

Where

Ps = Points scored for price of tender under consideration

Pt = Rand value of tender under consideration

Ph = Rand value of highest acceptable tender

A maximum of 20 points may be awarded to a tenderer for being an HDI and / or subcontracting with an HDI and / or achieving any of the specified goals stipulated in regulation 17.

The points scored by a tenderer in respect of the goals contemplated in regulation 17 must be added to the points scored for price. Only the tender with the highest number of points scored may be elected.

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

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

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

Where

Ps = Points scored for price of tender under consideration

Pt = Rand value of tender under consideration

Ph = Rand value of highest acceptable tender

A maximum of 10 points may be awarded to a tenderer for being an HDI and / or subcontracting with an HDI and / or achieving any of the specified goals stipulated in regulation 17.

The points scored by a tenderer in respect of the goals contemplated in regulation 17 must be added to the points scored for price.

Only the tender with the highest number of points scored may be selected.

11.1.5 Evaluation of tenders on functionality and price

1. The Frances Baard District Municipality must, in the tender documents, indicate if, in respect of a particular tender invitation, tenders will be evaluated on functionality and price.
2. The total combined points allowed for functionality and price may, in respect of tenders with an estimated Rand value equal to, or below, R500 000, not exceed 80 points.
3. The total combined points allowed for functionality and price may, in respect of tenders with an estimated Rand value above R500 000, not exceed 90 points.
4. When evaluating the tenders contemplated in this item, the points for functionality must be calculated for each individual tenderer.
5. The conditions of tender may stipulate that a tenderer must score a specified minimum number of points for functionality to qualify for further adjudication.
6. The points for price, in respect of a tender which has scored the specified number of points contemplated in sub-regulation (5) must, subject to the application of the evaluation system for functionality and price contemplated in this regulation, be established separately and be calculated in accordance with the provisions of regulations 3 and 4.

7. Preferences for being an HDI and / or subcontracting with an HDI and / or achieving specified goals must be calculated separately and must be added to the points scored for functionality and price.
8. Only the tender with the highest number of points scored may be selected.

11.1.6 Calculation of percentage for functionality

The percentage scored for functionality will be calculated as follows:

Each panel member should award values for each individual criterion on a score sheet. The value scored for each criterion will be multiplied with the specified weighting for the relevant criterion to obtain the marks scored for the various criteria. These marks should be added to obtain the total score. The following formula will then be used to convert the total score to a percentage for functionality:

$$Ps = \frac{So}{Ms} \times Ap$$

where

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

So = total score of bid/proposal under consideration

Ms = maximum possible score

Ap = percentage allocated for functionality

The percentages of each panel member will be added together and divided by the number of panel members to establish the average percentage obtained by each individual bidder for functionality. After calculation of the percentage for functionality, the prices of all bids that obtained the minimum score for functionality will be taken into consideration.

Bids/proposals that do not score a certain specified minimum percentage for functionality, will be disqualified and not be considered further.

11.1.7 Calculation of percentage for price

The percentage scored for price will be calculated as follows:

The lowest acceptable bid/proposal will obtain the maximum percentage allocated for price. The other bids/proposals with higher prices will proportionately obtain lower percentages based on the following formula:

$$Ps = \frac{Pmin}{P} \times Ap$$

Pt

where

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

Pmin = lowest acceptable bid/proposal

Pt = price of bid/proposal under consideration

Ap = percentage allocated for price

The "Guide on Hourly Fee Rates for Consultants" issued by the Department of Public Service and Administration, accessible from the website www.dpsa.gov.za (click on "Service Delivery Improvement" and then click on "Consultant Frameworks") should be used as a benchmark to evaluate the offered tariffs or to determine the reasonableness thereof.

11.1.8 Calculation of points for functionality and price

The percentages obtained for functionality will be added to the percentage obtained for price to obtain a percentage out of 100 which in turn will be converted to points out of 80 or 90 in terms of Regulation 8 of the Preferential Procurement Regulations.

The points scored out of 80 or 90 will be calculated according to the following formula:

(i) The 80/20 preference point system

$$Ps = 80 \left\{ 1 - \frac{Hs - Rs}{Rs} \right\}$$

(ii) The 90/10 preference point system

$$Ps = 90 \left\{ 1 - \frac{Hs - Rs}{Rs} \right\}$$

where

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

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

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

Points scored for specified goals as contemplated by the PPPFA and its Regulations are then calculated separately and added to the points scored for price and functionality in order to obtain a final point.

The contract will be awarded to the bidder scoring the highest points.

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

11.2 Cancellation and re-invitation of tenders

- (1) In the event that, in the application of the 80/20 preference point system as stipulated in the tender documents, tenders received exceed the estimated Rand value of R500 000, the tender invitation may be cancelled under the discretion of the adjudication committee.
- (2) In the event that, in the application of the 90/10 preference point system as stipulated in the tender documents, tenders received are equal to, or below R500 000, the tender may be cancelled under the discretion of the adjudication committee.
- (3) If the Frances Baard District Municipality has cancelled a tender invitation as contemplated in sub-regulations (1) and (2) they must re-invite tenders and must, in the tender documents, stipulate the preference point system to be applied.
- (4) The Frances Baard District Municipality may, prior to the award of a tender, cancel a tender if-
 - (a) due to changed circumstances, there is no longer need for the goods or services tendered for; or
 - (b) funds are no longer available to cover the total envisaged expenditure;
or
 - (c) no acceptable tenders are received.

12. COMMITTEE SYSTEM

The municipal manager shall establish tender committees to undertake the adjudicating functions. The municipal manager, provided there is provision in the relevant department's estimates for such expenditure, may engage a consultant or consultants to advise the tender committees on any technically complex aspect of a tender. The department, to which the tender relates, shall bear the expenses concerned, or – if this is not possible – the expenditure shall be charged against a provision created for this purpose in the budget of the municipal manager or the corporate services department.

Committee members will be appointed by the accounting officer taking into account section 117 of the Act. The accounting officer must 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. The accounting officer may apply the committee system to formal written price quotations.

The committee system for competitive bids will consist of at least:

1. A bid specification committee
2. A bid evaluation committee
3. A bid adjudication committee

The committee system must be consistent with –

1. this policy; and
2. any other applicable legislation.

12.1 Bid specification committee

The bid specification committee will be composed of one or more official of the municipality, preferably the manager responsible for the function involved, and when appropriate include external advisors. This committee will compile the specifications for procurement of goods or services by the municipality. Specifications will be drafted in an unbiased manner to allow all potential suppliers to offer their goods and services. This committee will also indicate each specific goal for which points will be awarded in terms of the points system set out in the Preferential Procurement Regulations 2001. Specifications will take into account any accepted standards such as those issued by Standards South Africa, the International Standards Organisation, or an authority accredited or recognised by the South African National Accreditation System with which the equipment or material or workmanship should comply. Where possible specifications must be described in terms of performance required rather than in terms of descriptive characteristics for design. Specifications may also not create trade barriers in contract requirements in the form of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labeling of conformity certification. Specifications will not make reference to any particular trademark, name, patent, design, type, specific origin or producer unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the words “equivalent”.

All specifications must be approved by the accounting officer prior to the publication of the invitation for bids.

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.

12.2 Bid evaluation Committee

This committee will as far as possible be composed of:

- 1) Officials from the departments requiring the goods or services
- 2) At least 1 supply chain management practitioner
- 3) Allow for a neutral or independent person to monitor the fairness of the proceedings

This committee will evaluate bids according to the specifications for the specific procurement and the preference point system. It will evaluate each bidder's ability to execute the contract and make sure that each bidder adhered to the set tender requirements. This committee will also check in respect of the recommended bidder whether municipal rates and taxes and the municipal services charges are not in arrears. After the evaluation the committee will submit a report to the adjudication committee with recommendations regarding the award of the bid or any related matter.

12.3 Bid adjudication committee

The bid adjudications committee will consist of at least four senior managers of the municipality or municipal entity which must include:

- 1) the chief financial officer or, if the chief financial officer is not available, another manager in the finance office reporting directly to the chief financial officer and designated by the chief financial officer; and
 - a. at least one senior supply chain management practitioner who is an official of the municipality ; and
 - b. a technical expert in the relevant field who is an official, if such an expert exists.

The committee will consider the report and recommendations from the bid evaluation committee and depending on its delegations:

- 1) make a final award or a recommendation to the accounting officer to make the final award; or
- 2) make another recommendation to the accounting officer how to proceed with the relevant procurement.

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

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 –

- 1) check in respect of the preferred bidder whether that bidder's municipal rates and taxes and municipal service charges are not in arrears, and;
- 2) notify the accounting officer.
 - a. The accounting officer may –
 - i. after due consideration of the reasons for the deviation, ratify or reject the decision of the bid adjudication committee ;and
 - ii. if the decision of the bid adjudication committee is rejected, refer the decision of the adjudication committee back to that committee for reconsideration.

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

13. RESPONSIBILITIES OF THE TENDER AND PROCUREMENT COMMITTEE

- 1) Take note of the procurement policy approved by Council.
- 2) Approve the general terms/conditions of suppliers/plant/services/materials /projects required by Council before orders are placed, quotations are asked or advertisements for tenders are placed.
- 3) Approve the terms/conditions and requirements for all sales by Council of redundant and other assets out of hand, by tender and by public auction before such alienation is published/made known.
- 4) Investigate, where the Committee deems fit, the ownership, relationship, financial standing, track record and capability to perform, of those offering their services or products to the Council whether on order, per quotation or by tender procedure.
- 5) Interview where required or when deemed necessary all prospective suppliers of services/products/plant or other materials/projects to the Council.
- 6) Be involved in the decision-making process regarding allocation of contracts in the following manner:
 - a. Tenders to the value of R200 000 above shall be approved by the Tender and Procurement Committee, whose decision shall be final and binding.
- 7) Have cognisance of the budgetary provisions and restrictions in its activities and involvements at all times.
- 8) Act at all times on business and market related principles in its decision-making.

- 9) Inform and educate prospective contractors/suppliers on general tender and quotation procedures.
- 10) Endeavor as far as possible to utilise local entrepreneurs/firms/business in allocation of contracts.
- 11) Endeavor to buy plant/products/articles manufactured/supplied by FBDM based firms/manufactures/suppliers, unless not fit for the purpose for which it is required, and on condition it is reasonably priced taking comparative tenders/quotations into account.
- 12) Motivate contractors to utilise local labour, residents, expertise and/or talents in the execution of their duties to Council in terms of contracts allocated.
- 13) Oversee the implementation of the procurement policy.
- 14) Adjudicating all tenders above the value required for formal tendering processes as contemplated in paragraph (f) supra.
- 15) Ensuring that the procedures and guidelines developed elsewhere in the Council conform to the requirements of the Procurement policy.
- 16) Ensuring that the specific goals outlined in the tender documentation are adequately addressed during the implementation process.
- 17) Appoint consultants to perform certain duties on behalf of the council in terms of the council's policy on delegated powers.
- 18) Be involved in the decision-making process regarding the appointment of consultants in the following manner:
 - a. Appointment of consultants for contracts to the value of R200 000 and above shall be approved by the tender committee, whose decision shall be final and binding.

14. PROCUREMENT OF BANKING SERVICES

Banking services –

- 1) must be procured through competitive bids;
- 2) must be consistent with section 7 or 85 of the Act; and
- 3) may not be for a period of more than five years at a time.

The process for procuring a contract for banking services must commence at least nine months before the end of an existing contract. The closing date for the submission of bids may not be less than 60 days from the date on which the advertisement is placed in a newspaper. Bids must be restricted to banks registered in terms of the Banks Act, 1990 (Act No. 94 of 1990).

15. PROCUREMENT OF IT RELATED GOODS OR SERVICES

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. Both parties must enter into a written agreement to regulate the services rendered by, and the payments to be made to, SITA. The accounting officer must notify SITA together with a motivation of the IT needs if –

- 1) the transaction value of IT related goods or services required in any financial year will exceed R50 million (VAT included); or
- 2) the transaction value of a contract to be procured whether for one or more years exceeds R50 million (VAT included).

If SITA comments on the submission and the municipality disagrees with such comments, the comments and the reasons for rejecting or not following such comments must be submitted to the council, the National Treasury, the relevant provincial treasury and the Auditor-General.

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

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

- 1) the contract has been secured by that other organ of state by means of a competitive bidding process applicable to that organ of state;
- 2) there is no reason to believe that such contract was not validly procured;
- 3) there are demonstrable discounts or benefits to do so; and
- 4) that other organ of state and the provider have consented to such procurement in writing.

The above paragraphs (3) and (4) do not apply if –

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

17. PROCUREMENT OF GOODS NECESSITATING SPECIAL SAFETY ARRANGEMENTS

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. 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.

18. PROUDLY SOUTH AFRICA CAMPAIGN

The accounting officer must determine internal operating procedures supporting the Proudly South Africa Campaign to the extent that, all things being equal, preference is given to procuring local goods and services from:

- Firstly – suppliers and businesses within the municipality or district;
- Secondly – suppliers and businesses within the relevant province;
- Thirdly – suppliers and businesses within the Republic of South Africa

19. APPOINTMENT OF CONSULTANTS

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. Consultancy services must be procured through competitive bids if –

- 1) the value of the contract exceeds R200 000 (VAT included); or
- 2) the duration period of the contract exceeds one year.

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

- 1) all consultancy services provided to an organ of state in the last five years; and
- 2) any similar consultancy services provided to an organ of state in the last five years.

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.

19.1 Promoting government's preferential policies

When consultants are appointed, the prescripts of the Preferential Procurement Regulations, 2001, must be adhered to. These relate to the compulsory involvement of HDIs and the promotion of the RDP goals.

19.2 Training or transfer of knowledge and skills

If the assignment includes an important component for training or transfer of knowledge and skills, the Terms of Reference (TOR) should indicate the objectives, nature, scope and goals of the training programme, including details of trainers and trainees, skills to be transferred, time frames and monitoring and evaluation

arrangements. The cost for the training programme should be included in the consultant's contract and in the budget for the assignment.

19.3 Identify the approach

Various approaches may be followed in selecting consultants. In most instances, 'Quality and cost based selection' (QCBS) is recommended. However, other possibilities may be used:

- Quality based selection;
- Selection under a fixed budget;
- Least cost selection; and
- Single source selection.

An assignment that is not complex or specialised	Use 'Quality and Cost Based Selection' (QCBS)
A complex or highly specialized assignment, for which consultants are expected to demonstrate innovation in their proposals (for example, financial sector reforms)	Use 'Quality-Based Selection' (QBS)
An assignment that has a high downstream impact and requires the best available experts (for example, management studies of large government agencies)	Use QBS
An assignment that could be carried out in substantially different ways, hence proposals will not be comparable (for example, sector and policy studies in which the value of the services depends on the quality of the analysis)	Use QBS
A simple assignment, which is precisely defined and the budget fixed	Use 'Selection under a fixed budget', but evaluate technical proposals first as in QCBS
A standard or routine assignment (e.g. an audit, engineering design of	Use 'Least-cost selection' Potential suppliers may be obtained from the list of

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noncomplex works)	approved service providers.
A very small assignment which does not justify the preparation and evaluation of competitive proposals	Selection based on Consultants' qualifications Potential suppliers may be obtained from the list of approved service providers.
A task that represents a natural continuation of previous work carried out by the firm	Use 'Single-source selection
An emergency operation	You MAY use 'Single source selection.'
An assignment where only one firm is qualified or has experience of exceptional worth for the assignment	Use 'Single-source selection'
Any other situation	Use 'Quality and cost based selection', either by requesting a "BID" or a "PROPOSAL"

9.14 Request for proposals

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

Whenever possible, accounting officers / authorities will include at least the following documents in the RFP:

- i. Letter of Invitation;
- ii. Information to Consultants;
- iii. the TOR; and
- iv. the proposed contract.

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

The Information to Consultants (ITC) must contain all necessary information that would assist consultants to prepare responsive proposals. It must be transparent and provide information on the evaluation process by indicating the evaluation criteria and factors and their respective weights and the minimum qualifying score for functionality.

A clear indication must be given of which reference points system will be applicable in terms of the PPPFA and its Regulations, as well as the goals to be targeted and the points allocated for each goal.

The budget is not specified (since cost is a selection criterion), but must indicate the expected input of key professionals (staff time). Consultants, however, should be free to prepare their own estimates of staff time necessary to carry out the assignment. The ITC must specify the proposal validity period (normally 60–90 days).

The Terms of Reference (TOR) must be compiled by a specialist in the area of the assignment and the scope of services described must be compatible with the available budget.

The TOR must define as clearly as possible the objectives, goals and scope of the assignment including background information to facilitate the consultant in the preparation of its proposal.

The TOR must be compiled in such a manner that consultants are able to propose their own methodology and staffing and be encouraged to comment on the TOR in their proposals.

Depending on the circumstances, it may be indicated that proposals should be submitted in two separate clearly marked envelopes, one containing the technical proposal and the other the cost for the assignment. In cases where pre-qualification/short listing is required, the TOR must indicate the basis of pre-qualification/short listing, for instance the number of minimum points to be scored to prequalify.

The Accounting officer must use the appropriate Standard Form of Contract issued by the National Treasury.

Any changes necessary to address specific project issues must be introduced through Contract Data Sheets or through Special Conditions of Contract and not by introducing changes in the wording of the General Conditions of Contract included in the Standard Form.

When these forms are not appropriate (for example, for preshipment inspection, training of students in universities.), accounting officers must use other acceptable contract forms.

20. DEVIATION FROM, AND RATIFICATION OF MINOR BREACHES OF, PROCUREMENT PROCESSES

The accounting officer may –

- 1) dispense with the official procurement processes established by this policy and procure any required goods or services through any convenient process, which may include direct negotiations, but only –
 - a) in an emergency;
 - b) if such goods or services are produced or available from a single provider only;
 - c) for the acquisition of special works of art or historical objects where specifications are difficult to compile;
 - d) acquisition of animals for zoos and/or nature and game reserves; or
 - e) in any other exceptional case where it is impractical or impossible to follow the official procurement processes; and
- 2) ratify any minor breaches of the procurement processes by an official or committee acting in terms of delegated powers or duties which are purely of a technical nature.

The accounting officer must record the reasons for any deviations in terms of subparagraphs (1) and (2) of this policy and report them to the next meeting of the council and include as a note to the annual financial statements.

The abovementioned paragraph does not apply to the procurement of goods and services contemplated in section 110(2) of the Act.

21. UNSOLICITED BIDS

In accordance with section 113 of the Act there is no obligation to consider unsolicited bids received outside a normal bidding process. The accounting officer may decide in terms of section 113(2) of the Act to consider an unsolicited bid, only if –

- a) the product or service offered in terms of the bid is a demonstrably or proven unique innovative concept;
- b) the product or service will be exceptionally beneficial to, or have exceptional cost advantages;
- c) the person who made the bid is the sole provider of the product or service; and
- d) the reasons for not going through the normal bidding processes are found to be sound by the accounting officer.

If the accounting officer decides to consider an unsolicited bid that complies with above paragraph, the decision must be made public in accordance with section 21A of the Municipal Systems Act, together with –

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

All written comments received, including any responses from the unsolicited bidder, must be submitted to the National Treasury and the relevant provincial treasury for comment. 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. A meeting of the adjudication committee to consider an unsolicited bid must be open to the public.

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

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

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. Such submission must be made within seven days after the decision on the award of the unsolicited bid is taken, but no

contract committing the municipality to the bid may be entered into or signed within 30 days of the submission.

22. COMBATING OF ABUSE OF SUPPLY CHAIN MANAGEMENT SYSTEM

The accounting officer must establish measures for the combating of abuse of the supply chain management system, which must stipulate the following:

- 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, favouritism, unfair or irregular practices or failure to comply with this supply chain management policy, and when justified –
 - i. take appropriate steps against such official or other role player; or
 - ii. report any alleged criminal conduct to the South African Police Service;
 - c) 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 months; or
 - ii. who during the last five years has failed to perform satisfactorily on a previous contract with the municipality or any other organ of state after written notice was given to that bidder that performance was unsatisfactory;
 - e) reject a recommendation for the award of a contract if the recommended bidder, or any of its directors, has committed a corrupt or fraudulent act in competing for the particular contract;
 - f) cancel a contract awarded to a person if –
 - i. the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract; or
 - ii. an official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of the contract that benefited that person; and
 - g) reject the bid of any bidder if that bidder or any of its directors –
 - i. has abused the supply chain management system of the municipality or has committed any improper conduct in relation to such system;
 - ii. has been convicted for fraud or corruption during the past five years;

- iii. has willfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
- iv. has been listed in the Register for Tender Defaulters In terms section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004).

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

23. LOGISTICS, DISPOSAL, RISK AND PERFORMANCE MANAGEMENT

23.1 Logistics management

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

The accounting officer must establish and implement an effective system of logistics management, which must include -

- 1) the monitoring of spending patterns on types or classes of goods and services incorporating, where practical, the coding of items to ensure that each item has a unique number;
- 2) the setting of inventory levels that includes minimum and maximum levels and lead times wherever goods are placed in stock;
- 3) the placing of manual or electronic orders for all acquisitions other than those from petty cash;
- 4) before payment is approved, certification by 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;
- 5) appropriate standards of internal control and warehouse management to ensure that goods placed in stores are secure and only used for the purpose for which they were purchased;
- 6) regular checking to ensure that all assets including official vehicles are properly managed, appropriately maintained and only used for official purposes; and
- 7) monitoring and review of the supply vendor performance to ensure compliance with specifications and contract conditions for particular goods or services.

23.2 Disposal management

The accounting officer must establish an effective system of disposal management for the disposal or letting of assets, including unserviceable, redundant or obsolete assets, subject to sections 14 and 90 of the Act, which must stipulate the following:

- 1) 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, free of charge;
 - (iii) selling the asset; or
 - (iv) destroying the asset;
 - b) provided that –
 - (i) immovable property may be sold only at market related prices except when the public interest or the plight of the poor demands otherwise;
 - (ii) movable assets may be sold either by way of written price quotations, a competitive bidding process, auction or at market related prices, whichever is the most advantageous;
 - (iii) in the case of the free disposal of computer equipment, the provincial department of education must first be approached to indicate within 30 days whether any of the local schools are interested in the equipment; and
 - (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; and
 - d) ensure that where assets are traded in for other assets, the highest possible trade-in price is negotiated.

23.3 Procedure

In seeking to dispose of any fixed assets, the chief financial officer shall adhere to the requirements of the municipality's policy on the management of and accounting for fixed assets, including the legal prescription annexed to that policy. The chief financial officer shall determine in each instance having regard to the nature and

estimated resale value of the assets whether it is more advantageous for the municipality to dispose of the assets in question by means of the invitation of tenders or quotations or by public auction. Notification of such intended sales shall follow the communication process prescribed, with the various notices and advertisements stating the date and time on which tenders will close for acceptance or the date, time and venue of the auction, as the case may be, as well as the date(s) and venue(s) where prospective tenderers may view the assets.

All tenders for sales of fixed assets shall be adjudicated by the tender committee and the highest tender substantially to specification shall be accepted, except if the adjudicating authority believes that no tender is satisfactory in terms of value for money offered. In seeking to dispose of any stores or other items other than fixed assets, the chief financial officer shall adhere to the communication requirements prescribed for quotations. The chief financial officer shall further determine whether it is more advantageous for the municipality to dispose of the items by means of tenders or quotations or public auction, and shall in either case publish the notification of such. If the chief financial officer considers it necessary, such notification may also be made by means of advertisements in the local and national press. Where stores or other items other than fixed assets are sold by means of tenders or quotations, the chief financial officer shall adjudicate and approve the quotations received. The highest quotation substantially to specification shall be approved, except if the chief financial officer believes that no quotation is satisfactory in terms of value for money offered.

24. RISK MANAGEMENT

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

25. PERFORMANCE MANAGEMENT

The accounting officer must establish an effective internal monitoring system in order to determine, on the basis of a retrospective analysis, whether the authorised

supply chain management processes were followed and whether the desired objectives were achieved.

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

- 1) The accounting officer must ensure that, irrespective of the procurement process followed, no award above R15 000 is given to a person whose tax matters have not been declared by the South African Revenue Service (SARS) to be in order.
- 2) Before making an award to a person the accounting person must first check with SARS whether that person's tax matters are in order.
- 3) If SARS does not respond within 7 days such person's tax matters may for purposes of subparagraph (1) be presumed to be in order.

27. 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.

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

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

29. INDUCEMENTS, REWARDS, GIFTS AND FAVOURS TO MUNICIPALITIES, OFFICIALS AND 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
 - ii. any other role player involved in the implementation of the supply chain management policy.

The accounting officer must promptly report any alleged contravention 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.

The above does not apply to gifts less than R350 in value.

30. SPONSORSHIPS

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

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

31. OBJECTIONS AND COMPLAINTS

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

32. RESOLUTION OF DISPUTES, OBJECTIONS, COMPLAINTS AND QUERIES

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

- (a) to assist in the resolution of disputes between the municipality and other persons regarding –
 - i. any decisions or actions taken in the implementation of the supply chain management system; or
 - ii. any matter arising from a contract awarded in the course of the supply chain management system; or
- (b) to deal with objections, complaints or queries regarding any such decisions or actions or any matters arising from such contract.

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.

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.

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 60 days; or
- (b) no response is forthcoming within 60 days.

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

32.1 Procedure

Suppliers who are dissatisfied with the decision of the municipality in regard to any quotation or tender may appeal in writing to the municipal manager, provided such appeal is lodged with the municipal manager as follows:

- 1) for quotations, within 7 (seven) calendar days of the date on which the approved quotation is first listed for tenders,
- 2) within 14 (fourteen) calendar days of the date on which the approved tender is first listed.

The municipal manager shall provide written acknowledgement of the receipt of such appeals to the appellant concerned, and shall endeavor to finalise such appeals within 7 (seven) calendar days of their receipt. Where this is not possible, the municipal manager shall promptly advise the appellant in writing of the reasons for the delay. If the appeal is based on a technically complex matter, the municipal manager may engage an impartial consultant to provide an opinion on the appeal, provided that sufficient budget provision exists for the expenditure to

be incurred, and provided further that the municipal manager shall not be bound by any such opinion provided. The municipal manager shall immediately after a ruling on an appeal has been made, advise the appellant in writing of such ruling. If the appellant is dissatisfied with the municipal manager's ruling on an appeal in regard to a tender the appellant may request the municipal manager to refer such appeal and ruling to the ensuing council meeting for a decision. Such request must be lodged in writing with the municipal manager within 14 (fourteen) calendar days of the date on which the ruling was made. The municipal manager shall decide whether the lodging of an appeal constitutes sufficient grounds for the municipality to delay, where possible, the procurement of the relevant goods or services in terms of the approved quotation or tender against which the appeal is lodged. If such delay is decided upon, the municipal manager shall immediately advise the approved supplier, in writing, of such delay.

33. CONTRACTS PROVIDING FOR COMPENSATION BASED ON TURNOVER

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.

34. GUARANTEES AND RETENTIONS

In the case of tenders for the undertaking of works on behalf of the municipality and with a value equal to or exceeding R1 000 000 (one million rand), the successful tenderer must lodge with the chief financial officer a guarantee, issued by an institution acceptable to the chief financial officer, for a sum equal to 60% (sixteen per centum) of the agreed or estimated tender price. Such guarantee shall be lodged within one calendar month from the date on which the tender is awarded, and shall thereafter be managed in terms of the contract entered into between the municipality and the successful tenderer. In the case of tenders where a performance guarantee as envisaged above is not required, the chief financial officer shall withhold payment of an amount equal to 10% (ten per centum) of the value of the actual goods or service supplied by the appointed contractor until the chief financial officer is satisfied that the contract has been satisfactorily executed, but provided that such final payment shall not be withheld for a period exceeding 6 (six) calendar months from the date on which final payment was due to the contractor.

35. EMERGENCIES

An emergency shall be considered as an unforeseeable and sudden event, with materially harmful or potentially materially harmful consequences for the municipality, and which requires urgent action to address. In cases where the municipal manager determines that an emergency has arisen, the municipal manager may direct that the periods for advertising quotations or tenders be curtailed to the extent that the municipal manager deems appropriate. Where the estimated value of the goods or services to be supplied to cater for such emergency exceeds R1 million (one million rand) excluding VAT, the municipal manager may approve such tender on behalf of the council, but provided the executive mayor or the chairperson of the executive committee, as the case may be, concurs with the view of the municipal manager that the tender must be approved to address an emergency.

36. PROHIBITED ACTIONS

No head of department in placing a requisition for goods or services to be procured by quotation or tender shall knowingly understate the requirements or the estimated value of the requirements with the intention of avoiding the more stringent process prescribed for requirements of a higher value. The municipal manager shall promptly institute disciplinary action against any head of department suspected of infringing this requirement. No councilor or official shall engage in any contact with a prospective supplier in respect of any quotation or tender which such supplier intends to submit with the purpose of influencing any aspect of such quotation or tender.

37. REPORTING

The procurement officer will at the end of each month submit a report, to the CFO, regarding the tender processes implemented. The council will maintain oversight over the implementation of this policy. For this purpose the accounting officer will at least annually, within 30 days of the end of the financial year, or whenever there are serious problems in the implementation, submit reports on the implementation of this policy to the council. The accounting officer will in addition, within 10 days after the end of each quarter, submit implementation reports for consideration by the Mayor and the Mayoral Committee. The accounting officer will, within 60 days of the end of each financial year, submit information concerning supply chain management in the municipality to the relevant provincial treasury.

All approved quotations shall be listed on the municipality's website and on the notice boards by the procurement officer. Quotations approved during any particular calendar week shall be listed from the beginning of the following calendar week, and shall be displayed for the duration of that week. All approved tenders shall be listed as for quotations, but shall be listed for 2 (two) calendar weeks.

38. CODE OF ETHICS

This code of ethics is hereby established for officials and other role players in the supply chain management system of the municipality to promote

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

An official or other role player involved in the implementation of this policy:

- 1) Will treat all providers and potential providers equitably;
- 2) May not use his/or her position for private gain or to improperly benefit another person;
- 3) May not except any reward, gift, favour or any benefit directly or indirectly, including to any close family member, partner or associate of that person, of a value more than R350;
- 4) Notwithstanding the above, must declare to the accounting officer details of any reward, gift, favour, hospitality or other benefit promised, offered or granted to that person or any close family member, partner or associate of that person;
- 5) Must declare to the accounting officer any private or business interest in any proposed procurement or disposal process and immediately withdraw;
- 6) Must be scrupulous in the use municipal property;
- 7) Must assist the accounting officer in combating fraud, corruption, favoritism and unfair and irregular practices;
- 8) Must report any alleged irregular conduct in the Supply Chain Management system to the accounting officer
 - including –
 - i. any alleged fraud, corruption, favouritism or unfair conduct;
 - ii. any alleged contravention of paragraph 47(1) of this Policy; or
 - iii. any alleged breach of this code of ethical standards.

Declarations in terms of the above–

- 1) must be recorded in a register which the accounting officer must keep for this purpose;
- 2) by the accounting officer must be made to the mayor of the municipality who must ensure that such declarations are recorded in the register.

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.

A breach of the code of ethics must be dealt with as follows -

- 1) (a) in the case of an employee, in terms of the disciplinary procedures of the municipality / municipal entity envisaged in section 67(1)(h) of the Municipal Systems Act;
- 2) in the case a role player who is not an employee, through other appropriate means in recognition of the severity of the breach.
- 3) In all cases, financial misconduct must be dealt with in terms of chapter 15 of the Act.

39. ANNEXURE

The annexure to the policy contains appendices that are standard bid documentation, which must be completed by all consultants, contractors or any other service provider.

40. COMMENCEMENT

This policy takes effect on 30 November 2005.

41. PROJECT CLUSTER SYSTEM POLICY

41.1 Scope

The Project Cluster System may be utilised through the tender process of the FBDM. The project value when clustering projects is not limited and will be adjudicated in terms of the delegation policy of the FBDM.

41.2 Application

The Project Cluster System may be applied when the Municipality implements projects of a similar nature in a specific area. The linkage of projects in close proximity to each other is also enhanced.

PSPs will be invited via tender notice in the local media to submit proposals to be appointed as Cluster Managers.

A tender report will be submitted to the Tender Committee where the appointment of Cluster Managers will be obtained.

41.3 General prerequisites

The general prerequisites as listed in the FBDM Supply Chain Management Policy will apply to Cluster Project Managers.

41.4 Types of assignments

Routine Assignments are assignments where the tasks are of a straightforward nature involving, in the main, standard technologies in terms of which inputs are relatively well known and outputs can be readily defined. Emerging HDI-owned firms will be targeted to perform Routine Assignments. In a process of graduation emerging firms will be assessed on their performance and graduated to Specialist Assignments. These assignments will be limited to a specific speciality, e.g. sanitation projects.

Specialist Assignments are assignments in which the bulk of the service involves technically complex work, which calls for considerable innovation, creativity, expertise and/or skills. These assignments will be reserved for the more established firms who have a high HDI equity status. In the cluster system a Project Manager may draw on the specialities and expertise of different competencies eg. planning, geotechnical, engineering, land surveying, conveyancing, etc.

41.5 Adjudication of cluster projects

The principles of Black Economic Empowerment as set out in the FBDM Supply Chain Management Policy will apply when considering cluster tenders.

Special consideration will be given to companies with a high HDI status and / or joint venture / consortium agreements.

The principles of fair and equitable distribution of projects will be applied when considering cluster projects.

General principles

- 1) Projects are clustered per area or Municipal Region.
- 2) Projects are further clustered per Speciality (roads, sanitation, geotechnical, social facilitation, etc)

- 3) Projects are identified and approved every year in terms of the Integrated Development Plan (IDP).
- 4) Department's should therefore plan well in advance on the methods to be utilised to procure PSPs.
- 5) Project Managers in a Cluster System can therefore be appointed to manage a number of projects per region and/or speciality.
- 6) Rates charged will be in accordance with the Gazetted Rates, inclusive of a Performance system as described under 11.13, therefore PSPs will not be required to submit a tendered price in certain circumstances.

OR

- 7) Where applicable PSPs may be requested to tender in order to create competition and allow for reduced pricing.
- 8) Appointments will therefore be based on the experience and expertise of the firm, FBDM Procurement Policy prerequisites and empowerment targets will apply.
- 9) PSPs may be restricted to five (5) projects in any given cluster.
- 10) The total value of the entire project when clustering assignments is not limited.
- 11) The Tender Process/Procedure will apply.

42. PAYMENT SYSTEM

A maximum payment processing period of fourteen (14) days will be enforced. The 14 day period is effective from the date a complete claim is received and all requirements stated below are met. Phased payments will be considered when a tenderer has reached a certain milestone and in certain contracts to assist HDIs. Proof and verification of the completed work must be forwarded and approved by the project manager in order to process payment.

42.1 Requirements

1. Submission of Original tax invoice addressed to FBDM.
2. Submission of Certificate.

3. Approval by the relevant FBDM official before payment is processed.

42.2 Contract payment cycle criteria

Requirements

1. The consultants have within twenty-one (21) days from receipt of the claim in the agreed form to approve and deliver to the FBDM.
2. Original covering letter of approval from the consultant where applicable
3. Original covering letter of approval by the Municipality where applicable.
4. The FBDM will process the claim within fourteen (14) days of its receipt.

43. RISK MANAGEMENT

43.1 Declaration of interest for councillors, officials, consultants, and service providers

1. FBDM officials involved in the assessment and adjudication of tenders will be required to complete the Declaration of Interest Schedule.
2. Consultants or any other service provider who are involved in the preparation of tender documentation and tender reporting will also be required to sign a Declaration of Interest Schedule.
3. The Declaration of Interest seeks disclosure on any interest that a councillor, official, consultant and/or service provider may have with regards to tenders being adjudicated.
4. The schedule states in principle that there has been no undue influence by a councillor or official to influence the awarding of the tender under consideration.
5. The schedule must be completed prior to the award of a tender.
6. Officials involved in the assessment and adjudication of tenders must be reminded of the Code of Conduct for municipal staff members which requires that they recuse themselves when they have an interest in the relevant tender.

43.2 General risk management

General risk management measures that will be applied by the FBDM will include the following:

1. Business Plans where applicable will be required for approval prior to the commencement of all projects.

2. Feasibility and/or design reports will be required by the FBDM before tenders for projects are called.
3. As far as possible tender documents will be specific and detailed.
4. The applicable project standards will be made available for public perusal.
5. Consultants and/or FBDM officials will ensure time, cost and quality control while projects are being implemented.
6. Tenderers, where applicable, will be required to take public liability insurance to cover the FBDM.
7. Variation orders to projects will require the approval of the FBDM Municipal Manager or a delegated FBDM official prior to execution on site.

43.3 Contract risk management

Surety requirement

Sureties are normally required for construction projects. Surety requirements are classified under the following five categories:

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

In the event that a contractor is unable to raise the required surety, the FBDM may allow such surety to be deducted in full or part from monies that are to become due to the contractor. This may take the form of deductions from the first three (3) payment certificates due to the contractor over a period agreed upon.

Release of surety

Surety will be released on application to the FBDM subsequent to FBDM approving the completion certificate for the contract.

43.4 Retention

Requirements

The FBDM requires a percentage of the project costs for all construction projects to be set aside as retention. A 10% retention fee up to a maximum of 5% of the contract sum will be applied on all contracts.

Release of retention

Half of the retention amount will be released on issue of the completion certificate for the contract. The balance of the retention will be released on the completion of the defects liability period of the contract.

43.5 Cessions

Cessions provide an opportunity to service providers who cannot raise the necessary capital to procure services and goods.

Requirements

Once approval has been received from the participating service provider and the Municipal Manager, the Municipality may at its discretion, enter into a cession agreement with a service provider.

44. COMMENCEMENT

This policy takes effect on 30 November 2005.

ANNEXURE

The annexure to the policy contains appendices that are standard bid documentation, which must be completed by all consultants, contractors or any other service provider.

ABBREVIATIONS

BEE Black Economic Empowerment

FRANCES BAARD DISTRICT MUNICIPALITY

CFO	Chief Financial Officer
FBDM	Frances Baard District Municipality
HDI	Historically Disadvantaged Individual
IT	Information Technology
MFMA	Municipal Finance Management Act
PSP	Professional Service Provider
PPPFA	Preferential Procurement Policy Framework Act
SARS	South African Revenue Service
SITA	State Information Technology Agency
SMME	Small, Medium and Micro Enterprise
VAT	Value Added Tax