



JOZINI MUNICIPALITY

SUPPLY CHAIN MANAGEMENT POLICY

SUPPLY CHAIN MANAGEMENT POLICY AND ACCOUNTING OFFICERS STANDING RULES, ORDERS AND DELEGATIONS

The following Policy is adopted in terms of section 111 of the Local Government Municipal Finance Management Act (No. 56 of 2003) as the Supply Chain Management Policy of the Jozini Local Municipality and Delegations are issued for Supply Chain Management in the Municipality.

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MUNICIPAL MANAGER AND ACCOUNTING OFFICER
(As amended by the Council)

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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 –

“Accredited prospective provider” means a supplier of goods or services who appears on the Schedule of Prospective Providers prepared in terms of these Rules;

“Application of preferences” means the application of the preferential points systems set out in the Preferential Procurement Policy Framework Act 5 of 2000, the Preferential Procurement Regulations, 2001 and the Broad-Based Black Economic Empowerment Act, 2003, as amended from time to time;

“Arrears” means to be in arrears in respect of the payment of municipal service charges for a period of 90 days or more;

“authorized officer” means a member of staff of the Municipality who has been granted authority to authorize the purchase of assets, goods and services on behalf of the Municipality, to the value set out in such authorization;

“appointing authority” means any person or committee with delegated powers to make a final bid award;

“Bid Box” means the container located at the office of the Municipality in which competitive bids are deposited;

“Bid Evaluation Report” means a report prepared by the Bid Evaluation Committee for submission to the Bid Adjudication Committee;

“Bid Specification” means the specifications for goods or services prepared by the Bid Specification Committee in respect of goods or services required by the Municipality;

“Competitive bidding process” means a competitive bidding process referred to in paragraph 16 of this Policy;

“Competitive bid” means a bid in terms of a competitive bidding process;

“Designated Officer : Supply Chain Management Unit” means a member, or members, of the Supply Chain Management Unit of the Finance Directorate of the Municipality designated by the Chief Financial Officer to perform the various functions of a Designated Officer: Supply Chain Management Unit set out in these Rules;

“Disposing Department” means a department with goods no longer needed and in need of disposal;

“Executive Director” means the Head of a Directorate of the Municipality;

“Directorate” means a Department of the Municipality under the management and control of a Director;

“Executive Committee or ExCo” means the Executive Committee of the Municipality;

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

“Formal written price quotation” means quotations referred to in paragraph 14 of this Policy;

“Including VAT” shall be deemed to include exempt and zero rated items;

“In the service of the state” means to be –

- (a) A member of –
 - (i) Any municipal council;
 - (ii) Any provincial legislature; or
 - (iii) The National Assembly or the National Council of Provinces;
- (b) A member of the board of directors of any municipal entity;
- (c) An official of any municipality or municipal entity;
- (d) An employee of any national or provincial department, national or provincial public Entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No.1 of 1999);
- (e) A member of the accounting authority of any national or provincial public entity; or
- (f) An employee of Parliament or a provincial legislature;

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

“List of accredited prospective providers” means the list of accredited prospective Providers which the municipality must keep in terms of paragraph 12 of this policy;

“Municipality” means the Jozini Local Municipality;

“MPAC” means Municipal Public Accounts Committee established in terms of COGTA guidelines

“Other applicable legislation” means any other legislation applicable to municipal supply chain management, including –

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

“Policy” means the approved Supply Chain Management Policy of the Municipality and includes the Accounting Officers Standing Rules, Orders and Delegations relating to Supply Chain Management

“Possible supplier” means a supplier of goods or services who or which does not appear on the Schedule of Prospective Providers prepared in terms of these Rules but who or which may be able, in the opinion of the Accountant : Supply Chain Management, to supply any particular category of goods or services required by the Municipality;

“Preferential Points System” means the system for allocating preferential points to potential suppliers of goods and/or services approved from time to time by the Municipality in terms of the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000) and the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);

“Publish an invitation” means:-

- (i) In the case of formal written price quotations, to publish the invitation on the Municipal Website and display the invitation on the Municipal Notice Board; and

(ii) in the case of competitive bids, to publish the invitation in newspapers commonly circulating locally and on the Municipal Website and to display the invitation on the Municipal Notice Board;

“Requisition” means a request for the purchase of goods or services in a form approved from time to time by the Chief Financial Officer;

“Rules” means these Standing Rules, Orders and Delegations;

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

“User Department” means the department requiring the goods or services

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

“The Regulations” means the Local Government: Municipal Finance Management Act, 2003, Municipal Supply Chain Management Regulations published by Government Notice 868 of 2005;

“Valid Bid” means a Bid which has been submitted in accordance with the requirements of the invitation to submit a Bid and complies with all material requirements set out in the Bid Specifications for the Bid Concerned;

“Written or verbal quotations” means quotations referred to in paragraph 14 of this Policy;

CHAPTER 1

IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY

1. Supply Chain Management Policy

- (1) All officials and other role players in the supply chain management system of the municipality must implement this Policy in a way 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 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.
 - (g) **promotes empowerment of local cooperatives, emerging services providers, NGOs and CBOs and empowerment partnership arrangements between big and emerging service providers.**
- (2) This Policy applies when the municipality:-
- (a) Procures assets, goods or services;
 - (b) disposes of assets or goods no longer needed;
 - (c) Selects contractors, **entities** and **service providers** to provide assistance in the provision of municipal services otherwise than in circumstances where Chapter 8 of the Municipal Systems Act applies; or
 - (d) Selects 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 aforementioned Act.
- (3) This Policy, except where provided otherwise, does not apply in respect of the procurement of assets, 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.

2. Amendment of the Supply Chain Management Policy

- (1) The Accounting Officer must:-
- (a) at least annually review the implementation of this Policy; and

- (b) When the Accounting Officer considers it necessary, submit proposals for the amendment of this Policy to the Executive Committee.
- (2) If the Accounting Officer submits proposed amendments to the Executive Committee 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.

3. Delegation of SCM powers and duties to the Accounting Officer.

- (1) The Accounting Officer is hereby delegated all powers and duties which are necessary to enable the Accounting Officer –
 - (a) To discharge the supply chain management responsibilities conferred on Accounting Officers in terms of –
 - (i) Chapter 8 or 10 of the Act; and
 - (ii) this Policy;
 - (b) to maximize administrative and operational efficiency in the implementation of this Policy;
 - (c) to enforce reasonable cost-effective measures for the prevention of fraud, corruption, favoritism and unfair and irregular practices in the implementation of this Policy; and
 - (d) to comply with his or her responsibilities in terms of section 115 and other applicable provisions of the Act.
- (2) Sections 79 and 106 of the Act apply to the sub delegation of powers and duties delegated to an Accounting Officer in terms of subparagraph (1).
- (3) The Accounting Officer may not 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;
- (4) This paragraph may not be read as permitting an official to whom the power to make final awards has been delegated, to make a final award in a competitive bidding process otherwise than through the committee system referred to in paragraphs 16 of this Policy.
- (5) No supply chain management decision-making powers may be delegated to an advisor or consultant.

4. Delegation of supply chain management powers and duties by the Accounting Officer.

- (1) Without derogating from the need for project and other expenditure approval by the Council of the Municipality:-

- (a) The authority of the Accounting Officer to requisite and make the final award for the provision of assets, goods and services is delegated:-
- (i) To Managers on the Staff Establishment **in consultation with Directors** of the Municipality up to a value of **R10 000, 00** (including VAT) provided that Budget provision exists for such purchase and that the Finance Department has certified that sufficient funds are available for such purchase;
 - (ii) **To the Executive Directors in consultation with the CFO** on the Staff Establishment of the Municipality up to a value of **R100 000,00** (including VAT) provided that Budget provision exists for such purchase and that the Finance Department has certified that sufficient funds are available for such purchase;
- (b) The authority is delegated to the Bid Adjudication Committee **to make the recommendation for final award to the Accounting Officer** of any Bid submitted to it for adjudication with a value of R10 000 000,00 or less (including VAT): provided that:-
- (i) Budget provision exists for such purchase and that the Finance Department has certified that sufficient funds exist for such purchase; and
- (c) The authority is delegated to the **Executive** Director for which goods or services are required to authorize the acceptance of a quotation in circumstances where it is not possible to obtain at least three quotations for such goods or services **in consultation with the CFO;**
- (d) The authority of the Accounting Officer to approve Bid Specifications is delegated to **Executive** Directors requiring the goods or services (or disposing or letting the Municipal assets) to which the Bid Specifications relate **in consultation with the AO;**
- (e) The authority of the Accounting Officer to authorize the closure of competitive bids within a period of less than 14 days in urgent cases is delegated to the CFO: provided that the circumstances necessitating such earlier closure must be reported to the Accounting Officer, who may reverse such authorization; and
- (f) The authority of the Accounting Officer to negotiate the final terms of a contract with bidders identified through a competitive bidding process as preferred bidders in terms of paragraph 21 is delegated to the **CFO** requiring the goods or services **in consultation with the AO**
- (2) Certificates referred to in (1) above required to be furnished regarding the availability of funds shall be signed by a member of the Finance Department authorized by the Chief Financial Officer to furnish such certificates. The Chief Financial Officer may authorize more than one member of the Finance Department to sign such certificates.
- (3) This paragraph may not be interpreted as permitting an official to whom the power to make final awards has been sub-delegated, to make a final award in a competitive bidding process otherwise than through the bid committee system or delegated authority.

5. Oversight role of council

- (1) The Council through the Executive Committee has the responsibility to maintain oversight over the implementation of this Policy.
- (2) For the purposes of such oversight:-
 - (a) as soon as practically possible and within 10 days of the end of each month and quarter respectively, the Chief Financial Officer must submit a report on the implementation of the supply chain management policy to the Mayor; ExCo and Council
 - (c) within 30 days of the end of each financial year the Chief Financial Officer must submit a report on the implementation of this Policy to the chairperson of MPAC; and
 - (d) Whenever there are serious and material problems in the implementation of this Policy the Chief Financial Officer must immediately submit a report to the Accounting Officer and then Executive Committee.
- (3) Thereafter, the reports referred to in paragraph (2) must be made public in accordance with section 21A of the Municipal Systems Act.

6. Supply chain management unit

- (1) A Supply Chain Management Unit is hereby established within the Staff Structure of the Municipality to implement the Supply Chain Management policies, procedures and processes of the Municipality.
- (2) The Supply Chain Management Unit shall be a Section of the Financial Services Directorate under the direction, supervision and accountability of the Chief Financial Officer.
- (3) The structure of the Supply Chain Management Unit shall be determined from time to time by the Municipal Manager in terms of section 66 of the Local Government : Municipal Systems Act, 2000 (Act 32 of 2000).
- (4) The training of officials involved in implementing this Policy should be in accordance with any Treasury guidelines on supply chain management training.
- (5) The Supply Chain Management Unit shall, in accordance with the provisions of these Rules, be responsible, inter-alia, for:-
 - (i) Compiling and updating as often as necessary, but at least quarterly, a consolidated schedule of related items required from time to time by the Municipality;
 - (ii) Inviting applications from service providers for registration as prospective providers for the items referred to in (i) above;

- (iii) evaluating the ability of each applicant to supply the items to which the application relates and, if satisfied that the applicant has the ability to supply such, including the name of the applicant on a list of accredited prospective suppliers for the commodity concerned;
- (iv) Maintaining and reviewing the schedule of accredited prospective suppliers for the items referred to in (iii) above;
- (v) inviting accredited prospective suppliers to submit quotations for the supply of items referred to in (i) above in accordance with requisitions issued by authorized officers;
- (vi) inviting quotations from possible suppliers if the item requisitioned in accordance with (v) above is an item which does not appear on the consolidated schedule of related items or for which there are not three accredited prospective suppliers;
- (vi) Evaluating quotations received in terms of (v) and (vi) above and accepting the quotation which appears to be the most favorable in all the circumstances;
- (vii) Maintaining records relating to quotations and bids;
- (viii) Arranging meetings of the Bid Specification Committee and maintaining records relating to such meetings;
- (ix) Placing advertisements relating to bids;
- (x) Opening Bids;
- (xi) Publishing details of Bids received and the Bid results on the Municipal Website;
- (xii) Convening meetings of the Bid Evaluation Committee and maintaining records relating to such meetings;
- (xiii) Processing Bid Evaluation reports; and
- (xiv) Preparing and processing Bid acceptances and contracts.

CHAPTER 2

SUPPLY CHAIN MANAGEMENT SYSTEM

7. Format of supply chain management system

- (1) This Policy provides systems for –
- (i) Demand management;
 - (ii) Acquisition management;
 - (iii) Logistics management;
 - (iv) Disposal management;
 - (v) Risk management; and
 - (vi) Performance management.

PART 1: DEMAND MANAGEMENT

8. System of demand management

- (1) The Accounting Officer hereby establishes for implementation a demand management system in order to ensure that the resources required by the Jozini municipality support its operational commitments and its strategic goals outlined in the Integrated Development Plan.
- (2) This demand management system will ensure–
- (a) timely planning and management processes to ensure that all assets, 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;
 - (b) that it takes into account any benefits of economies of scale that may be derived in the case of acquisitions of a repetitive nature; and
 - (c) that it provides for the compilation of the required specifications to ensure that its needs are met;
 - (d) that it provides for appropriate industry analysis and research to be undertaken to ensure that innovations and technological benefits are maximized.

PART 2: ACQUISITION MANAGEMENT

9. System of acquisition management

- (1) The Accounting Officer hereby establish for implementation the system of acquisition management set out in this Part in order to ensure –
 - (a) That assets, goods and services are procured by the municipality in accordance with authorized processes only;
 - (b) That expenditure on assets, goods and services is incurred in terms of an approved budget in terms of section 15 of the Act;
 - (c) That the threshold values for the different procurement processes are complied with;
 - (d) That bid documentation, evaluation and adjudication criteria, and general conditions of a contract, are in accordance with any applicable legislation; and
 - (e) That any Treasury guidelines on acquisition management are properly taken into account.
- (2) 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 -
 - (a) The kind of goods or services; and
 - (b) The name of the supplier.

10. Range of procurement processes

- (1) Assets, goods and services may only be procured by way of –
 - (a) petty cash purchases, up to a transaction value of R5 000 (VAT included);
 - (b) Formal written price quotations for procurements of a transaction value over R5 000 up to R200 000 (VAT included); provided that the Accounting Officer may under exceptional circumstances authorize verbal quotations for procurements of a transaction value over R5 000 up to R30 000 (VAT included) for the procurement of specific assets, goods and services;
 - (c) Formal written proposals for procurements of a transaction value over R200 000 up to R499 999 (VAT included);
 - (d) a competitive bidding process for–
 - (i) Procurements above a transaction value of R500 000 (VAT included); and
 - (ii) The procurement of long term contracts.
- (2) The Accounting Officer may, in writing-
 - (a) lower, but not increase, the different threshold values specified in subparagraph (1); or
 - (b) Direct that –
 - (i) Written or verbal quotations be obtained for any specific procurement of a transaction value lower than R5 000;

- (ii) A competitive bidding process be followed for any specific procurement of a transaction value over R30 000 and lower than R200 000.
- (3) Unless from different departments or votes and to avoid accounting problems, 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.

11. General preconditions for consideration of written quotations or bids

- (1) A written quotation or bid of a transaction value over R10 000 (VAT included) may not be considered unless the provider who submitted the quotation or bid –
 - (a) Has furnished that provider's –
 - (i) full name;
 - (ii) Identification number or company or other registration number; and
 - (iii) Tax reference number and VAT registration number, if any;
 - (b) has provided a tax clearance certificate or letter of good standing from the South African Revenue Services that the provider's tax matters are in order or has authorized the municipality to obtain such a clearance; and
 - (c) has indicated –
 - (i) whether he or she is in the service of the state, or has been in the service of the state in the previous twelve months;
 - (ii) if the provider is not a natural person, whether any of its directors, Managers, principal shareholders or stakeholder is in the service of the state, or has been in the service of the state in the previous twelve months; or
 - (iii) whether a spouse, child or parent of the provider or of a director, Manager, shareholder or stakeholder referred to in subparagraph (ii) is in the service of the state, or has been in the service of the state in the previous twelve months.

12. Lists of accredited prospective providers

- (1) The Accounting Officer through supply chain management unit must –
 - (a) keep a list of accredited prospective providers of assets, goods and services that must be used for the procurement requirements through written or verbal quotations and formal written price quotations; and
 - (b) at least once a year through newspapers commonly circulating locally, the website and any other appropriate ways, invite prospective providers of goods or services to apply for evaluation and listing in the panel of providers or as accredited prospective providers;
 - (c) specify the listing criteria for accredited prospective providers; and
 - (d) disallow the listing of any prospective provider whose name appears on the National Treasury's database as a person prohibited from doing business with the public sector.
- (2) The list must be compiled per commodity and per type of service.
- (3) For the purposes of subparagraph (1) and (2) above:-

- (a) The Supply Chain Management Unit shall compile and update as often as necessary, but at least quarterly, a consolidated schedule of related items required from time to time by the Directorates of the Municipality.
- (b) The consolidated schedule referred to in (a) above shall include the estimated annual total quantity of the items concerned and their estimated value, including VAT.
- (c) Where the estimated annual value of any group of items referred to in (a) above is less than R200 000, including VAT, the Supply Chain Management Unit shall, as soon as possible after the adoption by the Council of its annual estimates of revenue and expenditure, publish a notice inviting applications for registration as prospective providers for the items concerned.
- (d) The notice referred to in (c) above shall be published in the local press, be posted on the Municipal Website and be displayed on the Public Notice Board of the Municipality.
- (e) On receipt of applications submitted in response to the notice referred to in (c) above, the Supply Chain Management Unit shall evaluate the ability of each applicant to supply the items to which the application relates and, if satisfied that the applicant has the ability to supply such items and that the name of the applicant provider does not appear on the National Treasury's database as a person prohibited from doing business with the public sector, shall include the name of the applicant on a list of accredited prospective suppliers for the commodity concerned.
- (f) It shall be competent for any prospective supplier to apply for registration as a prospective supplier at any time.
- (g) On receipt of any such application, the provision of (e) above shall apply.
- (f) The Supply Chain Management Unit shall, at least quarterly, review and update the schedule of accredited prospective suppliers for all commodities.

13. Petty cash purchases

- (1) The control and management of petty cash purchases referred to in paragraph 10(1) of this Policy shall be the responsibility of the Chief Financial Officer **in consultation with AO** who shall, from time to time, specify conditions, processes and procedures for the procurement of goods by means of petty cash purchases.

14. Written or verbal quotations

(1) Procurement of assets, goods and services with an estimated value over **R5 000 up to a value of R30 000 (including VAT)**

- (a) When any authorised officer requires goods or services to an estimated value over **R5 000** up to a value of R30 000 (including VAT), the authorised officer concerned shall submit a requisition for such goods or services to the Supply Chain Management Unit.
- (b) The requisition referred to in (a) above must include a statement by the authorised officer that funds are available for the purchase of the goods or services required and must indicate the Budget reference, **IDP reference, SDBIP reference** number if applicable.

- (c) If the item requisitioned in accordance with (a) above is an item which appears on the consolidated schedule of related items and there are three or more accredited prospective suppliers for that item, the Supply Chain Management Unit shall invite written price quotations for the supply of such item from three of such accredited prospective suppliers.
- (d) The invitation of price quotations in accordance with (c) above shall be done on a rotational basis in such a manner that ongoing competition amongst suppliers is promoted: provided that if, in the opinion of the Designated Officer: Supply Chain Management, the rotation of invitations will result in unreasonable additional cost to the Municipality, such rotation shall be confined to the accredited prospective suppliers who, in his or her opinion, provide the most **quality service**.
- (e) If the item requisitioned in accordance with (a) above is an item for which there is less than three accredited prospective suppliers, the Supply Chain Management Unit shall invite written price quotations for the supply of such item from the accredited prospective suppliers and from up to two possible suppliers, so that a minimum of three written quotations are obtained for the item concerned.
- (f) If the item requisitioned in accordance with (a) above is an item which does not appear on the consolidated schedule of related items, the Supply Chain Management Unit shall invite written price quotations for the supply of such item from a minimum of three **and maximum of 5** possible suppliers.
- (g) The Supply Chain Management Unit shall record the names of the prospective and possible suppliers requested to submit quotations and the prices quoted by them and the prices quoted by those suppliers.
- (h) On receipt of a minimum of three quotations, and subject to (i) below, the Supply Chain Management Unit shall evaluate the quotations received on a comparative basis taking into account unconditional discounts and shall accept the quotation which appears to be the most favourable in all the circumstances, provided that:-
 - (i) where quotations are subject to the preferential Points System set out in the Preferential Procurement Policy Framework Act and associated regulations, the quotation of the bidder who scored the highest points must be accepted; and
 - (ii) if a quotation other than the lowest quotation is accepted, the Supply Chain Management Unit shall record the reasons therefore on the requisition for the item concerned.
- (i) If it is not possible to obtain at least three quotations, the reasons must be recorded by the Supply Chain Management Unit on the requisition for the item concerned and the authority of the **user department** for which the items are required must be obtained to accept one of the quotations.
- (j) The Designated Officer: Supply Chain Management must within three days of the end of each month report to the Chief Financial Officer on any approvals given during that month in terms of sup-paragraph (i).
- (k) Notwithstanding (a) to (h) above, the Accounting Officer may **under exceptional circumstances set aside some of these provisions or** require that the Bid Specification, Bid Evaluation and Bid Adjudication committee system be applied to written price quotations.

(2) Procurement of assets, goods and services with an estimated value over R30 000 up to a value of R200 000 (including VAT)

- (a) When any authorised officer requires goods or services to an estimated value over R30 000 up to a value of R200 000 (including VAT), the authorised officer concerned shall submit a requisition for such goods or services to the Supply Chain Management Unit **which shall in turn submit a motivation to the Accounting Officer for pre-approval.**
- (b) The requisition referred to in (a) above must include a statement by the authorised officer that funds are available for the purchase of the goods or services required and must indicate the Budget reference, **IDP reference, SDBIP reference** number if applicable.
- (c) If the item requisitioned in accordance with (a) above is an item which appears on the consolidated schedule of related items and there are three or more accredited prospective suppliers for that item, the Supply Chain Management Unit shall:-
 - (i) invite written **formal** price quotations for the supply of such item from three of such accredited prospective suppliers; and
 - (ii) publish an invitation on the Municipal Website and display the invitation on the Municipal Notice Board giving possible suppliers at least **a minimum of 3-5** days to submit quotations to supply the item concerned.
- (d) The invitation of price quotations in accordance with (c)(i) above shall be done on a rotational basis in such a manner that ongoing competition amongst suppliers is promoted: provided that if, in the opinion of the Designated Officer: Supply Chain Management, the rotation of invitations will result in unreasonable additional cost to the Municipality, such rotation shall be confined to the accredited prospective suppliers who, in his or her opinion, provide the most **favorable** quotations.
- (e) If the item requisitioned in accordance with (a) above is an item for which there is less than three accredited prospective suppliers, the Supply Chain Management Unit shall:-
 - (i) invite written price quotations for the supply of such item from the accredited prospective suppliers and from up to two possible suppliers, so that a minimum of three written quotations are obtained for the item concerned; and
 - (ii) publish an invitation on the Municipal Website and display the invitation on the Municipal Notice Board giving possible suppliers at least **a minimum of 3-5** days to submit quotations to supply the item concerned,
- (f) If the item requisitioned in accordance with (a) above is an item which does not appear on the consolidated schedule of related items, the Supply Chain Management Unit shall:-
 - (i) invite written price quotations for the supply of such item from a minimum of three possible suppliers; and or
 - (ii) publish an invitation on the Municipal Website and display the invitation on the Municipal Notice Board giving possible suppliers at least **a minimum of 3-5** days to submit quotations to supply the item concerned.
- (g) The Supply Chain Management Unit shall record the names of the prospective and possible suppliers requested to submit quotations and the prices quoted by them, as well as the names of any possible supplier who submitted a quotation in response to the published invitation to supply, and the prices quoted by those suppliers.

- (h) On receipt of a minimum of three quotations, and subject to (i) below, the Supply Chain Management Unit shall evaluate the quotations received on a comparative basis taking into account unconditional discounts and shall accept the quotation which appears to be the most favorable in all the circumstances, provided that:-
 - (i) where quotations are subject to the preferential Points System set out in the Preferential Procurement Policy Framework Act and associated regulations, the quotation of the bidder who scored the highest points must be accepted; and
 - (ii) if a quotation other than the lowest quotation is accepted, the Supply Chain Management Unit shall record the reasons therefore on the requisition for the item concerned.
- (i) If it is not possible to obtain at least three quotations, the reasons must be recorded by the Supply Chain Management Unit on the requisition for the item concerned and the authority of the Director for which the items are required must be obtained to accept one of the quotations.
- (j) The Designated Officer: Supply Chain Management must within three days of the end of each month report to the Chief Financial Officer on any approvals given during that month in terms of (i) above.
- (k) Notwithstanding (a) to (h) above, the Accounting Officer may **under exceptional circumstances set aside some of these provisions or** require that the Bid Specification, Bid Evaluation and Bid Adjudication committee system be applied to formal written price quotations.

(3) Procurement of assets, goods and services with an estimated value over R200 000 up to a value of R500 000 (including VAT)

- (a) When any authorised officer requires goods or services to an estimated value over R200 000 up to a value of R500 000 (including VAT), the authorised officer concerned shall submit a requisition for such goods or services to the Supply Chain Management Unit **which shall in turn submit a motivation to the Accounting Officer for pre-approval.**
- (b) The requisition referred to in (a) above must include a statement by the authorised officer that funds are available for the purchase of the goods or services required and must indicate the Budget reference, **IDP reference, SDBIP reference** number if applicable.
- (c) If the item requisitioned in accordance with (a) above is an item which appears on the consolidated schedule of related items and there are three or more accredited prospective suppliers for that item, the Supply Chain Management Unit shall:-
 - (i) invite **formal written proposals** for the supply of such item from three of such accredited prospective suppliers; and or
 - (ii) publish an invitation on the Municipal Website and display the invitation on the Municipal Notice Board giving possible suppliers at least **5** days to submit **proposals** to supply the item concerned.
- (d) The invitation of price quotations in accordance with (c)(i) above shall be done on a rotational basis in such a manner that ongoing competition amongst suppliers is promoted:

provided that if, in the opinion of the Designated Officer: Supply Chain Management, the rotation of invitations will result in unreasonable additional cost to the Municipality, such rotation shall be confined to the accredited prospective suppliers who, in his or her opinion, provide the most favorable proposals

- (e) If the item requisitioned in accordance with (a) above is an item for which there is less than three accredited prospective suppliers, the Supply Chain Management Unit shall:-
- (i) invite formal written proposals for the supply of such item from the accredited prospective suppliers and from up to two possible suppliers, so that a minimum of three written quotations are obtained for the item concerned; and
 - (ii) publish an invitation on the Municipal Website and display the invitation on the Municipal Notice Board giving possible suppliers at least 5 days to submit proposals to supply the item concerned,
- (f) If the item requisitioned in accordance with (a) above is an item which does not appear on the consolidated schedule of related items, the Supply Chain Management Unit shall:-
- (i) invite written price quotations for the supply of such item from a minimum of three possible suppliers; and
 - (ii) publish an invitation on the Municipal Website and display the invitation on the Municipal Notice Board giving possible suppliers at least a minimum of 3-5 days to submit quotations to supply the item concerned.
- (g) The Supply Chain Management Unit shall record the names of the prospective and possible suppliers requested to submit proposals and the prices quoted by them, as well as the names of any possible supplier who submitted a quotation in response to the published invitation to supply, and the prices quoted by those suppliers.
- (h) On receipt of a minimum of three proposals, and subject to (i) below, the Supply Chain Management Unit shall evaluate the quotations received on a comparative basis taking into account unconditional discounts and shall accept the proposals which appears to be the most favorable in all the circumstances, provided that:-
- (i) where proposals are subject to the preferential Points System set out in the Preferential Procurement Policy Framework Act and associated regulations, the proposal of the bidder who scored the highest points must be accepted; and
 - (ii) if a proposal other than the recommended one is accepted, the appointing authority shall record the reasons therefore on the requisition for the item concerned.
- (i) If it is not possible to obtain at least three quotations, the reasons must be recorded by the Supply Chain Management Unit on the requisition for the item concerned and the authority of the Director for which the items are required must be obtained to accept one of the quotations.
- (j) The Designated Officer: Supply Chain Management must within three days of the end of each month report to the Chief Financial Officer on any approvals given during that month in terms of (i) above.
- (k) Notwithstanding (a) to (h) above, the Accounting Officer may under exceptional circumstances set aside some of these provisions or require that the Bid Specification, Bid Evaluation and Bid Adjudication committee system be applied to formal written proposals.

15. Competitive bids

- (1) Goods or services above a transaction value of R500 000 (VAT included) and/or long term contracts may only be procured through a competitive bidding process, subject to paragraph 34 of this Policy.
- (2) No requirement for goods or services above an estimated transaction value of R500 000 (VAT included), may deliberately be split into parts or items of lesser value merely for the sake of procuring the goods or services otherwise than through a competitive bidding process.
- (3) The Competitive Bidding Process may only commence after all necessary project and other expenditure approvals have been obtained from the Council or appropriate Committee, Accounting Officer and the Manager: Finance has confirmed to the Head of the Directorate requiring the goods or services concerned that funds for such assets, goods and services are available having regard to anticipated expenditure commitments of the Municipality.

16. Process for competitive bidding

- (1) The procedures for the following stages of a competitive bidding process are as follows:
 - (a) Compilation of bidding documentation as detailed in paragraph 17;
 - (b) Public invitation of bids as detailed in paragraph 18;
 - (c) Site meetings or briefing sessions as detailed in paragraph 19;
 - (d) Handling of bids submitted in response to public invitation as detailed in paragraph 20;
 - (e) Evaluation of bids as detailed in paragraph 23;
 - (f) Award of contracts as detailed in paragraph 25;
 - (g) Written agreements as detailed in paragraph 26.
 - (h) Proper record keeping as detailed in paragraph 27.

17. Bid documentation for competitive bids

- (1) A Bid Specification Committee (BSC) shall be established for the purpose of compiling Bid specifications in connection with the provision of assets, goods and services and the disposal and letting of Municipal assets, including the disposal of goods no longer required of value over R200 000 (VAT included).
- (2) The Bid Specification Committee shall consist of:-
 - (a) at least three (3) core members appointed by the Accounting Officer as follows:
 - i) Designated Officer: Supply Chain Management Unit
 - ii) An authorized representative from the User or Disposing Department
 - iii) An authorized employee with technical expertise in the goods/or services required or to be disposed

- (b) an external person authorized by the Accounting Officer with expertise and experience in the field of goods or services to be procured or disposed, as an ex-officio.
- (3) Unless directed otherwise, in terms of this policy the Designated Officer: Supply Chain Management Unit is hereby appointed by the Accounting Officer to be the Chairperson of the BSC.
- (4) The Chairperson in his/her absence from a meeting of the Bid Specification Committee, designate one of the other core members of the Committee to be Acting Chairperson.
- (5) The Supply Chain Management Unit shall arrange for minutes of meetings of the Bid Specification Committee to be prepared and filed of record.
- (6) The Bid Specification Committee shall prepare a Bid Specification for all assets, goods and services required by the Municipality with an estimated value of more than R200 000,00 (including VAT), as well as an advertisement calling for bids for the supply of such assets, goods and services and a schedule setting out in which newspaper or newspapers the advertisement should be placed.
- (7) In preparing a Bid Specification the Bid Specification Committee may:-
- (a) take into account –
 - i. the general conditions of contract and any special conditions of contract, if specified;
 - ii. any Treasury guidelines on bid documentation;
 - iii. the requirements of the Construction Industry Development Board, in the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure; and
 - vi. need for empowerment of Cooperatives, NGOs and CBOs within the municipal area.
 - (b) include details of the preference points system approved by the Council to be used in the adjudication of Bids, goals as contemplated in the Preferential Procurement Regulations and evaluation and adjudication criteria, including any criteria required by other applicable legislation;
 - (c) compel bidders to declare any conflict of interest they may have in the transaction for which the bid is submitted;
 - (d) if the value of the transaction is expected to exceed R6 million (VAT included), require bidders to furnish–
 - i. if the bidder is required by law to prepare annual financial statements for auditing, their audited annual financial statements –
 - (1) for the past three years; or
 - (2) since their establishment if established during the past three years;
 - ii. a certificate signed by the bidder certifying that the bidder has no undisputed commitments for municipal services towards a municipality or other service provider in respect of which payment is overdue for more than 30 days;
 - iii. particulars of any contracts awarded to the bidder by an organ of state during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract;
 - iv. a statement indicating whether any portion of the goods or services are expected to be sourced from outside the Republic, and, if so, what portion and whether any portion of payment from the municipality or municipal entity is expected to be transferred out of the Republic; and

- (v) stipulate that disputes must be settled by means of mutual consultation, mediation (with or without legal representation), or, when unsuccessful, in a South African court of law.

(8) Bid Specifications:-

- (a) must be drafted in an unbiased manner to allow all prospective suppliers to offer their goods or services;
- (b) must, where possible, be described in terms of performance required rather than in terms of descriptive characteristics for design;
- (c) may not create trade barriers in contract requirements in the forms of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labeling of conformity certification;
- (d) may not make reference to any particular trade mark, name, patent, design, type, specific origin or producer unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the word "equivalent";
- (e) may indicate each specific goal for which points may be awarded in terms of the points system set out in the Preferential Procurement Regulations 2001; and
- (f) must be approved by the Accounting Officer prior to publication of the invitation for bids in terms of paragraph 18 of this Policy.

(9) In preparing the advertisement calling for bids the Bid Specification Committee must include in the advertisement:-

- (a) the closure date for the submission of bids, which, from the date on which the advertisement is placed in a newspaper and subject to (10) below, may not be less than 21 days in the case of transactions over R10 million (VAT included), or which are of a long term nature, or 10 days in any other case;
- (b) a statement that bids may only be submitted on the bid documentation provided by the municipality;
- (c) the date, time and venue of any proposed site meetings or briefing sessions;
- (d) a statement indicating where copies of the Bid Specification may be obtained and any deposit payable for such Bid Specification;
- (e) a statement that Bids must be submitted in a sealed envelope or package on which the address of the Bidder and the Bid number and name have been clearly written.
- (f) a statement that Bids must be placed in the Bid Box at the Municipal Offices before the closing date and time for submission of Bids.
- (g) a statement that any Bid that does not comply with the above will be rejected and will not be considered.
- (h) a requirement that the Bidder supply a tax clearance from the South African Revenue Service that the bidders tax matters are in order or an authorisation for the Municipality to obtain such a clearance.
- (i) a requirement that where bids are requested in electronic format, such bids must be supplemented by sealed hard copies.

- (10) The Accounting Officer may determine a closure date for the submission of bids which is less than the 21 or 10 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. The Accounting Officer shall cause the reasons for such decision to be recorded and to be submitted to the Supply Chain Management Unit for filing with the documents referred to in section 24(2) of these Rules
- (11) 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) A copy of the Bid Specification and Advertisement prepared by the Bid Specification Committee, signed by the Chairman of the Bid Specification Committee must be submitted to the Supply Chain Management Unit.
- (13) On receipt of the Bid Specification and Advertisement prepared by the Bid Specification Committee, the Designated Officer: Supply Chain Management Unit shall open a file for the Bid concerned and shall place in that file all documents required to be filled in terms of these Rules.

18. Public Invitation for Competitive Bids

- (1) The placement of advertisements calling for Bids shall be undertaken by the Supply Chain Management Unit.
- (2) Advertisements referred to in (1) above shall be placed in such newspapers commonly circulating locally as may be determined by the Bid Specification Committee, shall be displayed on the Municipal Website, shall be posted on the Municipal Notice Board and shall be published in any other appropriate ways (which may include an advertisement in the Government Tender Bulletin)

19. Communication with Potential Bidders

- (1) Where it is necessary for information that cannot be included in the Bid Specification to be conveyed to potential Bidders, that information shall be given by way of compulsory or non-compulsory site inspections or briefings;
- (2) Unless authorized by the AO, no member of staff shall hold any meeting or conduct any discussions concerning any Bid with any potential Bidder after the Bid has been advertised, other than at a compulsory or non-compulsory site inspection or briefing;
- (3) A record of attendance must be compiled in respect of any compulsory or non-compulsory site inspection or briefing.
- (4) The original of the record of attendance must be submitted to the Supply Chain Management Unit.

20. Procedure for handling, opening and recording of bids

- (1) On the date and at the closing time for receipt of Bids, the Designated Officer: Supply Chain Management Unit may remove the Bid Box to a suitable room for opening. This must take place as soon as practical after the time fixed for closing of Bids.
- (2) The Bid Box may then be opened by the Designated Officer: Supply Chain Management Unit, in front of any Bidders or other members of public present, and all the envelopes removed. Any envelopes for other Bids not being opened on that day must be returned to the Bid Box.

- (3) In front of all Bidders and members of the public present, the Designated Officer: Supply Chain Management Unit must:-
 - (i) open the envelopes;
 - (ii) read out the name of the Bidder;
 - (iii) read out the Bid price, if practical; and
 - (iv) record the name of the Bidder and, if practical, the Bid price on a schedule.
- (4) The Designated Officer: Supply Chain Management Unit may not engage in any discussion of the Bids with anyone present and no information relating to the bid, except that referred to in (3) above, may be disclosed to bidders or other persons until the successful bidder is notified of the award
- (5) The Designated Officer: Supply Chain Management Unit must prepare an attendance register of all persons attending the opening of a Bid and must make the register available for public inspection.
- (6) Immediately after the opening of all Bids, the Designated Officer: Supply Chain Management Unit must:-
 - (i) file the schedule of Bids received with the other Bid documentation; and
 - (ii) arrange for the schedule of Bids received and the Bid results to be published on the Municipal Website.
- (7) The Supply Chain Management Unit **is not obliged but may** return any Bids received after the closing time and date to the Bidder as soon as practical, unopened if possible, with advice that the Bid will not be considered.

21. Negotiations with preferred bidders

- (1) The Accounting Officer **may** negotiate the final terms of a contract **with any bidder(s)** identified **and ranked from highest to lowest 1-5** through a competitive bidding process as preferred bidders, provided that such negotiation –
 - (a) does not allow any bidder a second or unfair opportunity;
 - (b) is not to the detriment of any other bidder; and
 - (c) does not lead to a higher price than the bid as submitted.
- (2) Minutes of such negotiations may be kept for record purposes and must be submitted to the Supply Chain Management Unit for filing with the documents referred to in section 24(2) of this Policy.

22. Two-stage bidding process

- (1) A two-stage bidding process is allowed for –
 - (a) large complex projects;
 - (b) projects where it may be undesirable to prepare complete detailed technical specifications;
 - (c) long term projects with a duration period exceeding three years.
- (2) In the first stage technical proposals on conceptual design or performance specifications should be invited, subject to technical as well as commercial clarifications and adjustments.
- (3) In the second stage final technical proposals and priced bids should be invited.

23. Bid Evaluation Committee

- (1) A Bid Evaluation Committee (BEC) is hereby established to evaluate Bids received and to submit to the Bid Adjudication Committee a report on such Bids and a recommendation as to the course of action that should be taken in respect of the Bids.
- (2) The membership of the Bid Evaluation Committee shall be:-
 - (a) the **3 core** members of the Bid Specification Committee for the Bid concerned;
 - (b) an Executive Director designated by the Accounting Officer who shall be the chairperson of the BEC; and
 - (d) external consultants where appropriate in the opinion of the Accounting Officer.
- (3) A neutral or independent observer, appointed by the Accounting Officer, must attend or oversee a meeting of the Bid Evaluation Committee when this is appropriate for ensuring fairness and promoting transparency
- (4) The Designated Officer: Supply Chain Management Unit shall, in consultation with the Chairman of the Bid Evaluation Committee, convene a meeting of the Bid Evaluation Committee to evaluate Bids received and to prepare a report to the Bid Adjudication Committee recommending the course of action that should be taken in respect of the Bids.
- (5) Any Bid that contains a material divergence from the specifications for the Bid concerned **may only be considered or** evaluated by the Bid Evaluation Committee **if approved by the AO, otherwise** it shall not form any part of the adjudication process.
- (6) The Designated Officer: Supply Chain Management Unit shall arrange for minutes of meetings of the Bid Evaluation Committee to be prepared and to be filed with the other Bid documentation.
- (7) In conducting its evaluation of a Bid the Bid Evaluation committee must:-
 - (a) evaluate bids in accordance with:-
 - (i) the specifications for a specific procurement;
 - (ii) the points system
 - (b) evaluate each bidder's ability to execute the contract; and
 - (c) check in respect of the recommended bidder whether municipal service charges are not in arrears.
- (8) The report of the Bid Evaluation Committee regarding the award of a Bid must contain, at least:-
 - (a) a list of the Bids that contained a material divergence from the specifications for the Bid concerned, with a notation detailing the manner in which the Bid did not comply with the specifications. Such Bids shall be excluded from consideration or evaluation and shall not be the subject of further evaluation or consideration;
 - (b) a comparative schedule of the valid Bids received which, where possible, must be reduced to a common basis;
 - (c) an explanation of the effect of the application of preferences on the valid Bids received;
 - (d) a explanation of the basis on which a Bid amount has been corrected, where the amount submitted by any Bidder is corrected by 10% or more;
 - (e) a statement indicating, in respect of the Bid recommended for acceptance, that an original Tax Clearance Certificate from the South African Revenue Service has been received or that

the South African Revenue Service has not responded within 7 days to a request by the Municipality for confirmation that the Bidders tax matters are in order;

- (f) a statement as to the capacity/ability of the Bidder to execute the contract;
 - (g) a statement as to whether the Bidder is in arrears in respect of any charges owed to the Municipality;
 - (h) a statement confirming that funds are available for the purchase of the goods or services that are the subject of the Bid and indicating the source of such funding, including the Budget reference number if applicable, and a cash flow projection for the expenditure;
 - (l) a statement confirming that the National Treasury's database has been checked and that the recommended Bidder, or any director of the recommended Bidder, is not listed as a company or person prohibited from doing business with the public sector;
 - (j) reasons for recommending a Bid for acceptance;
 - (k) a definite recommendation as to the course of action to be adopted;
 - (l) where a Bid other than the lowest Bid (after the application of preferences) is recommended for acceptance, a statement as to why it would be in the best interest of the Municipality to accept that Bid;
 - (m) where less than three Bids have been received, a statement that the Bid is fair and reasonable or, if, in the opinion of the Bid Evaluation Committee, it is not, a statement as to whether better arrangements can be made.
- (9) Where the Designated Officer: Supply Chain Management Unit disagrees with the recommendation of the Bid Evaluation Committee regarding the Bid recommended for acceptance, the Designated Officer: Supply Chain Management Unit shall report accordingly to the Accounting Officer.

24. Processing of Evaluation Reports

- (1) After the Bid Evaluation Committee has prepared the report referred to in paragraph 23(8) of these Rules, the Supply Chain Management Unit shall:-
- (a) file one copy of the report with:-
 - (i) a copy of the advertisement for the Bid concerned;
 - (ii) a copy of the Bid Specification;
 - (iii) the record of attendance at any compulsory or non-compulsory site inspection or briefing;
 - (iv) the record of attendance at the opening of the Bids;
 - (v) the minutes of the meeting of the Bid Evaluation Committee; and
 - (vi) submit one copy of the report to the Registry section.
- (2) On receipt of a report of the Bid Evaluation Committee from the Supply Chain Management Unit, the Support Services Section shall arrange for such report to be submitted to a meeting of the Bid Adjudication Committee convened in accordance with the Committee processes of the Municipality.

25. Bid Adjudication Committee

- (1) A Bid Adjudication Committee is hereby established to consider Bid Evaluation Reports and to determine the course of action that should be taken in respect of Bids.
- (2) The Bid Adjudication Committee shall, subject to (4) hereof, consist of:-
- (a) The Chief Financial Officer;

- (b) at least TWO (2) other members appointed by the Accounting Officer from officials of the Municipality occupying Posts at the Level of Executive Director, Deputy Director or Manager, provided that in making such appointments the Accounting Officer shall give preference to the appointment of officials at Executive Director Level and shall not appoint to the Bid Adjudication Committee any official who is a member of a Bid Specification Committee or a Bid Evaluation Committee;
 - (c) the Designated Officer: Supply Chain Management Unit (as a non-voting member); and
- (3) 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.
 - (4) The Head of the Directorate requiring the goods or services (or disposing or letting the Municipal assets) that are the subject of a Bid Evaluation Report shall not be a member of the Bid Adjudication Committee for the Bid concerned and shall recuse himself or herself from the meeting and shall not participate in the consideration of the Bid Evaluation Report or the adjudication of the Bid concerned, but shall remain in attendance at the meeting in order to answer questions or provide clarity. For the purpose of this rule, a Manager who is a member of the Bid Adjudication Committee is deemed to be a Head of Directorate.
 - (5) The Chief Financial Officer or Acting CFO shall be Chairperson of the Bid Adjudication Committee.
 - (6) The Quorum of the Bid Adjudication Committee shall be one more than half of the members.
 - (7) All matters submitted to the Bid Adjudication Committee shall be decided by a majority of the votes cast where the chairperson has a casting vote in terms of a tie.
 - (8) Agendas and minutes of meetings of the Bid Adjudication Committee shall be provided to members of the Bid Adjudication Committee only.
 - (9) An extract of the minutes of the meeting of the Bid Adjudication Committee, dealing with the Bid concerned, shall be filed with the documents referred to in 24(2) these Rules.
 - (10) If the Bid Adjudication Committee decides **to recommend for** the award of a bid other than the one recommended by the Bid Evaluation Committee, the Bid Adjudication Committee must prior to such recommendation–
 - (i) check in respect of the preferred bidder whether that bidder’s municipal service charges are not in arrears, and shall not award a bid to any bidder in arrears;
 - (ii) verify that an original Tax Clearance Certificate from the South African Revenue Service has been received in respect of the preferred bidder;
 - (ii) notify the Supply Chain Management Unit, who must inform the Accounting Officer in accordance with subparagraph 26 (4) of these Rules.
 - (11) On receipt of notification in terms of subparagraph (26)(4) the Accounting Officer may –
 - (i) after due consideration of the reasons for the deviation, ratify or reject the decision of the Bid Adjudication Committee referred to in paragraph (26); 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; and
 - (iii) if prudent to do so, make the final award with reasons.**
 - (12) 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.

26. Process after adjudication by the Bid Adjudication Committee

- (1) On receipt of the minutes of a meeting of the Bid Adjudication Committee, the Designated Officer: Supply Chain Management Unit shall inform the relevant Chairman of the Bid Evaluation Committee of all decisions taken in respect of reports submitted by the Bid Evaluation Committee concerned.
- (2) In the event of the Bid Adjudication Committee deciding not to accept a Bid but to require some other course of action to be taken, the Director concerned shall take appropriate action to implement that decision.
- (3) In the event of the Bid Adjudication Committee accepting a Bid subject to compliance with certain conditions prior to acceptance, the Director concerned shall take appropriate action to ensure compliance with such conditions.
- (4) In the event of the Bid Adjudication Committee deciding to award **or recommend for award** a Bid to a Bidder other than the Bid recommended for acceptance, the Designated Officer: Supply Chain Management Unit shall, unless a different tender was approved to rectify an irregularity, notify the Accounting Officer of such decision, in writing, within three working days. If the Accounting Officer ratifies the decision of the Bid Adjudication Committee the Accounting Officer shall inform the Designated Officer: Supply Chain Management who shall, within 10 working days of the decision of the Bid Adjudication Committee, notify the Auditor General, the KwaZulu-Natal Provincial Treasury and the National Treasury of the reason for deviating from such recommendations,
- (5) In every case where the Bid Adjudication Committee decides to award a Bid to a bidder, the Supply Chain Management Unit shall, in consultation with the Manager: Legal Services and the relevant Director, prepare a draft acceptance of the Bid and a contract to give effect to such award. The contract shall include a requirement that all specifications of the Bid be complied with;

27. Award of Bid

- (1) The Supply Chain Management Unit shall:-
 - (a) reduce the draft acceptance and contract referred to in 26(5) to final **written** form and submit the acceptance and contract to the AO for signature before dispatching to a successful Bidder;
 - (b) provide a copy of the final letter of acceptance and contract to the relevant **Executive** Director;
 - (c) file a copy of the final acceptance and contract with the documents referred to in section 24(2) of this Policy;
 - (d) notify all bidders of the name of the successful Bidder and of the successful Bid price;
 - (e) arrange for details of the successful Bid to be posted on the Municipal Website.

28. Procurement of banking services

- (1) A contract for banking services –
 - (a) must be procured through competitive bids;
 - (b) must be consistent with section 7 or 85 of the Act; and
 - (c) may not be for a period of more than five years at a time.

- (2) The process for procuring a contract for banking services must commence at least **three** months before the end of an existing contract.
- (3) The closure date for the submission of bids may not be less than **30** days from the date on which the advertisement is placed in a newspaper in terms of paragraph 22(1). Bids must be restricted to banks registered in terms of the Banks Act, 1990 (Act No. 94 of 1990).

29. Procurement of IT related goods or services

- (1) The Accounting Officer may request the State Information Technology Agency (SITA) to assist with the acquisition of IT related goods or services through a competitive bidding process.
- (2) Both parties must enter into a written agreement to regulate the services rendered by, and the payments to be made to, SITA.
- (3) The Accounting Officer must notify SITA together with a motivation of the IT needs if –
 - (a) the transaction value of IT related goods or services required in any financial year will exceed R50 million (VAT included); or
 - (b) the transaction value of a contract to be procured whether for one or more years exceeds R50 million (VAT included).
- (4) If SITA comments on the submission and the municipality disagrees with such comments, the comments and the reasons for rejecting or not following such comments must be submitted to the council, the National Treasury, the relevant provincial treasury and the Auditor General.

30. Procurement of assets, goods and services under contracts secured by other organs of state

- (1) The Accounting Officer may procure goods or services under a contract secured by another organ of state, but only if –
 - (a) the contract has been secured by that other organ of state by means of a competitive bidding process applicable to that organ of state;
 - (b) there is no reason to believe that such contract was not validly procured;
 - (c) there are demonstrable discounts or benefits to do so; and
 - (d) that other organ of state and the provider have consented to such procurement in writing.

31. Procurement of goods necessitating special safety arrangements

- (1) The acquisition and storage of goods in bulk (other than water), which necessitate special safety arrangements, including gasses and fuel, should be avoided where ever possible.
- (2) Where the storage of goods in bulk is justified, such justification must be based on sound reasons, including the total cost of ownership, cost advantages and environmental impact and must be approved by the Accounting Officer.

32. Proudly SA Campaign

- (1) The municipality supports the Proudly SA Campaign to the extent that, all things being equal, preference is given to procuring local assets, goods and services from:
 - (a) Firstly – suppliers and businesses within the Jozini Municipality;
 - (b) Secondly – suppliers and businesses within the Province of KwaZulu Natal;
 - (c) Thirdly – suppliers and businesses within the Republic.

33. Appointment of consultants

- (1) The Accounting Officer may procure consulting services provided that any Treasury guidelines in respect of consulting services are taken into account when such procurements are made.
- (2) Consultancy services must be procured through competitive bids if
 - (a) the value of the contract exceeds R500 000 (VAT included); or
 - (b) the duration period of the contract exceeds one year.
- (3) In addition to any requirements prescribed by this policy for competitive bids, bidders must furnish particulars of –
 - (a) all consultancy services provided to an organ of state in the last three years; and
 - (b) any similar consultancy services provided to an organ of state in the last three years.
 - (c) any similar consultancy services provided to any private organisation in the last three years.
- (4) The Accounting Officer must ensure that copyright in any document produced, and the patent rights or ownership in any plant, machinery, thing, system or process designed or devised, by a consultant in the course of the consultancy service is vested in the municipality.

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

- (1) The Accounting Officer may –
 - (a) dispense with **some or all** official procurement processes established by this Policy and to procure any required goods or services through any convenient process, which may include direct negotiations, but only –
 - (i) in an emergency;
 - (ii) if such goods or services are produced or available from a single provider only;
 - (iii) to promote municipal poverty alleviation initiatives, job creation initiatives and local contractor empowerment;**
 - (iv) for the acquisition of special works of art or historical objects where specifications are difficult to compile;
 - (v) acquisition of animals for zoos and/or nature and game reserves;
 - (vi) in any other exceptional case where it is impractical or impossible to follow the official procurement processes; and
 - (vii) to ratify any minor breaches of the procurement processes by an official or committee acting in terms of delegated powers or duties which are purely of a technical nature.

- (2) The Accounting Officer must record the reasons for any deviations in terms of subparagraphs (1)(a) of this policy and report them to the next meeting of the council and include as a note to the annual financial statements.
- (3) Subparagraph (2) does not apply to the procurement of assets, goods and services contemplated in paragraph 11(2) of this policy.

35. Unsolicited bids

- (1) In accordance with section 113 of the Act there is no obligation to consider unsolicited bids received outside a normal bidding process.
- (2) The Accounting Officer may decide in terms of section 113(2) of the Act to consider an unsolicited bid, only if –
 - (a) the product or service offered in terms of the bid is a demonstrably or proven unique innovative concept;
 - (b) the product or service will be exceptionally beneficial to, or have exceptional cost advantages;
 - (c) the person who made the bid is the sole provider of the product or service; and
 - (d) the reasons for not going through the normal bidding processes are found to be sound by the Accounting Officer.
- (3) If the Accounting Officer decides to consider an unsolicited bid that complies with subparagraph (2) of this policy, the decision must be made public in accordance with section 21A of the Municipal Systems Act, together with –
 - (a) reasons as to why the bid should not be open to other competitors;
 - (b) an explanation of the prospective benefits if the unsolicited bid were accepted; and
 - (c) an invitation to the public or other prospective suppliers to submit their comments within 30 days of the notice.
- (4) The Accounting Officer must submit all written comments received pursuant to subparagraph (3), including any responses from the unsolicited bidder, to the National Treasury and the relevant provincial treasury for comment.
- (5) The adjudication committee must consider the unsolicited bid and may award the bid or make a recommendation to the Accounting Officer, depending on its delegations.
- (6) A meeting of the adjudication committee to consider an unsolicited bid must be open to the public.
- (7) When considering the matter, the adjudication committee must take into account –
 - (a) any comments submitted by the public; and
 - (b) any written comments and recommendations of the National Treasury or the relevant provincial treasury.
- (8) If any recommendations of the National Treasury or provincial treasury are rejected or not followed, the Accounting Officer must submit to the Auditor General, the relevant provincial treasury and the National Treasury the reasons for rejecting or not following those recommendations.
- (9) Such submission must be made within seven days after the decision on the award of the unsolicited bid is taken, but no contract committing the municipality to the bid may be entered into or signed within 14 days of the submission.

36. Cancellation of bid process and re-invitation of bid

- (1) In the event that, in the application of the 80/20 preference point system as stipulated in the bid documents, all bids received exceed the estimated Rand value of R 500 000, the bid invitation must be cancelled.
- (2) In the event that, in the application of the 90/10 preference point system as stipulated in the bid documents, all bids received are equal to or below, R 500 000, the bid invitation must be cancelled.
- (3) If the municipality has cancelled a bid invitation as contemplated in sub-paragraphs (1) and (2) must re-invite bids and must, in the bid documents, stipulate the preference point system to be applied.
- (4) The municipality may prior to the award of a bid, cancel a bid process if-
 - (a) due to changed circumstances, there is no longer a need for the goods or services;
 - (b) there were errors/omissions/further particulars requiring correction or additions to the terms of reference or specifications;
 - (c) funds are no longer available to cover the total envisaged expenditure; or
 - (d) no acceptable bids are received.

37. Combating of abuse of supply chain management system

- (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 Policy, and–
 - (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 of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004).
- (2) The Accounting Officer must inform the National Treasury and relevant provincial treasury in writing of any actions taken in terms of subparagraphs (1)(b)(ii), (e) or (f) of this policy.

PART 3: LOGISTICS, DISPOSAL, RISK AND PERFORMANCE MANAGEMENT

38. Logistics management

- (1) The Accounting Officer must establish and implement an effective system of logistics management, which must include -
 - (a) the monitoring of spending patterns on types or classes of assets, goods and services incorporating, where practical, the coding of items to ensure that each item has a unique number;
 - (b) the setting of inventory levels that includes minimum and maximum levels and lead times wherever goods are placed in stock;
 - (c) the placing of manual or electronic orders for all acquisitions other than those from petty cash;
 - (d) before payment is approved, certification by the responsible officer that the assets, goods and services are received or rendered on time and is in accordance with the order, the general conditions of contract and specifications where applicable and that the price charged is as quoted in terms of a contract;
 - (e) appropriate standards of internal control and warehouse management to ensure that goods placed in stores are secure and only used for the purpose for which they were purchased;
 - (f) regular checking to ensure that all assets including official vehicles are properly managed, appropriately maintained and only used for official purposes; and
 - (g) monitoring and review of the supply vendor performance to ensure compliance with specifications and contract conditions for particular goods or services.

39. Disposal management

- (1) The criteria for the disposal or letting of assets, including unserviceable, redundant or obsolete assets, subject to sections 14 and 90 of the Act, are as follows:
 - A. Asset is obsolete in terms of;-
 - (i) Technology;

- (ii) Environmentally damaging;
 - (iii) Running or maintenance costs;
 - (iv) Imposes unacceptable risk to public safety;
 - (v) Has become illegal to use through statute.
- B. Asset is no longer required:-
- (i) to provide a minimum statutory level of service as determined by council policy;
 - (ii) because the service is no longer required as determined by council policy.
- C. Asset is impaired because:-
- (i) it is unserviceable due to damage, accident or force majeure;
 - (ii) a critical component can no longer be sourced;
 - (iii) it is no longer fit for purpose.
- D. Asset is contractually required to be disposed of:-
- (i) at the end of a finance arrangement such as a lease and becomes council property;
 - (ii) because it has passed its serviceable life.
- E. Asset is disposable as a result of council policy:-
- (i) by determined council standards;
 - (ii) by determined council protocols;
- F. Asset is exclusively used by a member of staff whose post no longer exists and cannot be transferred.
- G. Assets is disposed of to realize a cash injection.
- H. Asset is transferable to another organ of state or body:-
- (i) due to transfer of service;
 - (ii) due to sequestration by another public body in compliance with statute;
 - (iii) to promote or enhance a policy objective;
 - (iv) to a properly constituted municipal entity.
- (2) Assets may be disposed of by –
- (a) transferring the asset to another organ of state in terms of a provision of the Act enabling the transfer of assets;
 - (b) transferring the asset to another organ of state at market related value or, when appropriate, free of charge;
 - (c) selling the asset; or
 - (d) destroying the asset.
- (3) The Accounting Officer must ensure that –

- (a) immovable property is sold only at market related prices except when the public interest or the plight of the poor demands otherwise;
- (b) movable assets are sold either by way of written price quotations, a competitive bidding process, auction or at market related prices, whichever is the most advantageous;
- (c) firearms are not sold or donated to any person or institution within or outside the Republic unless approved by the National Conventional Arms Control Committee;
- (d) immovable property is let at market related rates except when the public interest or the plight of the poor demands otherwise;
- (e) all fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property are annually reviewed;
- (f) where assets are traded in for other assets, the highest possible trade-in price is negotiated; and
- (g) in the case of the free disposal of computer equipment, the provincial department of education is first approached to indicate within 30 days whether any of the local schools are interested in the equipment.

40. Risk management

- (1) The criteria for the identification, consideration and avoidance of prospective risks in the supply chain management system, are as follows:
 - (a) Risks can be classified as high, medium or low by reference to the chart below: -

A Risk is.....	Occurrence	Severity
.....High if	The chances of the risk materializing is greater than 75%	The financial cost of the risk is equal or exceeds the project estimate
.....Medium if	The chances of the risk materializing is between 50 % and 74%	The financial cost of the risk is between 11% and 99% of the project estimate
.....Low if	The chances of the risk materializing is less than 25%	The financial cost of the risk is less than 10% of the project estimate

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

40.1 Risk Management Processes

40.1.1 Risk Management involves an assessment of a product, business or process by:

- (a) Identifying the processes;
- (b) Identifying the types of risks associated with each process;
- (c) Identifying the controls associated with each process;
- (d) Evaluating the adequacy of the system of control in mitigating risk;
- (e) Determining the key controls associated with each process;
- (f) Determining the effectiveness of the key controls;
- (g) Deciding on an acceptable level of loss or degree of failure;
- (h) Deciding how to manage/minimise/mitigate the risk; and
- (i) Monitoring, reporting and from time to time re-assessing the level and implications of the risk exposure.

40.1.2 Application of Risk Management in SCM

- (a) The Accounting Officer or his delegate must determine Jozini Municipality's risk tolerance/attitude.
- (b) Risks must be identified upfront on a case-by-case basis.
- (c) Risks must be allocated to the party best suited to manage such risks.
- (d) Jozini Municipality must accept the cost of risks where the cost of transferring the risk is greater than that of retaining such risk and it must transfer the risk where this is not the case.
- (e) Jozini Municipality must pro-actively manage risks and provide for adequate cover for residual risks.
- (f) The bid and contract documentation must clearly and unambiguously state to whom the risk has been allocated and who should take responsibility for managing it.
- (g) Risk Management decisions must continuously involve a cost-benefit analysis (considerations of economy) i.e. the cost of controlling (minimising) a risk must not exceed the benefits.
- (h) The controlling (minimising) of risks requires that Jozini Municipality maintains an effective system of internal controls.
- (i) Risk management entails, inter alia, a management culture that accepts that all business opportunities entail risk taking. The trade-off between success and failure and to decide what is an acceptable risk (having regard to its cost and other social or political factors) that a programme might not achieve any or all of its objectives.
- (j) A major component of risk management is the establishment of a fraud prevention plan, by the Internal Audit Unit in order to manage the risk of fraud through cost-effective use of the control environment, information systems, control procedures and an ethical culture within Jozini Municipality.
- (k) The processes to be followed should ensure that irregular, fruitless and wasteful expenditure, and other losses are prevented.

- (l) Bid and contract documentation must clearly and unambiguously assign relative risks to the relevant bidding and contracting parties.

40.1.3 Risk Management Measures

- (a) The following are some of the various ways which Jozini Municipality may consider in managing its risk exposure:
 - (aa) Warranties
 - (i) If, during the warranty period, goods do not comply with the requirements because of faulty material used during manufacture, or faulty finishing, or any deficiency, latent or otherwise, the contractor must be requested without delay, by registered mail, to replace or repair the goods depending on the circumstances.
 - (ii) Supplies replaced or repaired or services rendered must be warranted for the same period as the original supplies or services as stipulated in the GCC.
 - (iii) If rejected supplies are in the possession of Jozini Municipality, the contractor must be requested to indicate, within a given time limit, how these are to be disposed of and warned that if there is no reaction to the request, the supplies will be returned “railage to pay”.
 - (iv) If the request is ignored Jozini Municipality must act accordingly.
 - (bb) Penalties for Late Delivery
 - (i) Penalties are not intended as a source of income for Jozini Municipality, but serve as an incentive to the contractor to perform within the contractual conditions.
 - (ii) Circumstances exist where penalties cannot be imposed summarily. Late deliveries must, however, be thoroughly investigated and action taken where necessary. Therefore, Jozini Municipality shall have discretionary powers in this respect.
 - (iii) Where an unreasonable delay occurs, Jozini Municipality must address a written warning to the contractor by registered mail, setting a cut-off date (usually 14 days from date of warning) and warn that the penalty clause will be applied if the order is not executed before the cut-off date.
 - (iv) Where firm delivery periods are applicable and late delivery occurs, penalties do not have to be imposed where Jozini Municipality suffered no damage, loss or inconvenience.
 - (v) In the following cases penalties for late delivery **must** be imposed:
 - (1) Where deliveries within a particular time period (service) were a specific contract condition and where delays caused serious damage, loss or inconvenience to Jozini Municipality.
 - (2) Where a firm delivery period (supply) was a contract condition and where delays caused serious damage, loss or inconvenience to Jozini Municipality.

- (vi) Penalties shall be imposed on the outstanding portion of the order only if beneficial use of the completed portion of the supply or service is possible. Otherwise penalties shall be imposed on the full value of the order.
 - (vii) Penalties shall be calculated as from the contractual date of delivery or such extended delivery date mutually agreed to in writing by the contracting parties.
 - (viii) Contractors may appeal against the deduction of monies in respect of penalties, or the initiation of claims as a result of late deliveries.
 - (ix) The contractor may escalate the case where agreement cannot be reached between Jozini Municipality and himself.
 - (x) If a contractor successfully appeals against the deduction of monies as a penalty, such monies must be repaid without delay, normally in 30 days.
- (cc) Legal Remedies in the Case of Incorrect Preferences
- (i) If a contractor wins a contract on the basis of wrong information supplied regarding the preferences claimed, and it is later discovered that the information was incorrect, then the Accounting Officer has the power to:
 - (a) Recover any costs or damage which Jozini Municipality might have suffered as a result of the conclusion of the contract;
 - (b) Terminate the contract and recover any loss that Jozini Municipality may suffer as a result of having to make less favourable arrangements; and/or
 - (c) Deduct from the contract price, as a penalty, a sum calculated on the delivered price of the delayed goods or unperformed services using the current prime interest rate calculated for each day of the delay until actual delivery or performance. A written notice to the effect must be issued to the contractor by registered mail.
 - (ii) The National Treasury must be informed when such cases are exposed so that they may decide on suitable action.
- (dd) Termination of a Contract
- (i) Jozini Municipality must cancel a contract awarded to a contractor:
 - (a) If the contractor committed any proven corrupt or fraudulent act during the bidding process or the execution of that contract.
 - (b) If any official or other role player committed any proven corrupt or fraudulent act during the bidding process or the execution of that contract that benefited the contractor.
 - (ii) Termination of a contract may be considered for a variety of reasons, as stipulated in the GCC, such as delayed deliveries, failing to perform any other contractual obligation or if the contractor has engaged in corrupt and fraudulent practices and insolvency.
 - (iii) Contract termination may be effected if allowed for in the contractual conditions and if both parties agree to the termination in writing.

- (iv) Contract termination required by Jozini Municipality due to non-rectified breach of contract or corruption, must always be initiated by the SCM Unit in consultation with the user department and legal assistance where required.
- (v) The SCM Unit must forward a notice of termination to the contractor and the user department must be kept informed of the actions taken.
- (vi) If the contractor does not agree with the termination, the case must be handed over for legal assistance.
- (vii) Termination of a contract is usually detrimental; therefore Jozini Municipality must give serious thought to the grounds for considering termination; and solicit beforehand whether the contractor will have a claim against Jozini Municipality or not, and if so, whether termination can be justified. If termination is finally decided upon, the matter must be explained fully in a memorandum to the Accounting Officer and the following must be addressed:
 - (a) The arrangements to be made for completing the contract;
 - (b) Whether additional costs will be recovered from the contractor;
 - (c) If the additional costs cannot be determined precisely, a careful estimate must be made and mentioned in the submission to the Accounting Officer; and
 - (d) Any claim for the recovery of additional costs must be limited to the minimum actual amounts. Therefore, in such cases, Jozini Municipality cannot summarily authorise purchasing to the best advantage of Jozini Municipality, since this might prejudice the recovery of the additional costs from the original contract. There may be other avenues of action, which might result in lower additional costs; such as
 - (1) the possibility of considering the next lowest acceptable bid received in response to the particular bid invitation, for acceptance.
 - (2) Concluding a new contract through the normal bid procedures. In this process, account must be taken of the time elapsed between the closing of a bid and the cancellation of the contract and the effect of the cancellation on Jozini Municipality's project schedules.
- (ee) Management of Losses and Claims
 - (a) Insurance
 - (i) The Accounting Officer may (if deemed economical and based on a risk assessment) insure motor vehicles, including hired vehicles, or such other movable assets determined by the relevant treasury, but the insurance premium cost may not exceed R250 000 a year.
 - (b) Claims Against Jozini Municipality Through Acts or Omissions

- (i) Jozini Municipality may accept liability for any loss or damage suffered by another person, which arose from an act or omission of an official as a claim against it and does not recover compensation from an official, provided the official shall forfeit this cover if he, with regard to the act or omission, is liable in law and –
 - (a) Intentionally exceeded his powers;
 - (b) Made use of alcohol or drugs;
 - (c) Did not act in the course and scope of his employment;
 - (d) Acted recklessly or intentionally;
 - (e) Without prior consultation with the State Attorney/any legal representative, made an admission that was detrimental to the State; or
 - (f) Failed to comply with or ignored standing instructions, of which he was aware of or could reasonably have been aware of, which led to the loss, damage or reason for the claim, excluding damage arising from the use of Jozini Municipality's vehicle; and
 - (g) In the case of a loss, damage or claim arising from the use of Jozini Municipality's vehicle, the official –
 - 1) used the vehicle without authorisation;
 - 2) did not possess a valid driver's licence or other appropriate licence;
 - 3) did not use the vehicle in the interest of Jozini Municipality;
 - 4) allowed unauthorised persons to handle the vehicle; or
 - 5) deviated materially from the official journey or route without prior authorisation.
 - (ii) If in doubt, the Accounting Officer must consult the Corporate Services of Jozini Municipality.
 - (iii) Where an official has forfeited his cover in terms of the preceding paragraph, the amount paid by Jozini Municipality for the loss, damage or claim arising from an act or omission must be recovered from the official concerned.
 - (iv) The Corporate Services of Jozini Municipality may only commit/obligate Jozini Municipality's funds with the prior written approval of the Accounting Officer.
- (c) Claims by Jozini Municipality Against Other Persons
- (i) If Jozini Municipality suffers a loss or damage and the other person denies liability, the Accounting Officer must, if deemed economical, refer the matter to the Corporate

Services of Jozini Municipality for legal action, including the recovery of the value of the loss or damage.

- (d) Claims by Officials Against Jozini Municipality
 - (i) If an official sustains a loss or damage in the execution of official duties and is not compensated, the Accounting Officer may make good the loss or damage provided that the official can prove such loss or damage.
- (e) Losses or Damages Through Criminal Acts or Omissions
 - (i) When it appears that Jozini Municipality has suffered losses or damages through criminal acts or possible criminal acts or omissions, the matter must be reported, in writing, to the Accounting Officer and the South African Police Service. If liability can be determined, the Accounting Officer must recover the value of the loss or damage from the person responsible.
 - (ii) The Accounting Officer may write off losses or damages arising from criminal acts or omissions if, after a thorough investigation, it is found that the loss or damage is irrecoverable.
 - (iii) When movable assets are written off, this must be noted in the asset register.
- (f) Losses and Damages Through Viz Major and Other Unavoidable Causes
 - (i) The Accounting Officer may write off losses and damages that result from viz major and other unavoidable causes.
- (g) Losses or Damages Through Acts Committed or Omitted by Officials
 - (i) Losses or damages suffered by Jozini Municipality because of an act committed or omitted by an official, must be recovered from such an official if that official is liable in law.
 - (ii) The Accounting Officer must determine the amount of the loss or damage and, in writing, request that official to pay the amount within 30 days or in reasonable instalments. If the official fails to comply with the request, the matter must be handed to the legal expert/State Attorney for the recovery of the loss or damage.
 - (iii) A claim against an official must be waived if the conditions in paragraph (a) – (g) – **“Claims against Jozini Municipality through acts or omissions”** above are not applicable.
 - (iv) If in doubt, the Accounting Officer must consult the Corporate Services of Jozini Municipality.
- (h) Anti-Corruption and Fraud Prevention Plan

- (i) Jozini Municipality's Internal Audit Department is responsible to establish an anti-corruption and fraud prevention policy and plan, and this plan shall be used to manage all risks associated with the SCM system.
- (ii) Confidential reporting of potential bridges, fraud and corruption shall be reported to the Jozini Municipality's Risk Committee.
- (iii) Jozini Municipality may also utilise the Kwazulu Natal Provincial Government Anti-Fraud and Anti-Corruption Hotline – 0800 63 63 63.

(l) Guarantees

- (i) Performance guarantees should be commensurate with the degree of contractual risk which Jozini Municipality is exposed to.
- (ii) In cases of large and complex contracts, Jozini Municipality should consider calling for bid guarantees to prevent the submission of irresponsible bids.
- (iii) Performance guarantees should spread the cost of the risk of failure between the contracting parties and should be set at such a level that all Jozini Municipality's costs relating to such failure are likely to be recovered.
- (iv) It would be prudent to make adequate provision in all engineering and construction work contracts to ensure that monies are available to rectify defects.
- (v) Performance bonds in engineering and construction works contracts should be waived in low value, low risk contracts or where a third party carries the risk of failure in an acceptable manner.

41. SCM Performance management

- (1) The Accounting Officer must establish and implement an 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 objectives of this Policy were achieved.
- (2) Supply chain performance is a monitoring process during which a retrospective analysis is undertaken to determine whether the prescribed SCM processes are being followed and whether the desired objectives are achieved.
- (3) The following are the 2 areas which Jozini Municipality should monitor:
 - (a) SCM policy and processes - a performance management system must be developed to measure and monitor the SCM policy and process and ascertain whether government's objectives and targets have been achieved.
 - (b) Provider's performance - the performance management system also requires that all contractors' performance must be monitored and assessed during the contract period.

A. Monitoring of the SCM Policy and Process

- i) The Accounting Officer must develop reporting mechanisms that will enable him to determine whether proper SCM processes have been followed and whether the desired objectives and targets have been achieved.
- ii) The Accounting Officer must ensure that Jozini Municipality's implementation of SCM processes are in line with National Treasury's implementation plan.
- iii) The National Treasury's process of monitoring the implementation of supporting regulations and standards should also be used as a benchmark.
- iv) Jozini Municipality should also use its performance measurement system for officials as a tool for evaluating its performance on SCM activities.
- v) The performance management system shall accordingly focus on, amongst others:
 - (a) Measure performance in terms of achievement of Jozini Municipality goals;
 - (b) Measure compliance with norms and standards;
 - (c) Determine savings generated;
 - (d) Determine cost variance per item to indicate the premium paid for promoting preferential objectives;
 - (e) Identify any breach of contract;
 - (f) Determine cost efficiency of the acquisition process;
 - (g) Determine whether SCM objectives are consistent with Government's broader policy focus;
 - (h) Determine whether the principles of co-operative governance as expounded in the Constitution are observed;
 - (i) Evaluate whether the reduction of regional economic disparities is promoted;
 - (j) Establish any non-compliance with contractual conditions and requirements; and
 - (k) Assess the efficiency of stores.

B. Contractor Assessment

- i) Jozini Municipality must ensure that the performance of all contractors is assessed during the period of contract as stipulated in the Section on Contract Management.
- ii) At the completion stage of the project/contract, an assessment of the contractor must be undertaken and this assessment should be available for future reference.
- iii) The reliability of the contractor should be monitored in terms of, among others:
 - (a) Price;
 - (b) Financial stability;
 - (c) Response time;
 - (d) Technical competence;
 - (e) Creativity and innovation;
 - (f) After delivery services;
 - (g) Quality;

- (h) Accuracy of delivery i.e. quantity;
 - (i) Reliability; and
 - (j) Flexibility.
- iv) Contractors must be systematically monitored for performance against the same criteria as those used in the registration process for the prospective provider database or the criteria set in the specification/terms of reference, where applicable. In other words was the contractor (chosen from a providers' database or a bidding process) able to perform according to the contract conditions.
 - v) When contractors do not perform according to the contractual obligations and Jozini Municipality does not address the matter during the execution of the contract, such non-performance cannot be deemed as sound reasoning for passing over the bid of such contractor when evaluating future bids.
 - vi) Jozini Municipality must keep a record of all instances of breach of contract and any actions taken against the contractor in prescribed format for future considerations and reporting purposes.

PART 4: OTHER MATTERS

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

- (1) No award above R30 000 may be made in terms of this Policy to a person whose tax matters have not been declared by the South African Revenue Service to be in order.
- (2) Before making an award to a person the Accounting Officer 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.

43. Prohibition on awards to persons in the service of the state

- (1) Irrespective of the procurement process followed, no award may be made to a person in terms of this Policy –
 - (a) who is in the service of the state;
 - (b) if that person is not a natural person, of which any director, Manager, principal shareholder or stakeholder is a person in the service of the state; or
 - (c) who is an advisor or consultant contracted with the municipality.

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

- (1) The Accounting Officer must ensure that the notes to the annual financial statements disclose particulars of any award of more than R2000 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.

45. Ethical standards

- (1) A code of ethical standards as set out in Annexure A to this Policy is hereby established for officials and other role players in the supply chain management system of the municipality in order to promote –
 - (a) mutual trust and respect; and
 - (b) an environment where business can be conducted with integrity and in a fair and reasonable manner.

46. Inducements, rewards, gifts and favours to municipalities, officials and other role players

- (1) No person who is a provider or prospective provider of goods or services, or a recipient or prospective recipient of goods disposed or to be disposed of may either directly or through a representative or intermediary promise, offer or grant –
 - (a) any inducement or reward to the 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 this Policy.
- (2) The Accounting Officer must promptly report any alleged contravention of subparagraph (1) to the National Treasury for considering whether the offending person, and any representative or intermediary through which such person is alleged to have acted, should be listed in the National Treasury's database of persons prohibited from doing business with the public sector.
- (3) Subparagraph (1) does not apply to gifts less than R350 in value.

47. Sponsorships

- (1) The Accounting Officer must promptly disclose to the National Treasury and the relevant provincial treasury any sponsorship promised, offered or granted, whether directly or through a representative or intermediary, by any person who is –
 - (a) a provider or prospective provider of goods or services; or
 - (b) a recipient or prospective recipient of goods disposed or to be disposed.

48. Objections and complaints

- (1) Persons aggrieved by decisions or actions taken in the implementation of this supply chain management policy, may lodge within 10 and 5 days in respect of projects with the value above R2m and value above R500 000 but less than R2m respectively, a written objection or complaint against the decision or action.

49. Resolution of disputes, objections, complaints and queries

- (1) The Accounting Officer must appoint an independent and impartial person, not directly involved in the supply chain management processes –
 - (a) to assist in the resolution of disputes between the municipality and other persons regarding -
 - (i) any decisions or actions taken in the implementation of the supply chain management system; or
 - (ii) any matter arising from a contract awarded in the course of the supply chain management system; or
 - (b) to deal with objections, complaints or queries regarding any such decisions or actions or any matters arising from such contract.
- (2) The Accounting Officer, or another official designated by the Accounting Officer, is responsible for assisting the appointed person to perform his or her functions effectively.
- (3) The person appointed must –
 - (a) strive to resolve promptly all disputes, objections, complaints or queries received; and
 - (b) submit monthly reports to the Accounting Officer on all disputes, objections, complaints or queries received, attended to or resolved.
- (4) A dispute, objection, complaint or query may be referred to the relevant provincial treasury if –
 - (a) the dispute, objection, complaint or query is not resolved within 30 days; or
 - (b) no response is forthcoming within 30 days.
- (5) If the provincial treasury does not or cannot resolve the matter, the dispute, objection, complaint or query may be referred to the National Treasury for resolution.
- (6) This paragraph must not be read as affecting a person's rights to approach a court at any time.

50. Contracts providing for compensation based on turnover

- (1) If a service provider acts on behalf of a municipality to provide any service or act as a collector of fees, service charges or taxes and the compensation payable to the service provider is fixed as an agreed percentage of turnover for the service or the amount collected, the contract between the service provider and the municipality must stipulate:-
 - (a) a cap on the compensation payable to the service provider; and
 - (b) that such compensation must be performance based.

51. Commencement

This revised SCM Policy takes effect on 10 December 2012