

MNQUMA LOCAL MUNICIPALITY



SUPPLY CHAIN MANAGEMENT POLICY

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PREAMBLE

The policy was adopted by council in July 2012 in terms of Section 111 of the MFMA.

The aim of the review is to ensure that the policy is in line with the current legislation and to strengthen internal controls in terms of supply chain management processes.

Furthermore the policy will also inform the applicable SCM processes to contribute to the Local Economic Development of the Mquma area.

The goal of this Policy is to ensure sound, sustainable and accountable supply chain management with the Mquma Local Municipality whilst promoting black economic empowerment as a priority of Mquma Local Municipality.

OBJECTIVES

The objectives of this Policy are:

- [i] To give effect to section 217 of the Constitution of the Republic of South Africa, 1996;
- [ii] To implement a policy that is fair, equitable, transparent, competitive and cost effective;
- [iii] To comply with all applicable provisions of the Municipal Finance Management Act;
- [iv] To ensure consistency with all other applicable legislation, including:
 - the Preferential Procurement Policy Framework Act;
 - the Broad-Based Black Economic Empowerment Act;
 - the Construction Industry Development Board Act;
 - the Local Government : Municipal Systems Act; and
 - the Promotion of Administrative Justice Act.
- [v] This policy will also strive to ensure that the objectives for uniformity in supply chain management systems between organs of state in all spheres, is not undermined and that consistency with national economic policy on the promotion of investments and doing business with the public sector is maintained.

COMMENCEMENT AND REVIEW

This Policy is effective with effect from a date approved by Council.

APPLICATION OF THE POLICY

This Policy applies to the planning, acquisition, contracts management and disposal of all goods and services, construction works and consultancy services.

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 –

1.	<p>“allocation” in relation to a municipality means -</p> <p>[a] municipality's share of the local government's equitable share referred to in Section 214 (1) (a) of the Constitution;</p> <p>[b] an allocation of money to a municipality in terms of Section 214 (1) (c) of the Constitution;</p> <p>[c] an allocation of money to a municipality in terms of a provincial budget; or</p> <p>[d] any other allocation of money to a municipality by an organ of state, including by another municipality, otherwise than in compliance with a commercial or other business transaction.</p>
2.	<p>“bid” means a written offer or bid in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of services or goods.</p>
3.	<p>“competitive bidding process” means a competitive bidding process referred to in section 26 of this policy;</p>
4.	<p>“competitive bid” means a bid in terms of a competitive bidding process;</p>
5.	<p>“comparative price” means the price after the factors of a non-firm price and all unconditional discounts that can be utilised have been taken into consideration.</p>
6.	<p>“consortium or joint venture” means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity necessary for the execution of a contract.</p>
7.	<p>“contract” means the agreement that results from the acceptance of a bid by the Municipality.</p>
8.	<p>“control” the possession and exercise of legal authority and power to manage the assets, goodwill and daily operations of a business and the active and continuous expertise of appropriate managerial authority and power in determining the policies and directing the operations of the business.</p>
9.	<p>“councillor” means a member of a municipal council.</p>
10.	<p>“disability” means, in respect of a person, a permanent impairment of a physical, intellectual, or sensory function, which results in restricted or lack of ability to perform an activity in the manner or within the range considered normal for a human being.</p>

11.	"district municipality" means a municipality that has municipal executive and legislative authority in an area that includes more than one municipality and which is described in section 155(1) of the Constitution as a category "C" municipality.
12.	"employer" means The Mngquma Municipality.
13.	"end user" means a person who initiates the process of acquisition management and also plays a very important role during the evaluation process.
14.	"executive mayor" means an executive mayor elected in terms of section 55 of the Municipal Structures Act, Act 32 of 1998.
15.	"final award", in relation to bids or quotations submitted for a contract, means the final decision on which bid or quote to accept;
16.	"firm price" is the price that is only subject to adjustments in accordance with the actual increase or decrease resulting from the change, imposition, or abolition of customs or excise duty and any other duty, levy or tax which in terms of a law or regulation is binding on the contractor and demonstrably has an influence on the price of any supplies, or the rendering costs of any service, for the execution of the contract.
17.	"formal written price quotation" means quotations referred to in section 24 of this policy;
18.	"fruitless and wasteful expenditure" means expenditure that was made in vain and would have been avoided had reasonable care been exercised.
19.	"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;
20.	"irregular expenditure" in relation to a municipality or municipal entity, means (a) expenditure incurred by a municipality or municipal entity in contravention of, or that is not in accordance with, a requirement of the Act, and which has not been condoned in terms of section 170 thereof; (b) expenditure incurred by a municipality or municipal entity in contravention of, or that is not in accordance with, a requirement of the Municipal Systems Act, and which has not been condoned in terms of that Act; (c) expenditure incurred by a municipality in contravention of, or that is not in accordance with a requirement of the Remuneration of Public Office-Bearers Act, 1998 (Act No. 20 of 1998); or (d) expenditure incurred by a municipality or municipal entity in contravention of, or that is not in accordance with, a requirement of the supply chain management policy of the municipality or entity or any of the municipality's by-laws giving effect to such policy, and which has not been condoned in

	terms of such policy or by-law.
21.	"local municipality" means a municipality that shares municipal executive and legislative authority in its area with a district municipality within whose area it falls and which is described in section 155(1) of the Constitution as a category "B" municipality.
22.	"long term contract" means a contract with a duration period exceeding one year;
23.	"list of accredited prospective providers" means the list of accredited prospective providers which a municipality or municipal entity must keep in terms of section 21 of this policy;
24.	"management" in relation to an enterprise or business, means an activity inclusive of control and performed on a daily basis, by any person who is a principal executive officer of the company, by whatever name that person may be designated, and whether or not that person is a director.
25.	"municipal council or council" means a municipal council referred to in section 157(1) of the Constitution, 1996.
26.	"municipality" when referred to as – [a] an entity, means a municipality as described in the definitions section, and [b] a geographic area, means a municipal area determined in terms of the Local Government: Municipal Demarcation Act, 1998 (Act No. 27 of 1998)
27.	"municipal manager" means a person appointed by the Municipality in terms of section 82 of the Municipal Structures Act and who is the head of administration and also the accounting officer for the Municipality.
28.	"municipal structure act" means the Local Government : Municipal Structures Act, 1998 (Act No. 117 of 1998).
29.	"municipal systems act" means the Local Government : Municipal Systems Act, 2000 (Act No. 32 of 2000).
30.	"non-firm prices" means all prices other than "firm" prices.
31.	"organ of state" means an organ of state as defined in section 239 of the Constitution.

32.	<p>“other applicable legislation” means any other legislation applicable to municipal supply chain management, including –</p> <p>(a) the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000);</p> <p>(b) the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003); and</p> <p>(c) the Construction Industry Development Board Act, 2000 (Act No.38 of 2000);</p>
33.	<p>“own” having all the customary incidents of ownership, including the right of disposition, and sharing in all the risks and profits commensurate with the degree of ownership interest, as demonstrated by an examination of the substance, rather than the form of ownership arrangements.</p>
34.	<p>“person” includes reference to a juristic person.</p>
35.	<p>“privileged or confidential information” means any information:</p> <p>a) determined by the bid specification, evaluation or adjudication committee to be privileged or confidential;</p> <p>b) discussed in close sessions by any of the bid committees;</p> <p>c) disclosure of what would violate a person’s right to privacy;</p> <p>d) declared to be privileged, confidential or secret in terms of any legislative framework.</p>
36.	<p>“rand value” means the total estimated value of a contract in Rand denomination which is calculated at the time of bid invitations and includes all applicable taxes and excise duties.</p>
37.	<p>“regulation” means any clause contained in the Municipal Supply Chain Management Regulations published in terms of Section 168 of the MFMA. PPPFA Regulations Published..... CIDB Regulations Published.....</p>
38.	<p>“service providers”</p> <p>a) “Professional Service Provider”:</p> <p>Any person or body corporate that is under contract to the Employer for the provision of Professional Services.</p> <p>b) “General Service Provider”:</p> <p>Any person or body that is under contract to the Employer for the provision of any type of service.</p>
39.	<p>“SMMs” means a separate and distinct business entity, including cooperative enterprises and non-governmental Organizations, managed by one owner or more which, including its branches or subsidiaries, if any, is predominantly carried on in any sector or sub-sector of the economy.</p>
40.	<p>“sub-contracting” means the primary contractor’s assigning or leasing or making out work to, or employing, another person to support such primary contractor in the execution of part of a project in terms of the contract.</p>
41.	<p>“supply chain manager” means an official appointed by the Mquma Municipality to fulfill a vital role in the implementation, the monitoring and the continued application of the Mquma Municipality Supply Chain Management Policy.</p>

42.	"the Act" means the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003).
43.	"the constitution" means the Constitution of the Republic of South Africa Act, 1996 (Act No. 109 of 1996).
44.	"treasury guidelines" means any guidelines on supply chain management issued by the Minister in terms of section 168 of the Act;
45.	<p>"unauthorised expenditure" in relation to a municipality, means any expenditure incurred by a municipality otherwise than in accordance with Section 15 or 11(3) of the Act.</p> <p>(a) overspending of the total amount appropriated in the municipality's approved budget;</p> <p>(b) overspending of the total amount appropriated for a vote in approved budget;</p> <p>(c) expenditure from a vote unrelated to the department of functional area covered by the vote;</p> <p>(d) expenditure of money appropriated for a specific purpose, otherwise than for that specific purpose;</p> <p>(e) spending of an allocation referred to in paragraph (b), (c) or (d) of the definition of "allocation" otherwise than in accordance with any condition of the allocation; or</p> <p>(f) a grant by the Municipality otherwise than in accordance with this Act.</p>
46.	"written or verbal quotations" means quotations referred to in section 23 of this policy.

**CHAPTER 1
EMPOWERMENT GOALS**

1. **INTRODUCTION**

In the preamble of the MNQUMA MUNICIPALITY Supply Chain Management Policy it is stated that "the Supply Chain Management Policy seeks to ensure sound, sustainable and accountable supply chain management within the Mngquma Local Municipality whilst promoting black economic empowerment as a priority of Mngquma LM.

2. This policy applies to all elements of SCM from Demand, Acquisition, Logistics, Risk, Supply Chain Performance and Disposal management in respect of all goods and services of MLM. Processes and mechanisms are detailed in the SCM procedures.

CHAPTER 2
ESTABLISHMENT AND IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT
POLICY

Supply chain management policy

3. (1) The MNQUMA MUNICIPALITY resolves in terms of section 111 of the MFMA Act to have and implement a supply chain management policy that –
- (a) gives effect to –
 - (i) section 217 of the Constitution; and
 - (ii) Part 1 of Chapter 11 and other applicable provisions of the Act;
 - (b) is fair, equitable, transparent, competitive and cost effective;
 - (c) complies with –
 - (i) the regulatory framework prescribed in Chapter 2 of the Regulations; and
 - (ii) any minimum norms and standards that may be prescribed in terms of section 168 of the Act;
 - (d) is consistent with other applicable legislation;
 - (e) does not undermine the objective for uniformity in supply chain management systems between organs of state in all spheres; and
 - (f) is consistent with national economic policy concerning the promotion of investments and doing business with the public sector.
4. The MNQUMA MUNICIPALITY may not act otherwise than in accordance with this supply chain management policy when–
- (a) procuring goods or services;
 - (b) disposing of goods no longer needed;
 - (c) selecting contractors to provide assistance in the provision of municipal services otherwise than in circumstances where Chapter 8 of the Municipal Systems Act applies; or
 - (d) selecting external mechanisms referred to in section 80 (1) (b) of the Municipal Systems Act for the provision of municipal services in circumstances contemplated in section 83 of that Act.

Delegation of supply chain management powers and duties

5. (1) The MNQUMA MUNICIPALITY hereby delegates such additional powers and duties to the accounting officer so as 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) the supply chain management policy;
- (b) to maximise administrative and operational efficiency in the implementation of the supply chain management policy;
 - (c) to enforce reasonable cost-effective measures for the prevention of fraud, corruption, favoritism and unfair and irregular practices in the implementation of the supply chain management policy; and
 - (d) 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 subdelegation of powers and duties delegated to an accounting officer in terms of sub-section(1) of this policy.
 - (3) The council or accounting officer may not delegate or subdelegate any supply chain management powers or duties to a person who is not an official of the MNQUMA MUNICIPALITY or to a committee which is not exclusively composed of officials of the MNQUMA MUNICIPALITY;
 - (4) This section may not be read as permitting an official to whom the power to make final awards has been delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in *section 33* of this policy.

Subdelegations

- 6. (1) The accounting officer may in terms of section 79 or 106 of the Act subdelegate any supply chain management powers and duties, including those delegated to the accounting officer in terms of this policy, but any such subdelegation must be consistent with subsection (2) and *section 5* of this policy.
- (2) The power to make a final award –
 - (a) above R2 001 below R200 000(VAT included) may be subdelegated by the accounting officer to ;
 - (i) the chief financial officer;
- (3) An official or bid adjudication committee to which the power to make final awards has been subdelegated in accordance with this policy must within ten days of the end of each month submit to the official referred to in subsection (4) of this policy a written report containing particulars of each final award made by such official or committee during that month, including–
 - (a) the amount of the award;
 - (b) the name of the person to whom the award was made; and
 - (c) the reason why the award was made to that person.

- (5) Subsections (3) of this policy do not apply to procurements out of petty cash.
- (6) This section may not be interpreted as permitting an official to whom the power to make final awards has been subdelegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in section 33 of this policy.
- (7) No supply chain management decision-making powers may be delegated to an advisor or consultant.

Oversight role of council

- 7. (1) The council must maintain oversight over the implementation of this supply chain management policy.
- (2) For the purposes of such oversight the accounting officer must –
 - (a) (i) within 10 working days of the end of each month, submit a report on the implementation of the supply chain management policy of the municipality to the Executive Mayor of the municipality and on ward transmission to council quarterly,
 - (ii) whenever there are serious and material problems in the implementation of the Supply Chain Management Policy, immediately submit a report to the council of the municipality.
- (3) The reports must be made public in accordance with section 21A of the Municipal Systems Act.

Supply chain management unit

- 8. (1) The accounting officer must establish a supply chain management unit to implement this supply chain management policy.
- (2) The supply chain management unit must, where possible, operate under the direct supervision of the chief financial officer or an official to whom this duty has been delegated in terms of section 82 of the Act.

Training of supply chain management officials

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

CHAPTER 3 CONCEPT OF SUPPLY CHAIN MANAGEMENT

10. Supply chain management defined

SCM involves the management of working capital that is invested in goods, stores and services with the objective of optimizing the economic return on such investment. The process begins when the needs are identified during the strategic planning phase of the organisation when service delivery targets are identified, to the point of finally disposing of an asset.

11. Objectives of supply chain management

As a concept, Supply Chain Management has the following broad objects:

- Promoting uniformity in the processes relevant to the repealing of bid board legislation in the various spheres of government and devolving the responsibility and accountability for procurement-related functions to accounting officers/authorities.
- Promoting uniformity in the various spheres of government in the interpretation of government's preferential procurement legislation and policies, also in the context of other broad-based but related legislative and policy requirements of government.
- Replacing the outdated procurement and provisioning practices in government with a supply chain management function and a systematic competitive procedure for the appointment of consultants as an integral part of financial management in government that conforms to internationally accepted best practice principles.
- Introducing parameters for the promulgation of a regulatory framework in terms of the PFMA and MFMA to ensure compliance to minimum norms and standards, but in such a manner that the principles of co-operative governance are observed.
- Give effect to the provisions of the Constitution
- Give effect to the provisions of the MFMA and PFMA
- Transform procurement and provisioning practices into an integrated SCM function
- Introduce a systematic approach for the appointment of consultants
- Create an understanding of Governments preferential procurement policy objectives
- Make significant improvement to financial management
- Promote consistency in respect of supply chain policy and other related policy initiatives
- Adheres to international best practices.

12. Improving accountability

The MFMA aims to improve accountability by placing responsibility for decisions in the heads of each accounting officer, and by ensuring that there is support from National Treasury, for example in the form of "best practice" guidelines, to assist managers in delivering services to communities as efficiently and effectively as possible.

The accountability chain is the most critical driver for improving financial management in the public sector. The Annual Report and the report of the Auditor-General will indicate achievement against the intentions specified in each municipality's or municipal entity's Integrated Development Plan (IDP) and may highlight areas that require improvement.

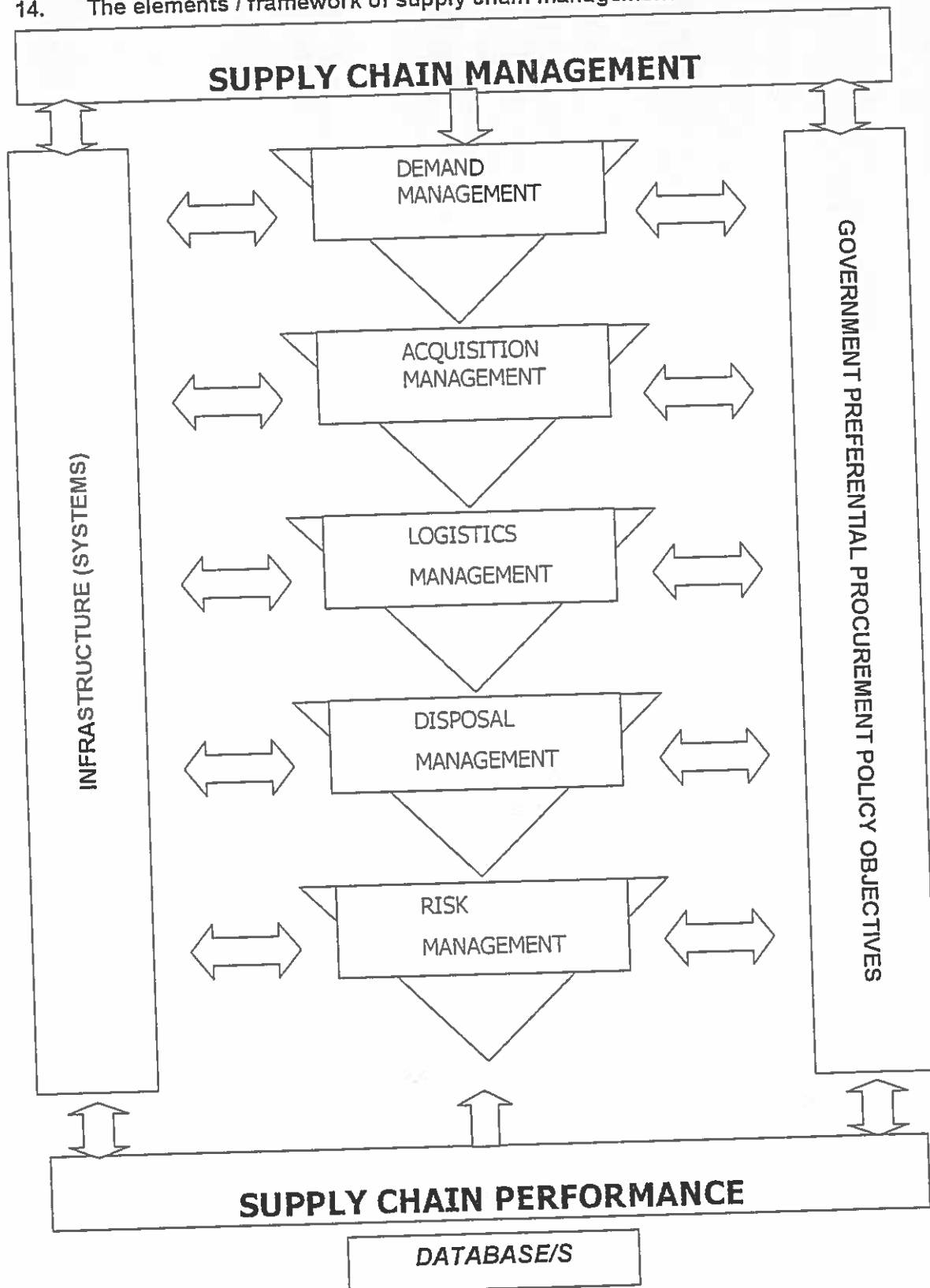
A particular requirement of the MFMA is that each accounting officer undertakes a "risk assessment" for his or her municipality or municipal entity. Risk management acknowledges that all the activities of an organization involve some element of risk. Management should decide what is an acceptable level of risk (given cost and other social factors), by objectively assessing the factors (risks) that may prevent a particular activity from meeting its objective. In the case of SCM, this will include ensuring – on a case-by-case basis – that in unambiguous contract documents, or that guarantees or insurance arrangements are in place (managers must manage!).

In addition, the award and management of contracts is an area where fraud and corruption has been found in the past, and the Institution's Fraud Prevention Plan should reflect this, through cost-effective use of control measures and procedures and an ethical culture.

13. Good governance

In order to achieve the ideals of good corporate governance and to address deficiencies in SCM, fundamental institutional reforms will have to be implemented. Such reforms need to promote efficient and effective procurement and provisioning systems and practices that enable municipalities/municipal entities to deliver the required quality and quantity of services to its clients. The establishment of uniformity in procedures, policies, documentation and contract options and the implementation of sound systems of control and accountability should form the cornerstone of institutional reform.

14. The elements / framework of supply chain management



This supply chain management policy provides systems for –

- (i) demand management;
- (ii) acquisition management;
- (iii) logistics management;
- (iv) disposal management;
- (v) risk management; and
- (vi) performance management.

14.1 Demand management

This is the beginning of the supply chain, and must begin with a needs assessment, to ensure:

- that goods or services are required in order to deliver the agreed service;
- that specifications are precisely determined;
- that requirements are linked to the budget; and
- that the supplying industry has been analyzed.

This phase will bring the supply chain practitioner close to the end user, to ensure that value for money is achieved. This policy provides for an effective system of demand management in order to ensure that the resources required to support the strategic and operational commitments of the municipality, are delivered at the correct time, at the right price and at the right location, and that the quantity and quality satisfy the needs of the municipality.

14.2 Acquisition management

It is the management of procurement by a municipality:

- to decide on the manner in which the market will be approached;
- to establish the total cost of ownership of a particular type of asset;
- to ensure that bid documentation is complete, including evaluation criteria;
- to evaluate bids in accordance with published criteria; and
- that proper contract documents are signed.

14.3 Logistics management

This aspect addresses the setting of inventory levels, placing of orders, receiving and distribution of material and goods, stores, warehouse and transport management, expediting orders, the review of vendor performance, maintenance and contract administration. From these processes, the financial system is activated to generate payments.

14.4 Disposal management

A supply chain management policy must provide for an effective system of disposal management for the disposal or letting of assets no longer needed, including unserviceable, redundant or obsolete assets, subject to sections 14 and 90 of the MFMA.

At this stage, consideration must be given to:

- obsolescence planning;
- maintaining a data base of redundant material;
- inspecting material for potential re-use;
- determining a disposal strategy; and
- executing the physical disposal process.

14.5 Risk management

A supply chain management policy must provide for an effective system of risk management for the identification, consideration and avoidance of potential risks in the supply chain management system. Risk management must include:

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

14.6 Performance management

This is a monitoring process, undertaking a retrospective analysis to determine whether the proper processes have been followed and whether the desired objectives were achieved. Some of the issues that may be reviewed are:

- compliance to norms and standards;
- cost efficiency of procurement process (i.e. the cost of the process itself); and
- whether supply chain practices are consistent with Government's broader policy focus.

Five pillars of procurement

15. (1) Value for money

The term "value for money" includes the monetary value as well as the quality and the utilisation of the procurement system to achieve government's policy objectives (see the Regulations pertaining to the PPPFA). Due consideration should, however, be given to the quality of goods required, the time to administrate the process, and the cost effectiveness of the ensuing contracts. This is an essential test against which a municipality or municipal entity must justify a procurement outcome.

(2) Open and effective competition

The pillar of public sector procurement requires the following:

- (i) A framework of procurement laws, policies, practices and procedures that is transparent; in other words they must be readily accessible to all parties;
 - (ii) Openness in the procurement process;
 - (ii) Encouragement of effective competition through procurement methods suited to market circumstances; and
 - (iv) Observance of the provisions of the PPPFA.
- (3) Ethics and fair dealing

All parties involved in procurement should comply with the following ethical standards:

- (i) Deal with each other on a basis of mutual trust and respect; and
 - (ii) Conduct their business in a fair and reasonable manner and with integrity,
- (4) Accountability and reporting

This involves ensuring that individuals and organizations are answerable for their plans, actions and outcomes. Openness and transparency in administration, by external scrutiny through public reporting, is an essential element of accountability

- (5) Equity

The word "equity" in the context of the five pillars of public sector procurement means the application and observance of government policies that are designed to advance persons or categories of persons disadvantaged by unfair discrimination. This fifth pillar is vital to public sector procurement in South Africa. It ensures that Government is committed to economic growth by implementing measures to support the industry in general. No public procurement system should be operated if it is not founded on this pillar.

CHAPTER 4 DEMAND MANAGEMENT

System of demand management

16. (1) The accounting officer must establish, through operational procedures, an effective system of demand management in order to ensure that the resources required to support the strategic and operational commitments are delivered at the correct time, at the right price and at the right location, and that the quantity and quality satisfy the needs.

This is the beginning of the supply chain where the following functions should take place.

The objective is to ensure that the resources required to fulfil the needs identified in the Integrated Development Plan (IDP) are delivered at the correct time, price and place, and that the quantity and quality will satisfy those needs.

Resources required for the fulfillment of the municipality's obligations will be clearly analysed. This includes a detailed analysis of the goods, works and services required.

The Demand Management Process

17. (2) The following key elements of the demand management process will be undertaken:

- SCM integration in the strategic planning process;
- Understanding the future needs;
- Identifying critical delivery dates;
- The frequency of need;
- Linking the requirement to the budget;
- Undertaking an expenditure analysis (based on past expenditures);
- Compiling of specifications;
- Undertaking a commodity analysis (checking for alternatives);
- Undertaking a market/industry analysis; and
- Providing regular feedback to and from the roleplayers.

This is a cross-functional exercise that brings the supply chain practitioner closer to the end user and ensuring that value for money is achieved.

Strategy For Achieving The Preferential Procurement Policy Framework Act (PPPFA) Objectives And Linking The System To Black Economic Empowerment (BEE) Objectives

18. In order to achieve the objectives as stated in the preamble of the Policy, the municipality will use the public sector SCM system as a tool to achieve the BEE objectives/goals. This will be achieved within the prescribed framework of the PPPFA and its Regulations.

CHAPTER 5
ACQUISITION MANAGEMENT

System of acquisition management

19. (1) The accounting officer must establish, through operational procedures, an effective system of acquisition management in order to ensure –
- (a) that goods and services are procured by the municipality in accordance with authorised processes only;
 - (b) that expenditure on goods and services is incurred in terms of an approved budget in terms of section 15 of the Act;
 - (c) that the threshold values for the different procurement processes are complied with;
 - (d) that bid documentation, evaluation and adjudication criteria, and general conditions of a contract, are in accordance with any applicable legislation; and
 - (e) that any Treasury guidelines on acquisition management are properly taken into account.
- (2) This supply chain management policy, except where provided otherwise in the policy, does not apply in respect of the procurement of goods and services contemplated in section 110(2) of the Act, including –
- (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.
- (3) The following information must be made public wherever goods or services contemplated in section 110(2) of the Act are procured other than through the supply chain management system –
- (a) the kind of goods or services; and
 - (b) the name of the supplier.

20. Range of procurement processes

STRUCTURE OF APPROVAL		
GOODS/SERVICE VALUE	PROCUREMENT METHOD MINIMUM	APPROVAL AUTHORITY
R0 – R2 000	One Quotation	Chief Financial Officer
R2 001 – R10 000	Three Quotations	Chief Financial Officer
R10 001 – R30 000	Three Quotations	Chief Financial Officer
R30 001 – R200 000	1 Week Bulletin Notice and Advertisement via Website : Three Quotations	Accounting Officer
R200 001 – R2 Million	Competitive Bidding Process	Accounting Officer
R2 Million – R10 Million	Competitive Bidding Process	Accounting Officer
Above R10 Million	Competitive Bidding Process	Accounting Officer

- (1) The procurement of goods and services through this policy is provided by way of –
- (a) petty cash purchases, up to a transaction value of R2 000 (VAT included);
 - (b) written or verbal quotations for procurements of a transaction value over R2 000 up to R10 000 (VAT included);
 - (c) formal written price quotations for procurements of a transaction value over R10 000 up to R200 000 (VAT included); and
 - (d) a competitive bidding process for–
 - (i) procurements above a transaction value of R200 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 subsection (1); or,
 - (b) direct that –
 - (i) written or verbal quotations be obtained for any specific procurement of a transaction value lower than R2 000;

- (ii) formal written price quotations be obtained for any specific procurement of a transaction value lower than R10 000; or
 - (iii) a competitive bidding process be followed for any specific procurement of a transaction value lower than R200 000.
- (3) Goods or services may not deliberately be split into parts or items of a lesser value merely to avoid complying with the requirements of the policy. When determining transaction values, a requirement for goods or services consisting of different parts or items must as far as possible be treated and dealt with as a single transaction.

General preconditions for consideration of written quotations or bids

21. A written quotation or bid may not be considered unless the provider who submitted the quotation or bid –
- (a) has furnished that provider's –
 - (i) full name;
 - (ii) identification number or company or other registration number, and
 - (iii) tax reference number and VAT registration number, if any;
 - (b) has authorised MNQUMA MUNICIPALITY to obtain a tax clearance from the South African Revenue Services that the provider's tax matters are in order; 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 subsection (ii) is in the service of the state, or has been in the service of the state in the previous twelve months.

Lists of accredited prospective providers

22. (1) The accounting officer must –
- (a) keep a list of accredited prospective providers of goods and services that must be used for the procurement requirements of the MNQUMA MUNICIPALITY 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 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.
- disallow the listing of any prospective provider whose tax clearance certificate has expired or not valid.
- (f) disallow the listing of any prospective provider who is in the service of the state.

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

Petty cash purchases

23. The accounting officer must establish the conditions for the procurement of goods by means of petty cash purchases referred to in section 19 (1) (a) of this policy, which must include conditions –
- (a) determining the terms on which a manager may delegate responsibility for petty cash to an official reporting to the manager;
 - (b) limiting the number of petty cash purchases or the maximum amounts per month for each manager;
 - (c) excluding any types of expenditure from petty cash purchases, where this is considered necessary; and
 - (d) requiring monthly reconciliation reports from each manager to the chief financial officer, including –
 - (i) the total amount of petty cash purchases for that month; and
 - (ii) receipts and appropriate documents for each purchase.

Written or verbal quotations

24. The accounting officer must establish the conditions for the procurement of goods or services through written or verbal quotations, which must include conditions stating –
- (a) that quotations must be obtained from at least three different providers preferably from, but not limited to, providers whose names appear on the list of accredited prospective providers of the municipality or municipal entity, provided that if quotations are obtained from providers who are not listed, such providers must meet the listing criteria in the supply chain management policy required by section 21(1)(c) and (d) of this policy;
 - (b) that, to the extent feasible, providers must be requested to submit such quotations in writing;

- (d) that if it is not possible to obtain at least three quotations, the reasons must be recorded and reported quarterly to the accounting officer or another official designated by the accounting officer;
- (e) that the accounting officer must record the names of the potential providers requested to provide such quotations with their quoted prices; and
- (f) that if a quotation was submitted verbally, the order may be placed only against written confirmation by the selected provider.

Formal written price quotations

25. (1) The accounting officer must establish the conditions for the procurement of goods or services through formal written price quotations, which must include conditions stating –
- (a) that quotations must be obtained in writing from at least three different providers whose names appear on the list of accredited prospective providers of the municipality;
 - (b) that quotations may be obtained from providers who are not listed, provided that such providers meet the listing criteria in the supply chain management policy required by section 21(1)(c) and (d);
 - (c) that if it is not possible to obtain at least three quotations, the reasons must be recorded and approved by the chief financial officer or an official designated by the chief financial officer, and
 - (d) that the accounting officer must record the names of the potential providers and their written quotations.
- (2) A designated official referred to in subsection (1)(c) must within three days of the end of each month report to the chief financial officer on any approvals given during that month by that official in terms of that subsection.

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

26. (1) The accounting officer must determine the operational procedure for the procurement of goods or services through written or verbal quotations or formal written price quotations, which must stipulate–
- (a) that all requirements in excess of R30 000 (VAT included) that are to be procured by means of formal written price quotations must, in addition to the requirements of section 24, be advertised for at least seven days on the website and an official notice board of the municipality;
 - (b) that when using the list of accredited prospective providers the accounting officer must promote ongoing competition amongst providers, including by inviting providers to submit quotations on a rotation basis;
 - (c) if there are frequent procurements of the same or similar goods or services, and where the amount per transaction is less than R200 000.00, then such procurements must be consolidated and a

single contract must be concluded after having followed a competitive bidding process;

- (c) that the accounting officer must take all reasonable steps to ensure that the procurement of goods and services through written or verbal quotations or formal written price quotations is not abused;
 - (d) that the accounting officer or chief financial officer must on a monthly basis be notified in writing of all written or verbal quotations and formal written price quotations accepted by an official acting in terms of a subdelegation, and;
 - (e) requirements for proper record keeping.
- (2) With regard to the procurement of goods and services with a transaction value lower than R1 000 000 -
- (a) the procurement of goods and services between R0 and R30 000 falls within the scope of the heads of departments and Chief Financial Officer;
 - (b) the procurement of goods and services between R30 001 and R200 000 will be delegated by the accounting officer to the Chief Financial Officer (see Delegation Policy).
- (3) For purposes of the procurement of goods and services in terms of subsection 2 -
- (a) the regulation thereof will be assessed and monitored by the supply chain management unit to ensure alignment with the empowerment goals set out in Chapter 1
 - (b) the municipality shall establish a database of service providers and suppliers which must be updated annually whereupon preferred service providers and suppliers will be selected in terms of the empowerment goals set out in chapter 1.
 - (c) Three databases shall be established in terms of subsection 3 (b.), namely :
 - (i) General Services; and,
 - (ii) Professional Services;
 - (iii) Contractors Database.
 - (d) In order to be considered for listing on either of the databases referred to in subsection (c), a service provider or supplier must be produce proof of compliance with the following prerequisites :
 - (i) good standing in respect of :
 - (aa) ADM levies; and,
 - (bb) VAT and Income Tax; and,

- (ii) offices to be located within the jurisdiction of the MNQUMA MUNICIPALITY;
 - (iii) company registration in terms of the Companies Act, 1973; and,
 - (iv) registration with a professional body, where relevant;
- (e) the supply chain management policy unit must submit a quarterly report, including an analysis of the achievement of set goals.
- (v) the following prerequisites will apply in order to be considered for selection to be placed on the database:
 - (aa) current original certificate of good standing in terms of rates and Services of municipal accounts.
 - (bb) current original certificate of good standing in terms of VAT/Income Tax.
 - (cc) offices should preferably be in the jurisdiction of the MNQUMA MUNICIPALITY.
 - (dd) company registration with the registrar of businesses.
 - (ee) professional registration with a professional body where required.
 - (vi) Supply Chain Management unit will submit a quarterly report on the procurement of goods and services in this category. An analysis will be provided stating the achievement and/or failure in compliance with the set goals.

Competitive bidding process

27. (1) Goods or services above a transaction value of R200 000 (VAT included) and long term contracts may only be procured through a competitive bidding process, subject to section 18 (2) of this policy.
- (2) No requirement for goods or services above an estimated transaction value of R1 000 000 (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.

Process for competitive bidding

28. The accounting officer must prior making an invitation for tenders follow the following steps:
- (1) Properly plan for, and, as far as possible; accurately estimate the cost of the provision of services, works or goods for which an invitation for tenders is to made;
 - (2) determine and stipulate the appropriate preference point systems to be utilized in the evaluation and adjudication of the tenders; and

- (3) determine whether the services, works or goods for which an invitation for tenders is to be made has been designed for local production and content in terms of regulation 9.
- (4) The following procedures for a competitive bidding process for each stage must be adhered to:
- (a) the compilation of bidding documentation;
 - (b) the public invitation of bids;
 - (c) site meetings or briefing sessions, if applicable;
 - (d) the handling of bids submitted in response to public invitation;
 - (e) the evaluation of bids;
 - (f) the award of contracts;
 - (g) the administration of contracts; and
 - (h) proper record keeping.

Bid documentation for competitive bids

29. The accounting officer must establish the criteria to which bid documentation for a competitive bidding process must comply, which in addition to section 20 of this policy, the bid documentation must –
- (a) take into account –
 - (i) the general conditions of contract;
 - (ii) any Treasury guidelines on bid documentation; and
 - (iii) the requirements of the Construction Industry Development Board, in the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure;
 - (b) include evaluation and adjudication criteria, including any criteria required by other applicable legislation;
 - (c) compel bidders to declare any conflict of interest they may have in the transaction for which the bid is submitted;
 - (d) if the value of the transaction is expected to exceed R10 million (VAT included), require bidders to furnish–
 - (i) if the bidder is required by law to prepare annual financial statements for auditing, their audited annual financial statements –
 - (aa) for the past three years; or
 - (bb) since their establishment if established during the past three years;
 - (ii) a certificate signed by the bidder certifying that the bidder has no undisputed commitments for municipal services towards a municipality or other service provider in respect of which payment is overdue for more than 30 days;
 - (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 is expected to be transferred out of the Republic; and
- (e) stipulate that disputes must be settled by means of mutual consultation, mediation (with or without legal representation), or, when unsuccessful, in a South African court of law.

Bids exceeding R10 million

- (a) If the value of the transaction is expected to exceed R10 million (VAT included), then the bid documentation must stipulate that bidders are required to furnish—
 - (i) their audited annual financial statements if required by law to do so —
 - (aa) for the past three years; or
 - (bb) since their establishment, if established during the past three years,

in the event that the bidder is required by law to prepare annual financial statements for auditing;
 - (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; and
 - (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 is expected to be transferred out of the Republic.
- (b) The bid documentation must also 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.

Construction works

If the bid relates to construction works as contemplated by the Construction Industry Development Board Act then the requirements of that Act must be taken into account in the bid documentation.

Public invitation for competitive bids

30. (1) The accounting officer must determine the procedure for the invitation of competitive bids, which must stipulate that:
- (a) Any invitation to prospective providers to submit bids must be by means of a public advertisement in newspapers commonly circulating locally, the website of the municipality
 - (b) the information contained in a public advertisement, must include
 - (i) the closure date for the submission of bids, which may not be less than 30 days in the case of transactions over R10 million (VAT included), or which are of a long term nature, or 14 days in any other case, from the date on which the advertisement is placed in a newspaper, subject to subsection (2) of this policy; and
 - (ii) a statement that bids may only be submitted on the bid documentation provided by the municipality.
- (2) The accounting officer may determine a closure date for the submission of bids which is less than the 30 or 14 days requirement, but only if such shorter period can be justified on the grounds of urgency or emergency or any exceptional case where it is impractical or impossible to follow the official procurement process.
- (3) Bids submitted must be sealed.
- (4) Where bids are requested in electronic format, such bids must be supplemented by sealed hard copies.

Procedure for handling, opening and recording of bids

31. The accounting officer must determine the procedures for the handling, opening and recording of bids, which must :
- (a) stipulate that bids :
 - (i) must be opened only in public; and
 - (ii) must be opened at the same time and as soon as possible after the period for the submission of bids has expired;
 - (b) confer on any bidder or member of the public the right to request that the names of the bidders who submitted bids in time must be read out and, if practical, also each bidder's total bidding price; and
 - (c) require the accounting officer :
 - (i) to record in a register all bids received in time;
 - (ii) to make the register available for public inspection; and
 - (iii) to publish the entries in the register and the bid results on the website.

Negotiations with preferred bidders

32. (1) The accounting officer may negotiate the final terms of a contract with bidders identified through a competitive bidding process as preferred bidders, provided that such negotiation –
- (a) does not allow any preferred 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 must be kept for record purposes.

Two-stage bidding process

33. (1) A two-stage bidding process is allowed for –
- (a) large complex projects;
 - (b) projects where it may be undesirable to prepare complete detailed technical specifications; or
 - (c) long term projects with a duration period exceeding three 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.

Committee system for competitive bids

34. (1) The accounting officer is required to –
- (a) establish a committee system for competitive bids consisting of at least –
 - (i) a bid specification committee;
 - (ii) a bid evaluation committee; and
 - (iii) a bid adjudication committee;
 - (b) appoint the members of each committee, taking into account section 117 of the Act; and
 - (c) provide for an attendance or oversight process by a neutral or independent observer, appointed by the accounting officer, when this is appropriate for ensuring fairness and promoting transparency.
- (2) The committee system must be consistent with –
- (a) sections 34, 35 and 36 of this policy; and
 - (b) any other applicable legislation.

- 3) The accounting officer may apply the committee system to formal written price quotations.

A member of a bid committee may not be a member of any other bid committee to ensure segregation of duties.

Bid specification committees

35. (1) The bid specification committee must compile the specifications for each procurement of goods or services by the municipality.
- (2) Specifications –
 - (a) must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services;
 - (b) must take account of any accepted standards such as those issued by Standards South Africa, the International Standards Organisation, or an authority accredited or recognised by the South African National Accreditation System with which the equipment or material or workmanship should comply;
 - (c) where possible, be described in terms of performance required rather than in terms of descriptive characteristics for design;
 - (d) 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;
 - (e) 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 words "equivalent";
 - (f) must indicate each specific goal for which points may be awarded in terms of the points system set out in terms of the Preferential Procurement Policy Framework Act, 2000; and
 - (g) must be approved by the accounting officer prior to publication of the invitation for bids in terms of section 29 of this policy.
- (3) The bid specification committee must be composed of one or more officials of the municipality, preferably the manager responsible for the function involved, and may, when appropriate, include external specialist advisors.
- (4) No person, advisor or corporate entity involved with the bid specification committee, or director of such a corporate entity, may bid for any resulting contracts.

Bid evaluation committees

36. (1) The bid evaluation committee must –
 - (a) evaluate bids in accordance with –

- (i) the specifications for a specific procurement; and
 - (ii) the points system set out in terms of the Preferential Procurement Policy Framework Act, 2000;
- (b) evaluate each bidder's ability to execute the contract;
 - (c) check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not in arrears;
 - (d) submit to the adjudication committee a report and recommendations regarding the award of the bid or any other related matter.
- (2) The bid evaluation committee must as far as possible be composed of –
- (a) officials (technical experts) from departments requiring the goods or services;
 - (b) at least one supply chain management practitioner of the municipality to ensure compliance with SCM procedures.
- (3) Subject to subsection (2) :
- (a) the composition of the bid evaluation committee may change to accommodate different scenarios;
 - (b) members from the bid specification committee may also form part of the bid evaluation committee; and
 - (c) a member from the bid evaluation committee may present reports to the bid adjudication committee, but only as an advisor.

Bid adjudication committees

37. (1) The bid adjudication committee must –
- (a) consider the report and recommendations of the bid evaluation committee; and make a recommendation to the accounting officer to make the final award; or
 - (ii) make another recommendation to the accounting officer how to proceed with the relevant procurement.
- (2) The bid adjudication committee must consist of at least four senior managers of the municipality which must include –
- (i) the chief financial officer as a Chairperson;
 - (ii) the senior manager responsible for the bid or another manager reporting directly to that senior manager;
 - (ii) a technical expert in the relevant field who is an official, if such an expert exists.
- (3) If the chairperson is absent from a meeting, the members of the committee who are present must elect one of them to preside at the meeting.

- (4) Neither a member of a bid evaluation committee, nor an advisor or person assisting the evaluation committee, may be a member of a bid adjudication committee.
- (5) (a) If the bid adjudication committee decides to recommend a bid other than the one recommended by the bid evaluation committee, the bid adjudication committee must prior to the recommendation of the bid –
 - (i) check in respect of the preferred bidder whether that bidder's municipal rates and taxes and municipal service charges are not in arrears, and;
 - (ii) notify the accounting officer.
- (b) The accounting officer may –
 - (i) after due consideration of the reasons for the deviation, appoint or reject the decision of the bid adjudication committee referred to in subsection (a); and
- (6) 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.
- (7) The accounting officer must comply with section 114 of the Act within 10 working days.

Evaluation panel

- 38. In respect of functionality, with regard to professional services, the accounting officer may evaluate each technical bid/proposal using an evaluation panel consisting of three or more specialists in their field of expertise. In view of impartiality, members of bid committees in respect of the bid under consideration should not act as panel members.

Bid administration section

- 39. (1) The accounting officer shall establish a bid administration section in the SCM unit of the municipality to handle all the administrative tasks pertaining to the bidding process.
- (2) The duties of the officials in this section shall entail, inter alia:
 - (a) the invitation for bids;
 - (b) the opening of bids on the closing date;
 - (c) the processing of the bid documents;
 - (d) consultation; and,
 - (e) the submission of a recommendation by the bid evaluation committee to the bid adjudication committee.

Advisors

40. The accounting officer may procure the services of advisors to assist in the execution of the supply chain management function. In this regard:
- (a) these services must be obtained through a competitive bidding process;
 - (b) no advisor may, participate in the final decision-making process regarding the award of bids; and,
 - (c) the accounting officer may not delegate decision-making authority to an advisor.

Preference points system, evaluation of bids, awarding of bids not scoring highest points, cancellation and re-invitation of bids. These points will be applicable for the evaluation of selling and letting of assets

41. The 80/20 preference point system

- (1) The following formula must be used to calculate the points for price in respect of bids/procurement with a Rand value equal to, or above R30 000 and up to a Rand value of R1 000 000:

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

Where

Ps = Points scored for price of bid under consideration

Pt = Rand value of offer bid consideration

Pmin = Rand value of lowest acceptable bid

- (2) Municipality may apply the following formula in clause 41(1) for price quotations with a value less than R1 000 000 if and when appropriate

B-BBEE Status Level of Contributor	No of Points
1	20
2	18
3	16
4	12
5	8
6	6
7	4
8	2
Non-compliant contributor	0

- (3) A Maximum of 20 points must allocated in accordance with clause 41(2)
- (4) The points scored by the tenderer in respect of B-BBEE contribution contemplated in clause 41(2) must be added to the points scored for price as calculated in accordance with clause 41(1)
- (5) Bid with the highest number of points scored may be selected subsequent to that bids that did not score the highest points can also be awarded

42. The 90/10 preference point system

- (1) The following formula must be used to calculate the points for price in respect of bids/procurement with a Rand value above R1 000 000:

$$P_s = 90 \left(1 + \frac{P_t - P_{min}}{P_{min}} \right)$$

Where

P_s = Points scored for price of bid under construction

P_t = Rand value of bid under consideration

P_{min} = Rand value of lowest acceptable bid

- (2) Municipality may apply the following formula in paragraph for price quotations above R1 000 000 if and when appropriate

B-BBEE Status Level of Contributor	No of Points
1	10
2	9
3	8
4	5
5	4
6	3
7	2
8	1
Non-compliant contributor	0

- (3) A Maximum of 10 points must be allocated in accordance with clause 42(2)
- (4) The points scored by the tenderer in respect of B-BBEE contribution contemplated in clause 42(2) must be added to the points scored for price as calculated in accordance with clause 41(1)
- (5) Bid with the highest number of points scored may be selected subsequent to that bids that did not score the highest points can also be awarded

Stipulation of preference point system to be used

43. The municipality shall, in the bid documents, stipulate the preference point system which will be applied in the adjudication of bids.

Evaluation of bids on functionality and price

44. (1) The municipality must, in the bid documents, indicate if, in respect of a particular bid invitation, bids will be evaluated on functionality and price.
- (2) The total combined points allowed for functionality and price may, in respect of bids with an estimated Rand value equal to, or below, R1 000 000, not exceed 80 points.
- (3) The total combined points allowed for functionality and price may, in respect of bids with an estimated Rand value above R1 000 000, not exceed 90 points.
- (4) When evaluating the bids contemplated in this item, the points for functionality must be calculated for each individual bidder.
- (5) The conditions of bid may stipulate that a bidder must score a specified minimum number of points for functionality to qualify for further adjudication.

(6) The points for price, in respect of a bid which has scored the specified number of points contemplated in subsection (5) must, subject to the application of the evaluation system for functionality and price contemplated in this section, be established and be calculated in accordance with the provisions of sections 41 and 42.

(7) Only the bid with the highest number of points scored may be selected.

No tender must be regarded as an acceptable tender if it fails to achieve the minimum qualifying score for functionality as indicated in the tender invitation.

(5) Tenders that have achieved the minimum qualification score for functionality must be evaluated further in terms of the preference point systems prescribed in sections 43 and 44.

Broad –based black economic empowerment status

45.

- (1) Tenderers with the total revenue of R 10m or less qualify as exempted micro enterprises (EME's) in terms of the Broad –Based Black Economic Empowerment Act and submit a certificate issued by a registered auditor, Accounting Officer or an accredited verification agency
- (2) The submission of such certificates must comply with the requirements of instructions and guidelines issued by the National Treasury and in accordance with notices published by the Department of Trade and Industry in the government
- (3) The B-BBEE status level attained by the tenderer must be used to determine the number of points contemplated in regulations.
- (4) Only a tenderer who has completed and signed the declaration part of the tender documentation may be considered
- (5) A Municipality must when calculating comparative process take into account any discounts which have been offered unconditionally
- (6) A discount which has been offered conditionally must despite not being taken into account for evaluation purposes, be implemented when payment is effected
- (7) Points scored must be rounded off to the nearest 2 decimal points
- (8) In the event that two or more tenders have scored equal total points, the successful tender must be the one scoring the highest number of preference points for B-BBEE
- (9) However, when functionality is part of the evaluation process and two or more tenders scored equal points including equal preference points for B-BBEE, the successful tender must be the one scoring the highest score for functionality
- (10) Should two or more tenders be equal in all respects; the award shall be decided by the drawing of lots
- (11) A trust, consortium or joint venture will qualify for points for their B-BBEE status level as a legal entity; provided that the entity submits their B-BBEE status level certificate
- (12) A trust, consortium or joint venture will qualify for points for their B-BBEE status level as an unincorporated entity provided that the entity submits their

- consolidated B-BBEE scorecard as if they were a group structure and that such a consolidated B-BBEE scorecard is prepared for every separate tender
- (13) A person must not be awarded points for B-BBEE status level if it is indicated in the tender documents that such a tenderer intends sub-contracting more than 25% of the value of the contract to any other enterprise that does not qualify for at least the points that such a tenderer qualifies for unless the intended sub-contractor is an exempted micro enterprise that has the capability and ability to execute the sub-contract.
 - (14) A person awarded a contract may not sub-contract more than 25% of the value of the contract to any other enterprise that does not have equal or higher B-BBEE status level than the person concerned; unless the contract is sub-contracted to an exempted micro enterprise that has the capability and ability to execute the sub-contract
 - (15) A person awarded a contract in relation to a designated sector; may not sub-contract in such a manner that the local production or content of the overall value of the contract is reduced to below the stipulated minimum threshold
 - (16) When a Municipality is in need of the a service provided by only tertiary institution ;such services must be procured through a tendering process from the identified tertiary institution
 - (17) Tertiary institution referred above will be required to submit their B-BBEE status in terms of the specialized scorecard contained in the B-BBEE code of Good Practice

Award of contract to bid not scoring the highest number of points

46. Despite subsections 41(4), 42(4), 43(4), and 44(4) a contract may, on reasonable and justifiable grounds, be awarded to a bid that did not score the highest number of points.

Cancellation and re-invitation of bids

47. (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 R1 000 000, 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 R1 000 000, the bid must be cancelled.
- (3) When the municipality cancels a bid invitation as stated above, a re-invitation of bids will be published and the bid document must stipulate the preference point system to be applied.
- (4) The municipality may, prior to the award of a bid, cancel a bid if:
 - (a) due to changed circumstances, there is no longer need for the goods or services bided for; or
 - (b) funds are no longer available to cover the total envisaged expenditure; or

- (c) no acceptable bids are received.

General Conditions

48. (1) Only a bidder who has completed and signed the declaration part of the bid documentation may be considered for preference points.
- (2) The municipality may, before a bid is adjudicated or at any time, require a bidder to substantiate claims it has made with regard to preference.
- (3) The municipality must, when calculating comparative prices, take into account any discounts which have been offered unconditionally.
- (4) A discount which has been offered conditionally must, despite not being taken into account for evaluation purposes, be implemented when payment is effected.
- (5) In the event that different prices are tendered for different periods of a contract, the price for each period must be regarded as a firm price if it conforms to the definition of a "firm price".
- (6) Points scored, must be rounded off to the nearest 2 decimals.
- (7) In the event that two or more bids have scored equal total points, the successful bid must be the one scoring the highest number of preference points for specified goals. Should two or more bids be equal in all respects, the award shall be decided by the drawing of lots.
- (8) The municipality must, when evaluating comparative prices for VAT vendors and non VAT vendors remove VAT from the tender offer of VAT vendor so that the financial offer can be evaluated on a comparative basis as a price advantage cannot be afforded to tenderers who are not VAT vendors.

Declarations

49. A bidder must, in the stipulated manner, declare that-
- (a) the information provided is true and correct;
 - (b) the signatory to the bid document is duly authorized; and
 - (c) Documentary proof regarding any bid will, when required, be submitted to the satisfaction of the municipality.

Procurement of banking services

50. (1) A contract for the provision of banking services to the municipality:
- (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 nine months before the end of an existing contract.
- (3) The closure date for the submission of bids may not be less than 60 days from the date on which the advertisement is placed in a newspaper in terms of section 29(1). Bids must be restricted to banks registered in terms of the Banks Act, 1990 (Act No. 94 of 1990).

Procurement of IT related goods or services

51. (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 disagree with such comments, the comments and the reasons for rejecting or not following such comments must be submitted to the council, the National Treasury, the provincial treasury and the Auditor General.

Procurement of catering services

52. (1) The caterer must be accredited by the relevant body or institution.
- (2) Caterers must be registered in the database annually
- (3) If catering services are required in an area where there are no registered catering service providers on the database, then the normal procurement process will apply.
- (4) The SCM Unit shall review the rates paid for catering services annually and make recommendations to the Accounting Officer.

Price listing for all catering should be as follows and not exceed the stipulated amounts

- Morning platter with tea/ coffee/ juice between R 50 – R85 per person
- Full lunch with one soft drinks between R 90 – R150 per person depending on the requirements of the menu
- Light lunch with one soft drink between R60 – R 85

- (5) Where the quoted price is the same for all bidders, a cater shall be selected on a rotation basis. Monitoring will be undertaken by the Supply Chain Management Unit by means of a consolidated register.

Procurement of Transport (Flights, Car Hire, Bus Hire, Taxi Hire, Shuttles), Accommodation (Hotels, Lodges, Bed and Breakfast, Self Catering apartments) and Conferences facilities/ venue hiring

53. (1) Transport, Accommodation and/or facilities for conferences, seminars, workshops, "lekgotlas" etc will be procured by means of a competitive bid processes.
- (2) Service providers will be invited annually through an expression of interest to register on the database of service providers/ suppliers for transport, accommodation and venue hiring. Additional providers may be included on an ad-hoc basis during the year.

Site inspections may be undertaken to ensure quality of services where required. Providers will not be allowed to be placed on the database should the quality of service be below the required standard.

Price negotiations will be undertaken by the relevant delegated official to ensure value for money.

Accommodation will be rated/ graded per order of preference based on price and bundle of services.

The Municipality has established a Travel Desk who will be responsible for the procurement of the above services.

Procurement of goods and services under contracts secured by other organs of state

54. (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.
- (2) Subsections (1)(c) and (d) do not apply if the municipality procures goods or services through a contract secured by a municipal entity of which it is the parent municipality.

Procurement of goods necessitating special safety arrangements

55. (1) The acquisition and storage of goods in bulk (other than water) which necessitate special safety arrangements, including gases 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.

Proudly SA Campaign

56. The accounting officer must determine internal operating procedures supporting the Proudly SA Campaign to the extent that preference is given, in the following order, to procuring local goods and services from suppliers and businesses located :
- (a) within the jurisdiction of the MNQUMA MUNICIPALITY;
 - (b) within the Eastern Cape Province;
 - (c) within the RSA.

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

57. (1) The accounting officer may –
- (a) Dispense with the official procurement processes established by this policy and to procure any required goods or services through any convenient process, which may include direct negotiations, but only –
 - (i) in an emergency;
 - (ii) if such goods or services are produced or available from a single provider only;
 - (iii) for the acquisition of special works of art or historical objects where specifications are difficult to compile;
 - (iv) acquisition of animals for zoos, nature reserves or game reserves; or
 - (v) in any other exceptional case where it is impractical or impossible to follow the official procurement processes; and
 - (b) ratify any minor breaches of the procurement processes by an official or committee acting in terms of delegated powers or duties which are purely of a technical nature.
- (2) The accounting officer must record the reasons for any deviations in terms of subsections (1)(a) and (b) of this policy and report them to the next meeting of the council and include as a note to the annual financial statements.
- (3) Subsection (2) does not apply to the procurement of goods and services contemplated in section 18(2) of this policy.

Unsolicited bids

58. (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 for, the municipality;
 - (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 subsection (2) of this policy, the decision must be made public in accordance with section 21A of the Municipal Systems Act, together with –
- (a) reasons as to why the bid should not be open to other competitors;
 - (b) an explanation of the potential benefits if the unsolicited bid were accepted; and
 - (c) an invitation to the public or other potential suppliers to submit their comments within 30 days of the notice.
- (4) All written comments received pursuant to subsection (3), including any responses from the unsolicited bidder, must be submitted 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 30 days of the submission.

CHAPTER 6 APPOINTMENT OF CONSULTANTS

Introduction

59. The purpose of this section is to explain the procedures for selecting, contracting, and monitoring consultants required for projects. In general, the procedures described in the previous sections apply. Only the peculiarities of appointing consultants are dealt with herein, as the services to which these procedures apply are of an intellectual and advisory nature.

Where a conflict in interpretation or application arises between the contents of this chapter and the provisions contained elsewhere in this policy, the latter shall prevail.

Consultants Defined

60. The term consultants includes consulting firms, engineering firms, construction managers, management firms, procurement agents, inspection agents, auditors, other multinational organizations, investment and merchant banks, universities, research agencies, government agencies, non-governmental organizations (NGO's), and individuals.

Accounting officers may use these organizations as consultants to help in a wide range of activities such as policy advice, accounting officer's/authority's reform management, engineering services, construction supervision, financial services, procurement services, social and environmental studies, and identification, preparation, and implementation of projects to complement accounting officers' capabilities in these area.

Need for appointment

61. Consultants should only be engaged when
- (a) the necessary skills and/or resources to perform a project/duty/study are not available; and
 - (b) the accounting officer cannot be reasonably expected either to train or to recruit people in the time available.

Nature of Appointment

62. (1) Appointment by means of a formal contract

The relationship between the accounting officer and the consultant should be one of purchaser/provider and not employer/employee.

The work undertaken for the accounting officer by a consultant should be regulated by a contract.

In procuring consulting services the accounting officer should satisfy himself/herself that

- (a) the procedures to be used will result in the selection of consultants who have the necessary professional qualifications;
- (b) the selected consultant will carry out the assignment in accordance with the agreed schedule, and
- (c) the scope of the services is consistent with the needs of the project.

(2) Selection methods for the appointment of consultants

The accounting officer should be responsible for preparing and implementing the project, for selecting the consultant, awarding and subsequently administering the contract, as well as for the payment of consulting services under the project.

While the specific rules and procedures to be followed for employing consultants depend on the circumstances of the particular case, at least the following four major considerations should guide the accounting officer on the selection process:

- (a) the need for high-quality services;
- (b) the need for economy and efficiency;
- (c) the need to give qualified consultants an opportunity to compete in providing the services; and
- (d) the importance of transparency in the selection process.

The particular method to be followed for the selection of consultants for any given project should be selected by the accounting officer in accordance with the criteria outlined in the Guide for accounting officers/authorities.

The method selection is determined by the scope of the assignment, the quality of service, the complexity of the assignment and whether assignments are of a standard and routine nature.

The following are the methods most generally used for the appointment of consultants:

(i) **Quality and Cost Based Selection (QCBS)**

In the majority of cases, the abovementioned major considerations can best be addressed through competition among firms in which the selection is based both on the quality of the services to be rendered and on the cost of the services to be provided, i.e. Quality and Cost-Based Selection (QCBS). This method is used in the event of an assignment not complex or specialized.

Cost as a factor of selection should be used judiciously.

The relative weight to be given to the quality and cost should be determined for each case depending on the nature of the assignment.

Investment and commercial banks, financial firms, and fund managers hired by accounting officer for the sale of assets, issuance of financial instruments, and other corporate financial transactions, notably in the context of privatization operations, should be selected under QCBS.

Auditors typically carry out auditing tasks under well-defined TOR and professional standards. They should be selected according to QCBS, with cost as a substantial selection factor (40-50 points), or by the "Least Cost Selection" outlined in paragraph 4.2.4. When consultants are appointed to execute an audit function on behalf of the accounting officer, the tariffs agreed by the Auditor-General and the South African Institute for Chartered Accountants (SAICA) may be used as a guideline to determine the appropriate tariff or to determine the reasonableness of the tariffs. These tariffs can be obtained from SAICA's website under www.saica.co.za. The tariffs are captured in a circular issued by SAICA.

In some circumstances, QCBS is not the most appropriate method for selecting consultants, and other methods are more appropriate. This section describes other selection methods and the circumstances under which they are generally appropriate.

(ii) **Quality Based Selection (QBS)**

(aa) QBS is appropriate for the following types of assignments:

(aaa) Complex or highly specialized assignments for which consultants are expected to demonstrate innovation in their proposals (for example, financial sector reforms) for which it is difficult to define TOR and the required input from the consultants, and for which the client expects the consultants to demonstrate innovation in their proposals (for example, country economic or sector studies, multi-sectoral feasibility studies, design of a hazardous waste remediation plant or of an urban master plan, financial sector reforms);

(bbb) Assignments that have a high downstream impact and in which the objective is to have the best experts (for example, feasibility and structural engineering design of such major infrastructure as large dams, policy studies of national significance, management studies of large government agencies); and

(ccc) Assignments that can be carried out in substantially different ways, such that proposals will not be

comparable (for example, management advice, and sector and policy studies in which the value of the services depends on the quality of the analysis).

(bb) In QBS, the RFP may request submission of a technical proposal only (without the financial proposal), or request submission of both technical and financial proposals at the same time, but in separate envelopes (two-envelope system). The RFP should not provide the estimated budget, but it may provide the estimated number of key staff time, specify that this information is given as an indication only, and that consultants should be free to propose their own estimates.

(cc) If technical proposals alone were invited, after evaluating the technical proposals using the same methodology as in QCBS, the accounting officer should request the consultant with the highest ranked technical proposal to submit a detailed financial proposal. The accounting officer and the consultant should then negotiate the financial proposal and the contract. All other aspects of the selection process should be identical to those of QCBS. If, however, consultants were requested to provide financial proposals initially together with the technical proposals, safeguards should be built in to ensure that the price envelope of only the selected proposal is opened and the rest returned unopened, after the negotiations are successfully concluded.

(iii) Selection under a fixed budget

The method is appropriate only when the assignment is simple and can be precisely defined and when the budget is fixed. The RFP should indicate the available budget and request the consultants to provide their best technical and financial proposals in separate envelopes, within the budget. The TOR should be particularly well prepared to ensure that the budget is sufficient for the consultants to perform the expected tasks. Evaluation of all technical proposals should be carried out first as in the QCBS method where after the price envelopes should be opened in public. Proposals that exceed the indicated budget should be rejected. The consultant who has submitted the highest ranked technical proposal should be selected and invited to negotiate a contract.

(iv) Least-cost selection

This method is more appropriate to selection of consultants for assignments of a standard or routine nature (audits, engineering design of noncomplex works, and so forth) where well-established practices and standards exist, and in which the contract amount is

small. Under this method, a "minimum" qualifying mark for the "functionality" is established. Proposals to be submitted in two envelopes are invited. Potential suppliers may be obtained from the list of approved service providers. Technical envelopes are opened first and evaluated. Those securing less than the minimum mark should be rejected and the financial envelopes of the rest are opened in public.

The firm with the highest points should then be selected. Under this method, the qualifying minimum mark should be established, keeping in view that all proposals above the minimum compete only on "cost" and promotion of HDI's and RDP objectives. The minimum mark to qualify should be stated in the RFP.

(v) **Single-source selection**

(aa) Single-source selection of consultants does not provide the benefits of competition in regard to quality and cost and lacks transparency in selection, and could encourage unacceptable practices. Therefore, single-source selection should be used only in exceptional cases. The justification for single-source selection should be examined in the context of the overall interests of the client and the project.

(bb) Single-source selection may be appropriate only if it presents a clear advantage over competition

(aaa) for tasks that represent a natural continuation of previous work carried out by the firm [see paragraph (iii) below];

(bbb) where rapid selection is essential (for example, in an emergency operation);

(ccc) for very small assignments; or

(ddd) when only one firm is qualified or has experience of exceptional worth for the assignment.

(cc) The reasons for a single-source selection must be recorded and approved by the accounting officer or his/her delegate prior to the conclusion of a contract.

(dd) When continuity for downstream work is essential, the initial RFP should outline this prospect and if practical, the factors used for the selection of the consultant should take the likelihood of continuation into account. Continuity in the technical approach, experience acquired, and continued professional liability of the same consultant may make continuation with the initial consultant preferable to a new competition, subject to satisfactory performance in the initial assignment. For such downstream assignments, the accounting officer should ask the initially selected consultant to prepare technical and financial proposals on

the basis of TOR furnished by the accounting officer, which should then be negotiated.

- (ee) If the initial assignment was not awarded on a competitive basis or was awarded under tied financing or reserved procurement or if the downstream assignment is substantially larger in value, a competitive process acceptable to the accounting officer should normally be followed in which the consultant carrying out the initial work is not excluded from the consideration if it expresses interest.

(vi) Selection based on consultants' qualifications

This method may be used for very small assignments for which the need for preparing and evaluating competitive proposals is not justified. In such cases, the accounting officer should prepare the TOR, request expressions of interest and information on the consultants' experience and competence relevant to the assignment and select the firm with the most appropriate qualifications and references. Potential suppliers may be obtained from the list of accredited service providers. The selected firm should be requested to submit a combined technical-financial proposal and then be invited to negotiate the contract.

(vii) Selection of individual consultants

- (aa) Individual consultants may normally be employed on assignments for which
 - (aaa) teams of personnel are not required;
 - (bbb) no additional outside (home office) professional support is required; and
 - (ccc) the experience and qualifications of the individual are the paramount requirement.
- (bb) When coordination, administration, or collective responsibility may become difficult because of the number of individuals, it would be advisable to employ a firm.
- (cc) Individual consultants should be selected on the basis of their qualifications for the assignment. They may be selected on the basis of references or through comparison of qualifications among those expressing interest in the assignment or approached directly by the accounting officer. Individuals employed by the accounting officer should meet all relevant qualifications and should be fully capable of carrying out the assignment. Capability is judged on the basis of academic background, experience and, as appropriate, knowledge of the local conditions,

such as local language, culture, administrative system, and local government environment.

- (dd) From time to time, permanent staff or associates of a consulting firm may be available as individual consultants. In such cases, the conflict of interest provisions described in these guidelines should apply to the parent firm.

(viii) Selection of particular types of consultants

(aa) Use of Non-Governmental Organisations (NGO's)

NGO's are voluntarily non-profit organizations that may be uniquely qualified to assist in the preparation, management, and implementation of projects, essentially because of their involvement and knowledge of local issues, community needs, and/or participatory approaches. NGO's may be included in the short list if they express interest and provided that the accounting officer is satisfied with their qualifications. For assignments that emphasise participation and considerable local knowledge, the short list may comprise entirely NGO's. If so, the QCBS procedure should be followed, and the evaluation criteria should reflect the unique qualifications of NGO's, such as voluntarism, non-profit status, local knowledge, scale of operation, and reputation. An accounting officer may select the NGO on a single-source basis, provided the criteria outlined for single-source selection are fulfilled.

(bb) Inspection agents

Accounting officers may wish to employ inspection agencies to inspect and certify goods prior to shipment or on arrival on the country. The inspection by such agencies usually covers the quality and quantity of the goods concerned and reasonableness of price. Inspection agencies should be registered with the South African National Accreditation System (SANAS) and the services of these inspection agents should be obtained by means of competitive bidding.

(cc) Banks

Investment and commercial banks, financial firms, and fund managers hired by accounting officers for the sale of assets, issuance of financial instruments and other corporate financial transactions, notably in the context of privatization operations, should be selected under QCBS. The RFP should specify selection criteria relevant to the activity – for example, experience in similar assignments or network of potential purchasers – and the cost of the

services. In addition to the conventional remuneration (called a "retainer fee"), the compensation includes a "success fee." This fee can be fixed, but is usually expressed as a percentage of the value of the assets or other financial instruments to be sold. The RFP should indicate that the cost evaluation will take into the success fee, either in combination with the retainer fee or alone. If alone, a standard retainer fee should be prescribed for all short-listed consultants and indicated in the RFP, and the financial scores should be based on the success fee as a percentage of a pre-disclosed notional value of the assets. For the combined evaluation (notably for large contracts), cost may be accorded as weight higher or the selection may be based on cost alone among those who secure a minimum passing mark for the quality of the proposal. The RFP should specify clearly how proposals will be presented and how they will be compared.

(dd) Auditors

Auditors typically carry out auditing tasks under well-defined TOR and professional standards. They should be selected according to QCBS, with cost as a substantial selection factor (40-50 points), or by the "Least-Cost Selection." When consultants are appointed to execute an audit function on behalf of the accounting officer, the tariffs agreed by the Auditor-General and the South African Institute for Chartered Accountants (SAICA) may be used as a guideline to determine the appropriate tariff or to determine the reasonableness of the tariffs. These tariffs can be obtained from SAICA's website under www.saica.co.za. The tariffs are captured in a circular issued by SAICA.

(ee) "Service Delivery Contractors"

Projects in the social sectors in particular may involve hiring of large numbers of individuals who deliver services on a contract basis (for example, social workers, nurses and paramedics). The job descriptions, minimum qualifications, terms of employment and selection procedures should be described in the project documentation.

(ix) Association between consultants

Consultants may associate with each other to complement their respective areas of expertise, or for other reasons. Such an association may be for the long term (independent of any particular assignment) or for a specific assignment. The association may take the form of a joint venture or a sub-

consultancy. In case of a joint venture, all members of the joint venture should sign the contract and are jointly and severally liable for the entire assignment. Once the bids or Requests for Proposals (RFP's) from service providers are issued, any association in the form of joint venture or sub-consultancy among firms should be permissible only with the approval of the accounting officer or his/her delegate. Accounting officers should not compel consultants to form associations with any specific firm or group of firms, but may encourage associations with the aim to enhance transfer of skills.

Invitation of Bids/Proposals, Using QCBS

63. Appointing consultants to assist accounting officers with the execution of their duties, implies the procurement of services. In all public sector procurement to the prescripts of the Preferential Procurement Regulations, 2001, must adhere to. These prescripts relate to the compulsory involvement of HDIs and the promotion of RDP goals.

(1) Request for bids

In the request for bids the following steps would generally be followed in appointing consultants where a clear Terms of Reference (TOR), including a detailed task directive has been compiled and the objectives, goals and scope of the assignment are clearly defined:

(a) Preparation of Terms of Reference (TOR)

- (i) The accounting officer should prepare the TOR. The scope of services described should be compatible with the available budget. The TOR should define as clearly as possible the task directive (methodology), objectives, goals and scope of the assignment and provide background information (including a list of existing relevant studies and basic data) to facilitate the consultants' preparation of their bids.
- (ii) If the assignment includes an important component for training or transfer of knowledge and skills, the TOR should indicate the objectives, nature, scope, and goals of the training programme, including details on trainers and trainees, skills to be transferred, time frames, and monitoring and evaluation arrangements to enable consultants to estimate the required resources. The TOR should list the services and surveys necessary to carry out the assignment and the expected outputs (for example reports, data, maps, surveys, etc), where applicable.
- (iii) Time frames linked to various tasks should be specified, as well as the frequency of monitoring actions. The

respective responsibilities of the accounting officer and the consultant should be clearly defined.

- (iv) A clear indication should be given of which preference point system in terms of the PPPFA and its associated Regulations will be applicable as well as the goals to be achieved and the points allocated for these goals.
- (v) Detailed information on the evaluation process should be provided by firstly indicating the ration of percentage between functionality and price. The percentage for price should be determined taking into account the complexity of the assignment and the relative importance of functionality. The percentage for price should normally be determined and approved by the accounting officer or his/her delegate prior to finalising the TOR.
- (vi) The evaluation criteria, their respective weights, the minimum qualifying score for functionality and the values that will be applied for evaluation should be clearly indicated. The evaluation criteria should include at least the following:
 - (aa) Consultant's relevant experience relevant to the assignment;
 - (bb) The quality of the methodology;
 - (cc) The qualifications of key personnel; and
 - (dd) The transfer of knowledge (where applicable).
- (vii) The accounting officer could divide these criteria into sub-criteria, for example, the sub-criteria under methodology might be innovation and level of detail. However, the number of sub-criteria should be kept to the essential.
- (viii) Preparation of a well-thought-through cost estimate is essential if realistic budgetary resources are to be earmarked. The cost estimate should be based on the accounting officer's assessment of the resources needed to carry out the assignment such as staff time, logistical support and physical inputs (i.e. vehicles, laboratory equipment, etc). The cost of staff time be estimated on a realistic basis for foreign and local personnel.
- (ix) The TOR should specify the validity period (normally 60 – 90 days).
- (x) In more complicated projects provision may also be made for pre-bid briefing sessions as part of the evaluation process.

- (xi) The TOR should form part of the standard bid documentation. At this stage the evaluation panel, consisting of least three members who are demographically representative in terms of race, gender and expertise, should also be selected and finalised.

(2) Request for proposals

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

(a) Preparation and issuance of a Request for Proposal (RFP)

When possible, accounting officers should include at least the following documents in the RFP:

(i) Letter of Invitation (LOI)

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

(ii) Information to Consultants (ITC)

Whenever possible, the accounting officer should use RFPs, which include the ITC covering the majority of assignments. The ITC should contain all necessary information that would assist consultants to prepare responsive proposals. It should be transparent and provide information on the evaluation process by indicating the evaluation criteria and factors and their respective weights and the minimum qualifying score that functionality. A clear indication should be given of which preference points system will be applicable in terms of the PPPFA and its regulations, as well as the goals to be targeted and the points allocated for each goal. The budget is not specified (since cost is selection criterion), but should indicated the expected input of key professionals (staff time). Consultants, however, should be free to prepare their own estimates of staff time necessary to carry out the assignment. The ITC should specify the proposal validity period (normally 60 – 90 days).

The ITC should include adequate information on the following aspects of the assignment:

- (aa) a very brief description of the assignment;
- (bb) standard formats for the technical and financial proposals;
- (cc) the names and contact information of officials to whom clarifications should be addressed and with whom the consultants' representative should meet, if necessary;
- (dd) details of the selection procedure to be followed, including:
 - (aaa) a description of the two-stage process, if appropriate;
 - (bbb) a listing of the technical evaluation criteria and weights given to each criterion;
 - (ccc) the details of the financial evaluation;
 - (ddd) the relative weights for quality and cost in the case of QCBS;
 - (eee) the minimum pass score for quality; and
 - (fff) the details on the public opening of financial proposals.
- (ee) an estimate of the level of key staff inputs (in staff-months) required of the consultants; and indication of minimum experience, academic achievement, and so forth, expected of key staff or the total budget, if a given figure can not be exceeded;
- (ff) information on negotiations; and financial and other information that should be required of the selected firm during negotiation of the contract;
- (gg) the deadline for submission of proposals;
- (hh) a statement that the firm and any of its affiliates should be disqualified from providing downstream goods, works or services under the project if, in the accounting officer's judgement, such activities constitute a conflict on interest with the services provided under the assignment;
- (ii) the method in which the proposal should be submitted, including the requirement that the technical proposals and price proposals be sealed and submitted separately in a manner that should ensure that the technical evaluation is not influenced by price;

- (jj) request that the invited firm acknowledges receipt of the RFP and informs the accounting officer whether or not it will be submitting a proposal;
- (kk) the short list of consultants being invited to submit proposals; and whether or not associations between short-listed consultants are acceptable;
- (ll) the period for which the consultants' proposals should be held valid (normally 60 – 90 days) and during which the consultants should undertake to maintain, without change, the proposed key staff, and should hold to both the rates and total price proposed; in case of extension of the proposal validity period, the right of the consultants not to maintain their proposal;
- (mm) the anticipated date on which the selected consultant should be expected to commence the assignment;
- (nn) a statement indicating all prices should be VAT inclusive;
- (oo) if not included in the TOR or in the draft contract, details of the services, facilities, equipment, and staff to be provided by the accounting officer;
- (pp) phasing of the assignment, if appropriate; and likelihood of follow-up assignments;
- (qq) the procedure to handle clarifications about the information given in the RFP; and
- (rr) any conditions for subcontracting part of the assignment.

Notes:

- (1) If under exceptional circumstances, the accounting officer needs to amend the standard ITC, it should do so through the technical data sheet and not by amending the main text.
- (2) Any granting of a substantial extension of the stipulated time for performance of a contract, agreeing to any substantial modification of the scope of the services, substituting key staff, waiving the conditions of a contract, or making any changes in the contract that would in aggregate increase the original amount of the contract by more than 15%

percent, will be subject to the approval of the accounting officer or his/her delegate.

(iii) The TOR

The TOR should be compiled by a specialist in the area of the assignment and the scope of services described should be compatible with the available budget. The TOR should define as clearly as possible the objectives, goals and scope of the assignment including background information to facilitate the consultant in the preparation of its proposal. The TOR should be compiled in such a manner that consultants are able to propose their own methodology and staffing and be encouraged to comment on the TOR on their proposal.

Depending on the circumstances, it may be indicated that proposals should be submitted in two separate clearly marked envelopes, one containing the technical proposal and the other the cost for the assignment.

In cases where pre-qualification/short-listing is required, the TOR should indicate the basis of pre-qualification/short-listing, for instance the number of minimum points to be scored to pre-qualify.

(iv) The proposed contract

Accounting officers should use the appropriate Standard Form of Contract issued by the National Treasury. Any changes necessary to address specific project issues should be introduced through Contract Data Sheets or through Special Conditions of Contract and not by introducing changes in the wording of the General Conditions of Contract included in the Standard Form. When these forms are not appropriate (for example, for pre-shipment inspection, training of students in universities), accounting officers should use other acceptable contract forms.

(3) Establishment of a list of approved service providers

- (a) Where consultancy services are required on a recurring basis, a panel of consultants/list of approved service providers for the rendering of these services may be established. The panels/lists should be established through the competitive bidding process, usually for services that are of a routine or simple nature where the scope and content of the work to be done can be described in detail.

(b) The intention to establish a panel/list of approved service providers is published in the media and on the municipality's or municipal entity's website and the closing time and date for inclusion in the panel/list of approved service providers should be indicated. For this purpose, a questionnaire should be made available and should make provision for the following:

- (i) composition of the firm in terms of shareholding;
- (ii) personnel complement;
- (iii) representation of expertise in respect of the disciplines required, e.g. accounting, legal, educational, engineering, computer, etc;
- (iv) national/international acceptability of experts in the various professions;
- (v) experience as reflected in projects already dealt with;
- (vi) and financial position.

Requirements for admission to the list and criteria should be linked to the numeric value in terms of which applicants will be measured, for example qualifications, experience, acceptability, facilities and resources etc. A pre-determined standard method of awarding points should be followed.

- (c) The applications received should be evaluated and any rejection of applicants should be motivated and recorded.
- (d) Once the panel/list of service providers has been approved, only the successful applicants are approached, depending on the circumstances, either by obtaining quotes on a rotation basis, or according to the bid procedure when services are required, with the exception that the requirement is not advertised again.
- (e) This list should be updated continuously, at least quarterly.

(4) Receipt of proposals

- (a) The accounting officer should allow enough time for consultants to prepare their proposals. The time allowed should depend on the assignment, but normally should not be less than four weeks or more than three months (for example, for assignments requiring establishment of a sophisticated methodology, preparation of a multidisciplinary master plan). During this interval, the firms may request clarification about the information provided in the RFP. The accounting officer should provide clarification in writing and copy them to all firms who intend to submit proposals. If necessary, the accounting officer should extend the deadline for submission of proposals. The technical and financial proposals should be submitted at the same time. No amendments to the technical or financial proposal should be accepted after the deadline. To safeguard the integrity of the process, the technical and financial proposals should be submitted in separate sealed

envelopes. The technical envelopes should be opened immediately after the closing time for submission of proposals. The financial proposals should remain sealed until they are opened publicly. Any proposal received after the closing time for submission of proposals should be returned unopened.

(b) Consultants' role

- (i) When consultants receive the RFP, and if they can meet the requirements of the TOR, and the commercial and contractual conditions, they should make the arrangements necessary to prepare a responsive proposal (for example, visiting the principal of the assignment, seeking associations, collecting documentation, setting up the preparation team). If the consultants find in the RFP documents – especially in the selection procedure and evaluation criteria – any ambiguity, omission or internal contradiction, or any feature that is unclear or that appears discriminatory or restrictive, they should seek clarification from the accounting officer, in writing, within the period specified in the RFP for seeking clarifications.
- (ii) In this connection, it should be emphasised that the specific RFP issued by the accounting officer governs each selection. If consultants feel that any of the provisions in the RFP are inconsistent with the prescripts of the Municipal Supply Chain Management Regulations and/or the PPPFA and its regulations, they should raise this issue with the accounting officer in writing.
- (iii) In connection, it should be emphasised that the specific RFP issued by the accounting officer governs each selection. If consultants feel that any of the provisions in the RFP are inconsistent with the prescripts of the Municipal Supply Chain Management Regulations and/or PPPFA and its regulations, they should raise this issue with the accounting officer in writing.
- (iv) Consultants should ensure that they submit a fully responsive proposal including all the supporting documents requested in the RFP. It is essential to ensure accuracy in the curricula vitae of key staff submitted with the proposals. The curricula vitae should be signed by the consultants and the individuals and dated. Non-compliance with important requirements should result in rejection of the proposal. Once technical proposals are received and opened, consultants should not be required nor permitted to change the substance, the key staff, and so forth. Similarly, once financial proposals are received, consultants should not be required or permitted to change the quoted fee and so forth, except at the time of

negotiations carried out in accordance with the provisions of the RFP.

(5) Evaluation of bids/proposals

- (a) Within the ambit of the Preferential Procurement Regulations, 2001. Bids/proposals for the appointment of consultants should be evaluated on the basis of functionality and price as well as the achievement of specified RDP goals. The evaluation should be carried out in two phases – first the functionality and then the price. The combined percentages allocated for functionality and price should total to 100%. The ratio to be used for the division between functionality and price should be determined and approved by the accounting officer and should be made known up-front in the bid documents. Score sheets should be prepared and provided to panel members to evaluate the bids on functionality. In view of impartiality, members of bid committees should not also act as panel members.

The score sheet should contain all the criteria and the weight for each criterion as indicated in the TOR as well as the values to be applied for evaluation. Each panel member should after thorough evaluation award his/her own value to every criterion without discussing any aspect of any bid with any of the other members. Under no circumstances may additional evaluation criteria be added to those originally indicated in the bid documentation nor may the evaluation criteria be amended or omitted after closing of the bid. Score sheets should be signed by panel members and if required, written motivation could be requested from panel members in the event of vast discrepancies in the value awarded for each criterion.

- (b) The evaluation of the proposals should be carried out in two stages: first the functionality (quality) and then the price.
- (c) The evaluation should be carried out in full conformity with the provisions of the RFP.
- (d) **Calculation of percentage for functionality**
- (i) Evaluators of technical proposals should not have access to the financial proposals until the technical evaluation is concluded. Financial proposals should be opened only after the technical and only in respect of those proposals that achieved the minimum qualifying score for functionality. In respect of functionality, the accounting officer/authority should evaluate each technical proposal (using an evaluation panel of three or more specialists in that field of expertise) in terms of the specified evaluation criteria that may include following:

- (aa) The consultant's relevant experience for the assignment;
 - (bb) The quality of the methodology proposed;
 - (cc) The qualifications of the key staff proposed; and
 - (dd) Transfer of knowledge.
- (ii) The accounting officer should normally divide these criteria into sub-criteria, for example, the sub-criteria under methodology might be innovation and level of detail.
 - (iii) More weight should be given to the methodology in the case of more complex assignments for example multidisciplinary feasibility or management studies.
 - (iv) Evaluation of only "key" personnel is recommended as they ultimately determine the quality of performance. More weight should be assigned to this criterion if the proposed assignment is complex. The accounting officer should review the qualifications and experience of proposed key personnel in their curricula vitae which should be accurate, complete and signed by an authorised official of the consultant and the individual proposed. When the assignment depends critically on the performance of key staff, such as a Project Manager in a large team of specified individuals, it may be desirable to conduct interviews. The individuals can be rated, among others, in the following sub-criteria as relevant to the assignment:
 - (aa) General qualifications: general education and training, length of experience, positions held, time with the consulting firm staff, and experience in developing countries;
 - (bb) Adequacy for the assignment: education, training and experience in that specific sector, field or subject relevant to the particular assignment; and
 - (cc) Experience in the region: knowledge of the local language, culture, administrative system, government organization, etc.
 - (v) Accounting officers should evaluate each proposal on the basis of its response to the TOR. A proposal should be rejected at this stage if it does not respond to important aspects of the TOR or it fails to achieve the minimum qualifying score for functionality as specified in the RFP.
 - (vi) At the end of the process, the accounting officer should prepare an evaluation report on the quality of the proposals. The report should substantiate the results of the evaluation and describe the relative strengths and

weaknesses of the proposals. All records relating to the evaluation such as individual score sheets should be retained until completion of the project and its audit.

- (vii) The percentage scored for functionality should be calculated as follows:

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

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

Where

Ps	=	percentage scored for functionality by bid/proposal under consideration
So	=	total score of bid/proposal under consideration
Ms	=	maximum possible score
Ap	=	percentage allocated for functionality

The percentages of each panel member should be added together and divided by the number of panel members to establish the average percentage obtained by each individual bidder for functionality.

After calculation of the percentage for functionality, the prices of all bids that obtained the minimum score for functionality should be taken into consideration.

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

(e) Calculation of percentage for price

- (i) For the purpose of evaluation, the price shall include all local taxes and other reimbursable expenses such as travel, translation, report printing or secretarial expenses. The proposal with the lowest price will obtain the maximum percentage for price as prescribed in RFP. Proposals with higher prices will proportionally obtain lower percentages according to the method as prescribed in the RFP.
- (ii) The percentage scored for price should be calculated as follows:

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

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

Where

Ps	=	percentage scored for price by under consideration
Pmin	=	lowest acceptable bid/proposal
Pt	=	price of bid/proposal under consideration
Ap	=	percentage allocated for price

(f) **Calculation of points for functionality and price**

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

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

(i) The 80/20 preference point system

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

(ii) The 90/10 preference point system

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

Where

Ps	=	points scored for functionality and price of the bid/proposal under consideration
Hs	=	highest percentage scored by any acceptable bidder for functionality and price
Rs	=	percentage scored for functionality and price by bid/proposal under consideration

Points scored for specified goals as contemplated by the PFFFA and its Regulations are then calculated separately and added to the points scored for price and functionality in order to obtain a final point. The contract should be awarded to the bidder scoring the highest points.

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

(g) **Negotiations and award of contract**

- (i) The Accounting Officer may negotiate the contract only with the preferred bidder identified by means of the competitive bidding process.
- (ii) Negotiations should include discussions of the TOR, the methodology, staffing, accounting officer's inputs, and special conditions of the contract. These discussions should not substantially alter the original TOR or the terms of the contract, lest the quality of the final product, its cost, and the relevance of the initial evaluation be affected. Major reductions in work inputs should not be made solely to meet the budget. The final TOR and the agreed methodology should be incorporated in "Description of Services," which should form part of the contract.
- (iii) The selected firm should not be allowed to substitute key staff, unless both parties agree that undue delay in the selection process makes such substitution unavoidable or that such changes are critical to meet the objectives of the assignment. If this is not the case and if it is established that key staff were offered in the proposal without confirming their availability, the firm may be disqualified and the process continued with the next ranked firm. The key staff proposed for substitution should have qualifications equal to or better than the key staff initially proposed.
- (iv) Financial negotiations should include clarification of the consultant's tax liability. Before the appointment is finalized, the consultant should submit an original tax clearance certificate to the accounting officer.
- (v) Proposed unit rates for staff-months and re-imbursables should not be negotiated, since these have already been a factor of selection in the cost of the proposal, unless there are exceptional reasons.
- (vi) If the negotiations fail to result in an acceptable contract, the accounting officer should terminate the negotiations. The original preferred consultant should be informed of the reasons for termination of the negotiations. Once negotiations are commenced with the next ranked firm, the accounting officer should not reopen the earlier negotiations. After negotiations are successfully completed, the accounting officer should promptly notify other firms that they were successful.

(h) **Contract award**

- (i) According to the prescripts of the PPFA and its Regulations, a contract may only be awarded to the bidder who scored the highest number number of points, unless objective criteria justify the award to another bidder. Should this be the case, the accounting officer should be able to defend the decision not to award the bid to the bidder who scored the highest number of positions in any court of law. It should be emphasized that not offering any contributions to prescribed goals as contemplated in the Preferential Procurement Regulations, 2001, does not disqualify a bidder. Under these circumstances a bidder will score no points for the specified goals.
- (ii) The accounting officer should award the contract, within the period of the validity of bids, to the bidder who meets the appropriate standards of capability and resources and whose bid has been determined:
 - (aa) to be substantially responsive to the bidding documents; and
 - (bb) to be the highest on points.
- (iii) A bidder should not be required, as a condition of award, to undertake responsibilities for work not stipulated in the bidding documents or otherwise to modify the bid as originally submitted.

(i) **Rejection of all proposals and re-invitation**

The accounting officer will be justified in rejecting all proposals only if all proposals are non-responsive and suitable, either because they present major deficiencies in complying with the TOR, or because they involve costs substantially higher than the original estimate. In the latter case, the feasibility of increasing the budget, or scaling down the scope of services with the firm should be investigated. The new process may include revising the RFP and the budget.

(6) Types of contracts

- (a) The relationship between the accounting officer and the consultant should be one of purchaser/provider and not employer/employee. The work undertaken for the accounting officer by a consultant should be regulated by a contract.
- (b) When appropriate, the accounting officer may include under the special conditions of contract, the following or similar condition:

"A service provider may not recruit or shall not attempt to recruit an employee of the principle for purposes of preparation of the bid

or for the duration of the execution of this contract or any part thereof.

- (c) The most common types of contract are:
- (i) **Lump Sum (Firm Fixed Price) Contract:** Lump sum contracts are used mainly for assignments in which the content and the duration of the services and the required output of the consultants are clearly defined. They are widely used for simple planning and feasibility studies, environmental studies, detailed design of standard or common structures, preparation of data processing systems, and so forth. Payments are linked to outputs (deliverables), such as reports, drawings, bills of quantities, bidding documents and software programmes. Lump sum contracts are easy to administer because payments are due on clearly specified outputs.
 - (ii) **Time-Based Contract:** This type of contract is appropriate when it is difficult to define the scope and the length of services, either because the services are related to activities by others for which the completion period may vary, or because the input of the consultants required to attain the objectives of the assignment is difficult to assess. This type of contract is widely used for complex studies, supervision of construction, advisory services, and most training assignments. Payments are based on agreed hourly, daily, weekly or monthly rates for staff (who are normally named in the contract) and on reimbursable items using actual expenses and/or agreed unit prices. The rates for staff include salary, social costs, overheads, fees (or profit), and, where appropriate, special allowances. This type of contract should include a maximum amount of total payments to be made to the consultants. This ceiling amount should include a contingency allowance for unforeseen work and duration and provision for price adjustments, where appropriate. Time-based contracts need to be closely monitored and administered by the client to ensure that the assignment is progressing satisfactorily and payments claimed by the consultants are appropriate.
 - (iii) **Retainer and/or Contingency (Success) Fee Contract:** Retainer and contingency fee contracts are widely used when consultants (banks or financial firms) are preparing companies for sales or mergers of firms, notably in privatisation operations. The remuneration of the consultant includes a retainer and a success fee, the latter being normally expressed as a percentage of the sale price of the assets.

- (iv) **Percentage Contract:** These contracts are commonly used for architectural services. They may be used for procurement and inspection agents. Percentage contracts directly relate the fees paid to the consultant to the estimated or actual project construction cost, or the cost of the goods procured or inspected. The contracts are negotiated on the basis of market norms for the services and/or estimated staff-month costs for the services, or competitive bid. It should be borne in mind that in the case of architectural or engineering services, percentages implicitly lack incentive for economic design and are hence discouraged. Therefore, the use of such a contract for architectural services is recommended only if it is based on a fixed target cost and covers precisely defined services (for example, not works supervision).
- (v) **Indefinite Delivery Contract (Price Agreement):** These contracts are used when accounting officers need to have "on call" specialised services to provide advice on a particular activity. These are commonly used to retain "advisers" for implementation of complex projects (for example, dam panel), expert adjudicators for dispute resolution panels, accounting officer reforms, procurement advice, technical troubleshooting, and so forth, normally for a period of a year or more. The accounting officer and the firm agree on the unit rates to be paid for the experts and payments are made on the basis of the time actually used.

(7) **Important provisions**

- (a) **Currency.** RFPs should clearly state that firms must express the price for their services, in Rand. If the consultants wish to express the price as a sum of amounts in different foreign currencies, they may do so, provided that the accounting officer/authority concurs with this practice and that the proposal includes no more than three foreign currencies outside the borders of South Africa. The accounting officer should require consultants to state the portion of the price representing local costs in Rand. Payment under the contract should be made in the currency or currencies expressed in the formal contract.
- (b) **Price Adjustment.** To adjust the remuneration for foreign and/or local inflation, a price adjustment provision should be included in the contract if its duration is expected to exceed 12 months. Exceptionally, contracts of shorter duration may include a provision for price adjustment when local or foreign inflation is expected to be high and unpredictable.
- (c) **Payment Provisions.** Payment provisions, including amounts to be paid, schedule of payments, and payments procedure, should be agreed upon during negotiations. Payments may be made at