REVISED
SUPPLY CHAIN MANAGEMENT POLICY FOR KOUGA LOCAL MUNICIPALITY

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KOUGA MUNICIPALITY
REVISED MUNICIPAL SUPPLY CHAIN MANAGEMENT POLICY
LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003

Date of adoption:

Council resolves in terms of section 111 of the Local Government Municipal Finance Management Act (No. 56 of 2003), to adopt the under-mentioned revised policy as the Supply Chain Management Policy of the municipality.

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1. Definitions

In this policy and any bid documentation or directive issued in terms thereof, the singular includes the plural and vice versa, any one gender includes both genders and, unless the context otherwise indicates, a word or expression to which a meaning has been assigned in the Municipal Finance Management Act has the same meaning as in this Act and -

Words importing the singular shall include the plural and vice versa and words importing the masculine gender shall include females and words importing persons shall include companies, close corporations and firms, unless the context clearly indicates otherwise.

Unless otherwise indicated, all amounts/limits stated in this document shall be deemed to be inclusive of all applicable taxes.

"Accounting Officer" means the manager of the municipal administration and accounting officer of the municipality appointed by the council in terms of section 54A of the Local Government: Municipal Systems Act No. 32 of 2000 and includes any employee of the municipality who acts in his stead and, in the event of the municipality being subject to an intervention in terms of section 139 of the Constitution or any other applicable law, includes the "Administrator" appointed as a consequence of such intervention or in terms of the conditions pertaining thereto;

"KLM" means Kouga Local Municipality, a municipality established in terms of the Municipal Structures Act, 1998, (Act 117 of 1998), any employee of KLM is acting in terms of the delegated authority.

"All applicable taxes" includes value-added tax, pay as you earn, income tax, skills development levies and unemployment insurance fund contributions.

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

"B-BBEE status level of contributor" means the B-BBEE status received by a measured entity based on its overall performance using the relevant scorecard contained in the Codes of Good Practice on Black Economic Empowerment.

"Bid" means a written offer in a prescribed or stipulated form in response to an invitation to bid issued by the municipality for the procurement of goods, services or works through price quotations, advertised competitive bidding processes, limited bids or proposals or for the disposal of assets and **"tender**" has a corresponding meaning.

"Bid Committees" means the committees established in terms of this policy to prepare bid specifications, bid documentation, evaluate responsive bids and, where so authorized, to adjudicate responsive bids and any reference in section 117 of the Municipal Finance Management Act to municipal tender committees shall be construed as a reference to the aforesaid committees.

"Bid documentation" means all documentation relating to or necessary in order to complete a procurement or disposal including but not limited to such specification, bidding, certification and contractual documentation as may be prescribed by National Treasury or the Construction Industry Development Board, as the case may be, for municipal supply chain management purposes and the implementation of this policy.

"Bidder" means any person who submits a bid or quotation to the municipality in response to an invitation to bid or quote and includes a **"tenderer'**.

"Bid rigging" means a prohibited collusive bidding practice in terms of which bidders that would normally be expected to compete in a procurement process either singularly or by association with other persons or firms in a horizontal relationship, secretly conspire to raise prices or lower the quality of goods and/or services or agree not to compete against each other in such process.

"Black people" is a generic term which means Africans, Colored's and Indians.

"Broad-Based Black Economic Empowerment Act" means the Broad-Based Black Economic Empowerment Act No. 53 of 2003.

"Chief Financial Officer" means the official of the municipality designated as such in terms of section 80(2)(a) of the Municipal Finance Management Act.

"CIDB" means the Construction Industry Development Board.

"CIDB regulations" means any regulations issued in terms of the Construction Industry Development Board Act No. 38 of 2000.

"Codes of Good Practice" means the Codes of Good Practice on Black Economic Empowerment issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act and contained in General Notice 12 of 9 February 2007.

"Comparative price" means the price after the factors of a non-firm price and all unconditional discounts that can be utilized, have been taken into consideration.

"Competitive bidding process" means a transparent procurement method in which bids from competing contractors, suppliers or vendors are invited by openly advertising the scope, specifications, terms and conditions of the proposed contract as well as the criteria by which responsive bids received will be evaluated.

"Competitive bid" means a bid in terms of a competitive bidding process.

"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 for the execution of a contract.

"Construction works" or **"works'** means the provision of a combination of goods and services arranged for the development, extension, installation, repair, maintenance, renewal, removal, renovation, alteration, dismantling or demolition of a fixed asset including building and engineering infrastructure.

"Contractor" means a person or body of persons who undertakes to execute and complete procured construction works for or on behalf of the municipality.

"Contract" means the agreement that results from the acceptance of a bid by the municipality in accordance with this policy.

"Council" means the council of Kouga Local Municipality.

"Day" unless expressly otherwise provided in this policy, means a calendar day, provided that when any particular number of days is prescribed for the doing of any act, or for any other purpose, the same shall be reckoned exclusively of the first and inclusively of the last day, unless the last day happens to fall on a Sunday or on any public holiday, in which case the time shall be reckoned exclusively of the first day and exclusively also of every such Sunday or public holiday;

"Delegating authority" means the council, a duly authorized political structure or office bearer thereof, the Accounting Officer or other employee to whom original powers are assigned in terms of legislation and, in relation to a sub-delegation of a power, that delegated body.

"Delegation" means the issuing of a written authorization by a delegating authority to a delegated body to act in his stead and, in relation to a duty, includes an instruction or request to perform or to assist in performing the duty and "delegate" and sub-delegate has a corresponding meaning.

"Delegated body" in relation to the delegation of a power means the person to whom a power has been delegated by the delegating authority in writing.

"Designated Official" means the official of the municipality to whom the accounting officer or the chief financial officer, as the case may be, have, in accordance with sections 79 and 82 of the Municipal Finance Management Act No. 56 of 2003 delegated or sub-delegated powers, functions and duties in connection with the application and implementation of this policy provided that a sub-delegation by the chief financial officer to an official that has not been allocated to him by the accounting officer or to a person contracted by the municipality for the work of its budget and treasury office may only be so authorized with the concurrence of the accounting officer and provided further that the said chief financial officer is satisfied that effective systems and procedures are in place to ensure control and accountability by the person concerned.

"Designated sector" means a sector, sub-sector or industry that has been designated by the Department of Trade and Industry in line with national development and industrial policies for local production, where only locally produced services, works or goods or locally manufactured goods meet the stipulated minimum threshold for local production and content.

"Disposal" means a process of preparing, negotiating and concluding a written contract relating to the alienation or a capital asset whether movable or immovable owned by or under the control of the municipality or rights in respect thereof, by means of a sale, lease, donation or cession and **"dispose of"** has a similar meaning.

"Final award" in relation to bids or quotations submitted for a contract, means the final decision on which a bid or quote was accepted.

"Firm price" means the price that is only subject to adjustments in accordance with the actual increase or decrease resulting from the change, imposition, or abolition of

customs or
excise duty and any other duty, levy or tax which, in terms of any applicable 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 a contract.

"Formal written price quotations" means quotations referred to in paragraph 12 (1) (c) of this policy.

"Fronting" means a deliberate circumvention or attempted circumvention of the "Broad-Based Black Economic Empowerment Act and the Codes of Good Practice.

"Head of Department or Director" means a senior manager as defined in the Municipal Finance Management Act and who is responsible for a vote as assigned by the accounting officer.

"Imported content" means that portion of the bid or tender price represented by the cost of components, parts or materials which have been or are still to be imported (whether by the supplier or its sub-contractors) and which costs are inclusive of the costs abroad, plus freight.
and other direct importation costs, such as landing costs, dock dues, import duty, sales duty or other similar tax or duty at the South African port of entry.

"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 Act and 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.

"Line manager" means a manager reporting directly to a senior manager and who is responsible for a cost centre as assigned by the relevant senior manager.

"Local content" means that portion of the bid or tender price, which is not included in the imported content, provided that local manufacture does take place.

"Long term contract" means a contract with a duration period exceeding one year.

"List of accredited prospective providers" means the list of accredited prospective providers which the municipality must keep in terms of paragraph 15 of this policy.

"Mayor" means the councillor elected by the council as Mayor in terms of section 48 of the Local Government: Municipal Structures Act No. 117 of 1998 read with section 58 of the Municipal Finance Management Act.

"**Municipality"** means the Kouga Municipality, a local municipality established in terms of section 12 of the Local Government: Municipal Structures Act No. 117 of 1998 and includes any employee entitled to or duly authorized to perform any function or duty in terms of this policy and/or is responsible for the implementation of this policy or any part thereof.

"Municipal Finance Management Act" means the Local Government: Municipal Finance Management Act No. 56 of 2003 and, unless otherwise stated in this policy, any reference to "the Act" shall mean a reference to this Act.

"Municipal Systems Act" means the Local Government: Municipal Systems Act No. 32 of 2000 and includes the regulations under this Act.
"Non-firm prices" means all prices other than "firm" prices.

"Other applicable legislation" means any other legislation applicable to municipal supply chain management, including but not limited to –

a) the Preferential Procurement Policy Framework Act No. 5 of 2000.
b) the Broad-Based Black Economic Empowerment Act No. 53 of 2003.
c) the Construction Industry Development Board Act No. 38 of 2000.
d) the Local Government: Municipal Systems Act No. 32 of 2000 (Municipal Systems Act).
e) the Promotion of Administrative Justice Act No. 3 of 2000.
f) the Promotion of Access to Information Act No. 2 of 2000.
g) the Protected Disclosures Act No. 26 of 2000.
h) the Competition Act No. 89 of 1998.
i) the Prevention and Combating of Corrupt Activities Act No. 12 of 2004.
j) the Updated Preferential Procurement Regulation dated 16 January 2022

"Person" includes an enterprise, partnership, trust, association, consortium, joint venture or a juristic person.

"Petty cash" means a relatively small amount of cash kept at hand for making immediate payment for miscellaneous small expenses incurred the municipality.

"Preferential Procurement Regulations" means the Preferential Procurement Regulations, 2011 contained in Government Notice R 502 of 8 June 2011 promulgated in Government Gazette No. 34350 of this date; as well as the updated Preferential Procurement Regulations of 2022 dated 16 January 2023.

"Procurement" means the processes leading to the negotiation and conclusion of contracts whether in writing or verbally for the acquisition of goods, services or construction works or any combination thereof or the disposal of assets whether movable or immovable or any rights in such assets by means of purchase, sale, lease or donation and includes the preparation of all associated bid and contractual documentation and **"procured"** or **"procuring"** has a similar meaning.

"Quotation" means a stated price that a supplier expects to receive for the provision of specified services, goods or works.

"Responsive bid" means a bid that complies in all material aspects with the requirements set out in or contained in an invitation to bid including the applicable specification.

"Small enterprise" means a separate and distinct business entity, together with its branches or subsidiaries, if any, including cooperative enterprises, managed by one owner or more predominantly carried on in any sector or sub-sector of the economy mentioned in column 1 of the Schedule to the National Small Business Act No. 102 of 1996 which is contained in Annexure B to this policy and classified as a micro-, a very small, a small or a medium enterprise by satisfying the criteria mentioned in columns 3, 4 and 5 of the said schedule;

"Stipulated minimum threshold" means that portion of local production and content as determined by the Department of Trade and Industry from time to time.

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

"Rand value" means the total estimated value of a contract in South African currency calculated at the time of bid invitations and includes all applicable taxes and excise duties.

"SANAS" means the South African National Accreditation System.

"Total revenue" bears the same meaning assigned to this expression in the Codes of Good Practice.

"Trust" means the arrangement through which the property of one person is made over or bequeathed to a trustee to administer such property for the benefit of another person.

"Trustee" means any person, including the founder of a trust, to whom property is bequeathed in order for such property to be administered for the benefit of another person.

"Treasury guidelines" means any guidelines on supply chain management issued by the Minister of Finance in terms of section 168 of the Municipal Finance Management Act.

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

"Verbal Quotations" means a verbal process of inviting quotations from an identified limited number of potential suppliers for the supply goods, services and/or works.

"Verification Certificate" means a B-BBEE certificate issued in compliance with the B-BBEE Codes of Good Practice and all Sector Codes issued in terms of Section 9(1) of the Broad-Based Black Economic Empowerment Act.

"Written quotations" means quotations referred to in paragraph 12(1)(c) of this policy.

"Community Based Supplier" means a supplier of goods, services and/or construction works who resides and operates in a specific area or community, who meets the criteria for Community Based Suppliers as determined by the Director: Supply Chain Management from time to time, and who is registered as such on the KLM's Supplier Database and at its respective Sub-Council.

"Abuse" in terms of the Kouga's Supply Chain Management System means conduct by an official or person that is tantamount to:

a. fraud.
b. corruption.
    - favoritism.
    - unfair, irregular and unlawful practices.
    - misrepresentation on information submitted for the purposes of procuring a contract with the municipality misrepresentation regarding the supplier's B-BEE status level of contributor, expertise and capacity to perform in terms of a contract procured via the supply chain management system.
    - breach of a contract procured via the supply chain management system.
    - failure to comply with the supply chain management system; or
    - and any other conduct referred to under the heading of" Combatting Abuse of the Supply Chain Management System".

"Formal Written Price Quotation" means a written or electronic offer to the KLM in response to an invitation to submit a quotation. "Formal Written Price Quotation", "Written Price Quotation", "Quotation" or " shall have a similar meaning. Also referred to as "Bids";

"Framework Agreement Bid/ Term Bid / Panels / Rates Based Bid" means a bid for the supply of goods, services or construction works, which are of an ad-hoc or repetitive nature on an "as instructed basis" where the terms are approved for use over a predetermined period of time without guaranteeing any quantum of expenditure utilizing the contract;

"Fronting Practice (Also referred to as Tokenism or Window dressing)" means a transaction, arrangement or other act or conduct that directly or indirectly undermines or frustrates the achievement of the objectives of the B-BBEE Act or the implementation of any of the provisions of the B-BBEE Act, including but not limited to practices in connection with a B-BBEE initiative:

- in terms of which black persons who are appointed to an
- enterprise are discouraged or prohibited from substantially participating in the core activities of that enterprise;
- in terms of which the economic benefits received as a result of the broad-based black economic empowerment status of an enterprise do not flow to black people in the ratio specified in the relevant legal documentation.
- involving the conclusion of a legal relationship with a black person for the purpose of that enterprise achieving a certain level of broad-based black economic empowerment compliance without granting that black person the economic benefits that would reasonably be expected to be associated with the status or position held by that black person; or
- involving the conclusion of an agreement with another enterprise in order to

achieve or enhance broad-based black economic empowerment status in circumstances in which:

- there are significant limitations, whether implicit or
- explicit, on the identity of suppliers, service providers, clients or customers; the maintenance of business operations is reasonably considered to be improbable, having regard to the resources available; the terms and conditions were not negotiated at arm's length and on a fair and reasonable basis.

"Functionality" means the ability of a tenderer to provide goods or services in accordance with specifications as set out in the tender documents. This is determined by the measurement according to predetermined norms, as set out in the bid documents, of the totality of features and characteristics of the goods or services that bears on the ability of thereof to satisfy the stated or implied needs. "Functionality" is also referred to as "Quality";

"Granting of Rights" means the granting by the KLM of the right to use, control or manage capital assets in circumstances where sections 14 and 90 of the MFMA and Chapters 2 and 3 of the Municipal Asset Transfer Regulations do not apply. In other words, where the granting of such rights does not amount to "transfer" or "disposal" of the asset and which includes leasing, letting, hiring out, etc., of the capital asset.

"Green Procurement" is defined as taking into account environmental criteria for goods and services to be purchased in order to ensure that the related environmental impact is minimized.

"Influencing the Bid Process" means directly, indirectly or tacitly influencing or interfering with the work of relevant KLM Officials involved in the bid process in order to influence the process in order to inter alia:

- influence the process and/or outcome of a bid.
- incite breach of confidentiality and/or the offering of bribes.
- cause over and under invoicing.
- influence the choice of procurement method or technical standards; or
- influence any KLM Official in any way which may secure an
- unfair advantage during or at any stage of the procurement process.

"Joint Venture or Consortium" means an association of persons, formalised by agreement between such persons, formed for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract;

"Military Veteran" has the meaning assigned to it in section 1 of the Military Veterans Act, 2011 (Act No. 18 of 2011);

"Municipal Asset Transfer Regulations" means the Municipal Asset Transfer Regulations published in Government Gazette 31346 of 22 August 2008;

"Municipal Council (Council)" means the council referred to in Section 18 of the Local Government Municipal Structures Act 117 of 1998;

"Municipal Entity" means an entity as defined in the Municipal Systems Act;

"Municipal Finance Management Act" (MFMA): means the Local Government: Municipal Finance Management Act, 2003, (Act 56 of 2003);

"Municipal Structures Act" means Local Government Municipal Structures Act, 1998 (Act 117 of 1998);

"Municipal Systems Act" means Local Government Municipal Systems Act, 2000 (Act 32 of 2000)

"National Treasury" has the meaning has the meaning assigned to it in section 1 of the Public Finance Management Act, 1999 (Act No. 18 of 1999;

"Non-compliant Contributor" means a person who does not meet the minimum score to qualify as a status level 8 B-BBEE Contributor, or a person who is not verified in terms of the applicable codes of good practice;

"Non-exempted Capital Asset" means a municipal capital asset which is not exempted by section 14(6) or 90(6) of the MFMA, from the other provisions of that section;

"Non-firm Prices" means all prices other than "firm" prices;

"People with Disabilities" has the meaning assigned to it in section 1 of the Employment Equity Act, 1998 (Act No. 55 of 1998);

"Preferred Bidder" means a bidder with whom negotiations may be entered into to conclude the final terms of a contract

"Preferential Procurement Policy Framework Act" (PPPFA) means the Preferential Procurement Policy Framework Act, 2000, (Act 5 of 2000);

"Preferential Procurement Regulations" means the regulations pertaining to the PPPFA;

"Price" includes all applicable taxes less unconditional discounts;

"Prime Supplier" shall have the same meaning as "Contractor" (see also Supplier);

"Promotion of Access to Information Act (PAIA)" means Promotion of Access to Information Act, 2000 (Act 2 of 2000);

"Proof of B-BBEE Status Level of Contributor" means the B-BBEE status level certificate issued by an authorized body or person, a sworn affidavit as prescribed by the B-BBEE Codes of Good Practice or any other requirement prescribed in terms of the Broad-Based Black Economic Empowerment Act;

"Policy" means this Supply Chain Management Policy as amended from time to time;

"Promotion of Administrative Justice Act (PAJA)" means the Promotion of Administrative Justice Act, 2000, (Act 3 of 2000);

" Qualifying Small Enterprise (QSE)" means a qualifying small enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;

"Quality" also referred to as "Functionality" (see clause 1.49 above);

"Rand Value" means the total estimated value of a contract in Rand, calculated at the time of bid invitation;

"Representative" means any representative of a supplier in relation to the relevant tender, whether authorized or not, including but not limited to directors, members, employees and agents and include Legal Representatives.

"Republic" means the Republic of South Africa.

"Responsible Agent" means either an internal project manager (being an employee of the KLM) or an external consultant (appointed by the KLM), as the case may be, who is responsible for the implementation of a project or part thereof;

"Rural Area" means a sparsely populated area in which people farm or depend on natural resources, including villages and small towns that are dispersed through the area or an area including a large settlement which depends on migratory labour and remittances and government social grants for survival, and may have a traditional land tenure system;

"SARS" means the South African Revenue Services;

"Stipulated Minimum Threshold" means the minimum threshold stipulated in terms of any relevant regulation of the Preferential Procurement Regulations, 2017;

"Sub-contract" means the prime supplier's assigning, leasing, making out work to, or employing, another person to support such prime supplier in the execution of part of a contract;

"Sub-contractor" means any person that is assigned, leased, employed or contracted by the prime supplier to carry out work in support of the prime supplier in the execution of a contract;

"Supplier/Vendor" are generic terms which may include suppliers of goods and services, contractors and/or consultants and must be applied as the context requires;

"Supply Chain Management (SCM) Regulations" means the Municipal Supply Chain Management Regulations published in terms of the Municipal Finance Management Act, 2003, (Act 56 of 2003);

"Targeted Labour" means those individuals employed by a supplier, or sub-contractor, in the performance of a contract, who are defined in the contract as the target group, and who permanently reside in the defined target area;

"Targeted Enterprises" means those enterprises (suppliers, manufacturers, service providers or construction works contractors) that own, operate or maintain premises within the target area defined in the contract, for the purposes of carrying out their normal business operations;

"Tender/Tenderer" means "bid/bidder";

"Township" means an urban living area that at any time from the late 19th century until 27 April 1994, was reserved for black people, including areas developed for historically disadvantaged individuals post 27 April 1994;

"Transaction Value" means the actual contract value (the bid sum or price) in South African currency, inclusive of all applicable taxes in respect of the goods, services or construction works that are contracted for;

"Treasury" has the meaning assigned to it in section 1 of the Public Finance Management Act, 1999 (Act No. 18 of 1999);

"Treasury Guidelines" means any guidelines on supply chain management issued by the Minister in terms of section 168 of the MFMA;

"Unsolicited Bid" means an offer submitted by any person at its own initiative without having been invited by the KLM to do so;

"Youth" has the meaning assigned to it in section 1 of the National Youth Development Agency Act, 2008 (Act No. 54 of 2008).

"Director" in terms of this policy means a director of a company as defined in the Companies Act, 1973 and 2008 (Act No. 61 of 1973 and Act No. 71 of 2008); a member of a close corporation as defined in the Close Corporations Act, 1984 (Act No. 69 of 1984); a trustee of a trust or a person holding an equivalent position in a firm.

"Comparative price" means the price after the factors of a non-firm price and all unconditional discounts that can be utilized have been taken into consideration.

"Designated group" means-

(a) black designated groups;
(b) black people;
(c) women;
(d) people with disabilities; or
(e) small enterprises, as defined in section 1 of the National Small Enterprise Act, 1996 (Act No. 102 of 1996);

"Historically disadvantaged individual (HDI)"; means a South African citizen –

(1) who, due to the apartheid policy that had been in place, had no franchise in national elections prior to the introduction of the Constitution of the Republic of South Africa,1983 (Act No 110 of 1983); and
/ or
(2) who is a female; and / or
(3) who has a disability:

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

"Objective Criteria" for the purpose of section of 2(1)f of the procurement Act must be criteria other than the additional to criteria relating to equity ownership by HDI's or whether or not a bidder was located in a particular province or municipal area

"QSE" means a qualifying small business enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;

"Region" means the district and/or Sarah Baartman District Municipality.

"Rural area" means-

(a) a sparsely populated area in which people farm or depend on natural resources, including villages and small towns that are dispersed through the area; or

(b) an area including a large settlement which depends on migratory labour and remittances and government social grants for survival, and may have a
traditional land tenure system;

"Specific goals" means specific goals as contemplated in section 2(1)(d) of the Act which may include contracting with persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of race, gender and disability including the implementation of programs of the Reconstruction and Development Programe as published in Government Gazette No. 16085 dated 23 November 1994;

"Youth" has the meaning assigned to it in section 1 of the National Youth Development Agency Act, 2008 (Act No. 54 of 2008).

1. SUPPLY CHAIN MANAGEMENT POLICY: POLICY STATEMENT AND OBJECTIVES

a) Section 111 of the Municipal Finance Management Act 56 of 2003 ("the Act") stipulates that each municipality and each municipal entity must have and must implement a Supply Chain Management (SCM) Policy which gives effect to the requirements of the Act.

b) Furthermore, the Preferential Procurement Policy Framework Act prescribes that an organ of state must determine its Preferential Procurement Policy for implementation within the prescribed framework. In this Policy, such is articulated in the Preferential Procurement section of this Policy.

c) **APPLICATION AND DESIRED OUTCOMES BY KOUGA LOCAL MUNICIPALITY (KLM) FROM THE SCM MANAGEMENT POLICY:**

1) The desired outcome of this Policy is to provide a mechanism to ensure sound, sustainable and accountable supply chain management within the KLM, whilst promoting black economic empowerment, which includes

general principles for achieving the following socio-economic objectives:

a) The purpose of this Policy is to regulate all Supply Chain Management practices within the KLM and its municipal entity. This Policy implements the Supply Chain Management practices as envisaged in terms of Section 217 of the Constitution of the Republic of South Africa, and by the Act and its Regulations.

b) The Policy, as far as possible sets out a system of procurement that is fair, transparent, equitable, competitive and cost-effective. All KLM employees shall adhere, implement and observe the provisions and requirements of this Policy.

c) The Policy also strives to align the KLM's procurement practices with its strategic goals, as identified in the five outcomes of the Growth and Development Strategy. In particular, the Policy aims to promote quality, sustainable services and honest, transparent and responsive local government.

d) Further to the above, the Policy seeks to address the following socio-economic objectives:

I. Stimulation and promotion of local economic development and facilitating job creation and business growth opportunities, especially focused on previously disadvantaged groups.

II. Promoting resource efficiency and reducing the negative environmental impact of the daily operations of the KLM, through taking a green approach to procurement.

III. Improving the KLMs ability to fulfil its service delivery mandate through efficient and cost-effective procurement practices that holds service providers to account and ensures delivery against contractual obligations.

IV. Actively fighting fraud and corruption in procurement practices through a system of checks and balances.

V. Modernization of the KLM's procurement practices through the use of e-Procurement system and other measures aimed at increasing efficiency; and

VI. Improving the KLM's financial sustainability through measures that ensure that the KLM derives maximum value for money.

e) To stimulate and promote local economic development in a targeted and focused manner.

f) To promote resource efficiency and reduce the negative environmental impact of daily operations of the KLM.

g) To facilitate creation of employment and business opportunities for the people of KLM with particular reference to specific goals.

h) To promote the competitiveness of local businesses.

i) To increase the small business sector access, in general, to procurement business opportunities created by Council.

2) 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.

CHAPTER 1

IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY

2. SUPPLY CHAIN MANAGEMENT POLICY

(1) All officials and other role players in the supply chain management system of the municipality must implement this policy in a way that -

(a) gives effect to Section 217 of the Constitution and Part 1 of Chapter 11 and other applicable provisions of the Act;

(b) is fair, equitable, transparent, competitive and cost effective;

(c) complies with the Regulations and 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 the conduct of business with the public sector.

(2) This policy applies when the municipality –

(a) procures goods or services.

(b) disposes of goods no longer needed;

(c) selects contractors to provide assistance with the provision of municipal services otherwise than in circumstances where Chapter 8 of the Municipal Systems Act applies; or

(d) selects external mechanisms referred to in section 80 (1) (b) of the Municipal Systems Act for the provision of municipal services in circumstances contemplated in section 83 of that Act.

(3) This policy, except where provided otherwise, does not apply in respect of the procurement of goods and services contemplated in section 110(2) of the Act, including, but not limited to -

(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.

(c) the provision of goods or services to KLM by entities that have been preapproved by Provincial Department and National Department

(d) the provision of a municipal service or assistance in the provision of a

municipal service

(e) any other contractual agreements between organs of state for whatever reasons

(4) Notwithstanding anything to the contrary in this policy, the municipality shall not award a contract to a contractor in respect of the undertaking, carrying out or completion of any construction works or a portion thereof in terms of a competitive bidding or quotation process provided for in this policy unless such contractor is registered with the Construction Industry Development Board established by section 2 of the Construction Industry Development Board Act No. 32 of 2000 and holds a valid registration certificate issued by such Board or is exempted from such registration either in terms of this Act or the "CIDB Regulations".

(5) A report must be submitted to the accounting officer or delegated authority seeking authority to contract with another organ of state.

3. AMENDMENT AND ADOPTION OF THE SUPPLY CHAIN MANAGEMENT POLICY

(1) The accounting officer must at least annually review the implementation of this policy and, when necessary, submit proposals for the amendment thereof to the council through the Mayor acting in conjunction with the mayoral committee.

(2) If the accounting officer submits proposed amendments to this policy to the council, he must ensure that same comply with the Regulations and Treasury guideline standards determining standards for municipal supply chain management policies.

(3) The accounting officer must report any deviation from the Regulations and Treasury guideline standards determining standards for municipal supply chain management policies to the National and Eastern Cape Provincial Treasuries.

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

4. DELEGATION OF SUPPLY CHAIN MANAGEMENT POWERS AND DUTIES

1) The council hereby delegates all powers and duties to the accounting officer which are necessary to enable him –

(a) to discharge the supply chain management responsibilities conferred on accounting officers in terms of -

(i) chapters 8 or 10 of the Act; and

(ii) this policy; and

(b) to maximize administrative and operational efficiency in the implementation of this policy; and

(c) to enforce reasonable cost-effective measures for the prevention of fraud, corruption, favoritism and unfair and irregular practices in the implementation of this policy; and

(d) to comply with his responsibilities in terms of section 115 and other applicable provisions of the Act.

(2) Sections 79 and 106 of the Act apply to the sub-delegation of powers and duties delegated to an accounting officer in terms of subparagraph (1).

(3) The accounting officer may not sub-delegate any supply chain management powers or duties to a person who is not an official of the municipality or to a committee which is not exclusively composed of officials of the municipality.

(4) This paragraph may not be read as permitting an official to whom the power to make final awards has been delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in paragraph 27 of this policy.

5. SUB-DELEGATIONS

(1) The accounting officer may, in terms of section 79 of the Act, sub-delegate any supply chain management powers and duties, including those vested in him in terms of legislation or delegated to him in terms of this policy or by resolution of the council, but any such sub-delegation must be consistent with subparagraph (2) and paragraph 4 of this policy.

(2) The power to make a final award -

(a) above R10 million (VAT included) may not be sub-delegated by the accounting officer;

(b) above R2 million (VAT included), but not exceeding R10 million (VAT included), may be sub-delegated by the accounting officer but only to -

(i) the chief financial officer;

(ii) a senior manager; or

(iii) a bid adjudication committee of which the chief financial officer or a senior manager is a member;

(c) not exceeding R2 million (VAT included) may be sub-delegated by the accounting officer but only to -

(i) the chief financial officer;

(ii) a senior manager;

(iii) a manager directly accountable to the chief financial officer or a senior manager; or

(iv) a bid adjudication committee.

(3) An official or bid adjudication committee to whom or which the power to make

final awards has been sub-delegated in accordance with subparagraph (2) must, within five days of the end of each month, submit to the official referred to in subparagraph (4) a written report containing particulars of each final award made by such official or committee during that month, including -

(i) the amount of the award;

(ii) the name of the person to whom the award was made; and

(iii) the reason why the award was made to that person.

(4) A written report referred to in subparagraph (3) must be submitted-

(a) to the accounting officer, in the case of an award by -

(i) the chief financial officer;

(ii) a senior manager; or

(iii) a bid adjudication committee of which the chief financial officer or a senior manager was a member;

(b) to the chief financial officer or the senior manager responsible for the relevant bid, in the case of an award by -

(i) a manager referred to in subparagraph (2)(c)(iii); or

(ii) a bid adjudication committee of which the chief financial officer or a senior manager was not a member.

(5) Subparagraphs (3) and (4) do not apply to procurements out of petty cash.

(6) This paragraph may not be interpreted as permitting an official to whom the power to make final awards has been sub-delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in paragraph 26 of this policy.

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

6. OVERSIGHT ROLE OF THE COUNCIL

(1) No councilor may be a member of a bid committee or any other committee evaluating or approving quotations or bids nor attend any meeting of such committees as an observer.

(2) The council must maintain oversight over the implementation of this policy to ensure that the accounting officer implements all supply chain management activities in accordance therewith.

(3) For the purposes of such oversight, the accounting officer must -

(a) within 30 days of the end of each financial year, submit a report on the implementation of this policy to the council through its mayor;

(b) whenever there are serious and material problems in the implementation of this policy, immediately submit a report thereon to

the council through its mayor.

(4) The accounting officer must, within 10 days of the end of each quarter, submit a report on the implementation of this policy to the mayor.

(5) The aforesaid reports must be made public in accordance with section 21A of the Municipal Systems Act.

7. SUPPLY CHAIN MANAGEMENT UNIT

(1) A supply chain management unit is hereby established to implement this policy.

(2) Subject to subparagraph (3), the supply chain management unit shall operate under the direct supervision of the chief financial officer to whom this duty is hereby delegated by the accounting officer in terms of section 79 of the Act.

(3) All correspondence about this Policy shall be addressed to Manager: Supply Chain Management.

(4) A copy of this Policy and other relevant documentation is available on the
KLM's website and a copy can be requested from the SCM Office.

8. TRAINING OF SUPPLY CHAIN MANAGEMENT OFFICIALS

(a) The training of officials involved in implementing this policy should be in accordance with any Treasury guidelines on supply chain management training and applicable prescribed competency level requirements.

(b) The municipal manager or delegated staff member shall ensure that all persons involved in the implementation of this Policy meet the prescribed competency levels, and where necessary, shall provide relevant training.

CHAPTER 2

SUPPLY CHAIN MANAGEMENT SYSTEM

9. FORMAT OF SUPPLY CHAIN MANAGEMENT SYSTEM

This policy provides systems for -

(i) Demand management;

(ii) Acquisition management;

(iii) Logistics management;

(iv) Disposal management;

(v) Risk management; and

(vi) Performance management.

Part 1: Demand management

10. SYSTEM OF DEMAND MANAGEMENT

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

(2) The demand management system must -

(a) include timely planning and management processes to ensure that all goods, services and works required by the municipality are quantified, budgeted for and timely and effectively delivered at the right locations and at the critical delivery dates and are of the appropriate quality and quantity procured at a fair cost;

(b) take into account any benefits of economies of scale that may be derived in the case of procurements of a repetitive nature;

(c) provide for the compilation of the required specifications to ensure that municipal needs are met;

(d) allow for the undertaking of appropriate industry analysis and research to ensure that innovations and technological benefits are maximized.

(e) be able to do a forecasting of future needs, identifying of critical delivery days, identifying the frequency of the need, be able to determine requirements (including the internal capacity to implement projects)

(3) The accounting officer must, prior to issuing an invitation to bid-

(a) properly plan for, and, as far as possible, accurately estimate the costs for the provision of goods, services and/or works for which an invitation to bid is to be issued;

(b) determine the appropriate preference point system to be utilized in the evaluation and adjudication of bids to be received in response to the contemplated invitation to bid; and

(c) determine whether the goods, services and/or works for which an invitation to bid is to be issued has been designated for local production and content in terms of the Preferential Procurement Regulations

(4) The accounting officer must indicate in an invitation to submit a bid and in the applicable bid specification or terms of reference-

(a) that such bid will be evaluated on functionality and, in such event, the following shall be clearly stated:

(i) the evaluation criteria for measuring functionality which criteria must be objective;

(ii) the weight of each criterion which should not be generic but be determined separately for each bid on a case by case basis;

(iii) the applicable values that will be utilized when scoring each criterion which values must be objective;

(iv) the minimum qualifying score for functionality in order to enable the bid concerned to be further evaluated in terms of this policy provided that the aforesaid qualifying score:

(a) should not be generic but be determined separately for each bid on a case by case basis; and

(b) should not be prescribed so low that it may jeopardize the quality of the service or works required nor be so high that it may be restrictive to the extent that it jeopardizes the fairness of the supply chain management system;

(c) the fact that no bid will be regarded as an acceptable bid if the bidder or the goods, services and/or works to be procured, as the case may be, fails to achieve the minimum qualifying score for functionality as indicated in the invitation to bid and the relevant bid specification or terms of reference; and

(d) that bids that have achieved the minimum qualification score for functionality will be evaluated further in terms of the preference point systems.

(5) Any system designed in terms of this paragraph shall take cognizance of the provisions of this policy.

Part 2: Acquisition management

11. SYSTEM OF ACQUISITION MANAGEMENT

(1) The accounting officer must implement an efficient system of acquisition management in order to ensure -

(a) that goods, services and works are procured by the municipality in accordance with authorized processes only;

(b) that expenditure on goods, services and works 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 the general conditions of a contract, are in accordance with any applicable legislation; and

(e) that any Treasury guidelines on acquisition management are properly taken into account.

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

(a) the kind of goods or services; and

(b) the name of the supplier.

12. RANGE OF PROCUREMENT PROCESSES

(1) Goods and services may only be procured by way of -

(a) petty cash purchases up to a transaction value of R2,000 (VAT included) at such locations as may be determined by the accounting officer;

(b) at least one written quotation for procurements of a transaction value up to R2, 000 (VAT included);

(c) formal written quotations for procurements of a transaction value over R2,000 up to R300 000 (VAT included);

(d) All quotes ranging from R0.00 to R 30 000(Vat Inclusive) for goods or services **MUST** be sourced from service providers or suppliers who resides within Kouga Area *(that would be covering all the 15 Wards of Kouga Local Municipality)*. If services providers or suppliers of Kouga Area are unable to provide such service or good, proof indicating such must be provided to SCM Unit. Thereafter an invite to request quotations will be extended to service providers or suppliers who are coming outside of the boundaries of Kouga Local Municipality. This application is in line with Local Economic Development and the Ward Development Fund Policy of KLM. The following must however be considered for the preferred quote:

(i) Value for money.
(ii) Price/s offered must be market related.
(iii) Where SCM Unit has found the prices to be not market related,

the Supply Chain Manager or person subdelegated is entitled to negotiate with the preferred service provider up to and including the third service provider who quoted. Where the quoted price remains to be not market related, the SCM Manager must report such to the Chief Financial Officer for adjudication. That must be concluded in three (3) days from the date assessing quotes received.

(e) Formal written price quotations for procurements of a transaction value over R30,000 up to R300,000 provided that, in addition to any other relevant requirements contained in this policy, procurement invitations shall be advertised for at least seven days on the website and also on official notice board of the municipality. Proper written specification for advertisement of a transaction value over R30,000 up to R300,000 (Vat Included) is/ are approved by the Chief Financial Officer.

(f) a competitive bidding process for -

(i) procurements above a transaction value of R300 000 (VAT included); and

(ii) the procurement of long-term contracts.

(2) The accounting officer may, in writing:

(a) lower but not increase, the different threshold values specified in subparagraph (1) above; or

(b) direct that written quotations be obtained for any specific procurement of a transaction value lower than R2000;

(c) direct that formal written price quotations be obtained for any specific procurement of a transaction value lower than R30 000; or

(d) direct that a competitive bidding process be followed for any specific procurement of a transaction value lower than R300 000.

(3) Procurement invitations may not deliberately be split into parts or items of a lesser value than the threshold amounts referred to in subparagraph (1) merely to avoid compliance with the requirements of this policy or any applicable legislation. When determining transaction values, a requirement for goods, services or works consisting of different parts or items must, as far as possible, be treated and dealt with as a single transaction.

13. GENERAL PRECONDITIONS FOR CONSIDERATION OF WRITTEN QUOTATIONS OR BIDS

(1) A written quotation or bid may not be considered unless the bidder who submitted the quotation or bid concerned -

(a) has furnished his -

(i) full name or names including trading name;

(ii) identification number or company or other registration number;

(iii) tax reference number and VAT registration number, if any;

(b) has provided the municipality with a valid tax clearance certificate from the South African Revenue Services stating that his tax matters are in order;

(c) has, where applicable, provided the municipality with a clearance certificate from the Construction Industry Development Board to the effect that he holds a valid registration certificate issued by the Board;

(d) has provided the municipality with a "Certificate of Independent Bid Determination" on Form MBD 9 or a similar form;

(e) has provided a certificate issued by the municipality or any other municipality to which he may be indebted to the effect that he and, in the event of the bidder being a company, also any of its directors, is not indebted to the municipality or to any other municipality or municipal entity for rates, taxes and/or municipal service charges which are in arrear for a period of more than three months and that no dispute exists between such bidder and municipality or municipal entity concerned in respect of any such arrear amounts;

(f) has submitted an affidavit certifying.. -

(i) that he is not in the service of the state or has been in the service of the state in the previous twelve months;

(ii) that, in the event of the bidder not being a natural person, none of its directors, managers, principal shareholders or stakeholders are in the service of the state nor have they been in the service of the state in the previous twelve months;

(iii) that neither his spouse, child or parent nor a director, manager, shareholder or stakeholder referred to in subparagraph (ii) is in the service of the state or has been in the service of the state in the previous twelve months;

(iv) that he is not an advisor or consultant contracted by the municipality to advise it on the procurement under consideration;

g) the requirements for submission of declarations as stated in sections 13 (1) (c), d) and (f) above is not applicable for request for quotations that falls within the threshold value or formal written quotations up to the value of R30 000.00 including VAT. Such requirements will be accepted as part of annual declarations made within the requirements for database registrations.

(2) This paragraph must be read in conjunction with paragraph 21 of this policy.

14. LISTS OF ACCREDITED PROSPECTIVE PROVIDERS OF KLM

(1) The accounting officer through the office the SCM Manager must -

a. keep a list of accredited prospective providers who is also registered

on the Centralized Supplier Database of goods and services that must be used for procurements through written quotations and formal written price quotations; and

b. at least once a year through newspapers commonly circulating locally, the municipal 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.

e. the accounting officer shall disallow the registration of any prospective supplier on the KLM's Supplier Database who does not comply with the requirements of the Supplier Registration Application.

f. the accounting officer shall disallow the registration of any prospective supplier whose name appears on the National Treasury's Database of Restricted Suppliers and/or Register for Tender Defaulters and who is therefore prohibited from doing business with the public sector.

g. bidders who are not registered on the KLM's Supplier Database are not precluded from submitting bids but must however register when called upon to do so.

h. all persons forming part of a Joint Venture or Consortium must comply with the requirements of KLM database form.

i. in addition to the requirements of the KLM's Supplier Database, it is a requirement for all Suppliers to be registered on the National Treasury Web Based Central Supplier Database (CSD) that can be accessed at **https://secure.csd.gov.za**.

j. the CSD is the national standardized and centralized electronic supplier database administered by the National Treasury which provides information to an organ of state.

k. bidders who are not registered on the CSD are not precluded from submitting bids but must however register with CSD and get the CSD Number prior to submitting or the closing date, this must be taken under the good spirit of service deliver. Therefore, waiting for a CSD registration from a prospective bidder after the closing date of a quote or bid is not ideal for operational requirements. Therefore, a quoter that meets all the minimum requirements will be considered provided that such quote/bidder is registered on CSD. This is inline with Treasury Instruction Note 4A of 216/2017, paragraph 3.4 and 3.5

l. prospective suppliers or service provider's database will be accepted by KLM if the prospective bidder is not registered with

CSD.

(2) The aforesaid 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.

15. PETTY CASH PURCHASES

(a) The transactional value of an individual petty cash purchase is R2,000 VAT included. That the total petty cash float is R10, 000 VAT included.

(b) Petty cash purchases may only be made in accordance with the Standard Operating Procedures for Petty Cash of the municipality.

(c) The accounting officer may delegate responsibility for the management of petty cash to an official directly or indirectly reporting to the chief financial officer.

(d) No item that is an approved stores item may be purchased by means of a petty cash transaction.

(e) No fixed asset regardless of value may be purchased through petty cash.

(f) The council must, from time to time, determine the maximum amount of the permissible petty cash expenditure per month;

16. A weekly reconciliation report must be provided to the chief financial officer within five days of the end of each month by the official authorized to make petty cash purchases and such report shall contain particulars of each final award made by such official during that month, including:

(i) the total amount of petty cash purchases for that month; and

(ii) receipts and supporting documents for each purchase.

17. FORMAL WRITTEN PRICE QUOTATIONS

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

(a) Quotations must be obtained in writing from at least three different providers whose names appear on the Centralised Supplier Database and the accredited list of prospective providers of the municipality;

(b) In the event of it not being possible to obtain quotations from at least three different providers whose names appear on the list of accredited prospective providers of the municipality, quotations may be obtained from providers who are not so listed, provided that such providers meet the listing criteria determined by the accounting officer in terms of paragraph 14(1)(c) of this policy and, provided further, that the reasons for obtaining such quotations from the providers concerned must be recorded on the invitation to submit quotations and be brought to the attention of the chief financial officer and

eventually for approval by the accounting officer. That must be read in line or in terms paragraph 16(c).

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

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

(a) When using the list of accredited prospective providers who is listed on the Centralised Supplier Database, the accounting officer must promote ongoing competition amongst providers by inviting providers to submit quotations on a rotation basis;

(b) 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 paragraph 17, be advertised for at least seven days on the website of KLM and on the official notice board of the municipality; such requirements would be approved by CFO as per the delegations. The SCM Manager would then make recommendation to the CFO for approval. Thereafter, seven-day notices would be advertised on the regulated medial platforms.

(c) The Accounting Officer must take all reasonable steps to ensure that the procurement of goods and services through formal written price quotation is not abused;

(d) Offers below R30 000 (all taxes included) must be awarded based on compliance with specifications, conditions of contract, ability, capacity and capability to deliver the required goods and/or services and lowest comparative based price taking into account unconditional discounts; provided that the accounting officer may direct, in appropriate cases, that the applicable provisions of the Preferential Procurement Regulations be applied in respect of the calculation of preference points for price;

(e) Offers above R30 000 (all applicable taxes included) must be awarded based on compliance with specifications, conditions of contract, ability, capacity and capability to deliver the required goods and/or services and lowest comparative based price taking into account unconditional discounts provided that the accounting officer may direct, in appropriate cases, that the applicable provisions of the Preferential Procurement Regulations be applied in respect of the calculation of preference points for price and specific goals;

(f) Prior to the award of a contract , the designated official must verify the status of recommended bidders (including their directors(s), owners(s) or trustee(s) by checking the Data Base of Restricted Suppliers maintained by National Treasury in order to ensure that no recommended bidder or any of its directors/owners/trustees are listed as companies or persons prohibited from doing business with the public sector;

(g) A call for quotations in terms of the preceding paragraphs must be in writing and contain a specification for the goods and/or services to be procured as well as details of the preference points system to be used in evaluation and adjudicating quotations;

(h) The designated official must, in writing, notify the chief financial officer on a monthly basis of all formal written price quotations accepted or approvals given in terms of this paragraph;

(i) The chief financial officer must ensure that adequate systems are in place to meet the requirements for proper record keeping;

(j) Upon finalization of the evaluation and the bidder who scored the highest total number of points is identified in price, the preferred bidder must be assessed to determine if the preferred bidder is complying with specific goals as set out in the tender document.

(k) The procurement contract must be awarded to the bidder who scored the combined highest points(price and specific goals) in accordance with the stipulated requirements. Further than that, *paragraph* ***27. 8(1), must be applied.***

19. COMPETITIVE BIDDING PROCESS

(1) Subject to paragraph 11 (2) of this policy, goods, services or works above a transaction value of R300 000 (VAT included) and long-term contracts may only be procured through a competitive bidding process.

(2) Subject to subparagraph (3), no requirement for goods or services above an estimated transaction value of R300 000 (VAT included) may deliberately be split into parts or items of lesser value merely for the sake of procuring the goods or services otherwise than through a competitive bidding process.

(3) The accounting officer may split unduly large quantities of work into smaller contracts (units) to promote manageability and provide opportunities for emerging entrepreneurs. This procedure may only be followed when technically, logistically and financially feasible.

(4) A senior manager responsible for a vote must submit the under-mentioned information to the chief financial officer prior to the publication of any public invitation of bids in respect of procurements estimated to exceed R10m (all taxes included):

(i) proof that budgetary provision exists for the procurement concerned;

(ii) details of any ancillary budgetary implications related to the bid concerned;

(iii) details of any multi-year budgetary implications associated with a project which will be undertaken over a period of more than one year as well as details of the anticipated expenditure per financial year.

(5) A procurement referred to in subparagraph (4) may only be advertised for competitive bids after the chief financial officer has verified in writing that budgetary provisions exists to enable the relevant project to commence.

(6) Procurement requirements referred to in subparagraph (4) may not be deliberately split into parts or items of lesser value merely to avoid the information being submitted.

20. PROCESS FOR COMPETITIVE BIDDING

The procedures for the following stages of a competitive bidding process are as follows:

(a) Compilation of bidding documentation as detailed in paragraph 21;

(b) Public invitation of bids as detailed in paragraph 22;

(c) Site meetings or briefing sessions as detailed in paragraph 22;

(d) Handling of bids submitted in response to public invitation as detailed in paragraph 23;

(e) Evaluation of bids as detailed in paragraph 28;

(f) Award of contracts as detailed in paragraph 29;

(g) Administration of contracts - after the award of a bid, the accounting officer and the bidder must enter into a written agreement.

(h) Proper record keeping;

(i) Original/legal copies of written contracts agreements should be kept in a secure place for reference and audit purposes.

21. BID DOCUMENTATION FOR COMPETITIVE BIDS

Bid documentation for a competitive bidding process must, in addition to compliance with the requirements listed in paragraph 14, comply with the following requirements:

(a) Take into account -

(i) the general conditions of contract and any special conditions of contract, if specified;

(ii) any Treasury guidelines on bid documentation;

(iii) the requirements of the Construction Industry Development Board, in the case of a bid relating to construction works;

(iv) relevant B-BBEE verification and certification requirements;

(v) relevant local content or production requirements.

(b) Include the preference points system to be used in adjudicating bids, namely 80/20 or 90/10 as prescribed in the Preferential Procurement Regulations;

(c) Compel bidders to declare, by means of an affidavit, 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, his audited annual financial statements -

(a) for the past three years; or

(b) since establishment, if established during the past three years;

(ii) a certificate signed by the bidder certifying that he 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 contracts;

(iv) a statement indicating whether or not any portion of the goods or services required by the municipality are expected to be sourced from outside the Republic, and, if so, what portion and also whether or not any portion of the payment to be made by 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.

22. PUBLIC INVITATION FOR COMPETITIVE BIDS

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

(a) any invitation to prospective providers to submit bids must be by means of a public advertisement in newspapers commonly circulating locally, the National Treasury E-tender Portal, website of the municipality and in any other appropriate manner (which may include an advertisement in the Government Tender Bulletin); and

(b) the information contained in such public advertisement, must include -

(i) subject to subparagraph 2, 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, reckoned from the date on which the advertisement is first placed in the aforesaid newspapers;

(ii) a statement that bids may only be submitted on the bid documentation provided by the municipality; and

(iii) the date, time and venue of any compulsory site meeting or briefing session if applicable;

(iv) a statement to the effect that a bid from a prospective bidder who did not attend a prescribed compulsory site meeting or briefing session referred to in subparagraph (iii) will not be considered.

(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 in any exceptional

case where it is impractical or impossible to follow the official procurement process and such fact shall, for auditing purposes, be recorded in the authority to invite bids.

(3) Bids submitted must be sealed and marked in a manner stipulated in the invitation to bid.

(4) Where bids are requested in electronic format, such bids must be supplemented by sealed hard copies or soft copies such a CD/ USB which must reach the accounting officer before the closing time for the receipt of bids on the bid closing date as stipulated in the invitation to bids. Time to time the advert would stipulate that supplementing electronic format is necessary.

(5) Communication with bidders, the SCM Manager shall authorize communication with bidders, such would include extension of closing date, addendums and all that requires communication prior to the closing date.

(6) Any communication authorized by the Bid Specification Committee, which has implications or consequence for all tenderers, shall be in the form of a written notice be issued to all bidders by Manager: Supply Chain Management, or his nominee, by either e-mail, facsimile, or registered post as appropriate. A copy of the notice together with a transmission verification report/proof of posting shall be kept for record purposes. Notices should be issued at least one week prior to the bid closing date, where possible. That is also regulated by CIDB for construction related projects.

(e) Notwithstanding a request for acknowledgement of receipt of any notice issued, the bidder will be deemed to have received such notice if the procedures in clause 22(6) have been complied with.

23. PROCEDURE FOR HANDLING, OPENING AND RECORDING OF BIDS

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

(a) Bids -

(i) must be opened only in public;

(ii) must be opened at the same time and as soon as possible after the published closing time or period for the submission of bids; and

(iii) received after the published closing time or period should not be considered and be immediately returned to the bidder, unopened;

(b) Any bidder or member of the public has the right to request that the names of the bidders who submitted bids before the closing time or period be read out and, if practical, also each bidder's total bidding price;

(c) No information, except the information referred to in subparagraph (b), relating to a bid should be disclosed to bidders or other persons until the successful bidder is notified of the award of the relevant bid; and

(d) The designated official opening received bids must -record in a register to be provided for this purposes, all bids received before the closing time or period for the submission of same and such register shall contain as least the following information in addition to such information as may be prescribed in terms of

section 75 of the Act:

I. the reference number of the bid concerned;

II. the description of the relevant goods, services or works project to be procured;

III. the names of all bidders;

IV. where practical, the total price submitted by all bidders that submitted bids in relation to the relevant bid invitation;

V. make the aforesaid register available for public inspection during the normal office hours of the municipality; and

VI. publish the entries in the aforesaid register including the B-BBEE Status level of Contribution of all bidders, where applicable, available on the website of the municipality within ten (10) working days from the date referred to in subparagraph 221b(i) and ensure that such entries remain on the website for a period of at least thirty (30) days from date of publication.

(e) Where possible submission and handling of all requirements more than R30 000, but less than R300 000(VAT included) may be handled through **tenders@kouga.gov.za**. The opening and recording of bids would be done by the delegated official. The requirements of the abovementioned paragraph would still be applicable. That requirement would be approved the delegated official being the **Chief Financial Officer.**

24. NEGOTIATIONS WITH PREFERRED BIDDERS

(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; and

(d) will not be contrary to any legal requirement or amount to a prohibited practice.

(2) Minutes of such negotiations must be kept for record for audit purposes.

25. TWO-STAGE BIDDING PROCESS

(1) A two-stage bidding process is permissible 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.

26. COMMITTEE SYSTEM FOR COMPETITIVE BIDS

(1) The accounting officer shall establish a procurement committee system for competitive bids consisting of at least the following committees:

(a) a bid specification committee;

(b) a bid evaluation committee; and

(c) a bid adjudication committee;

(2) The accounting officer shall, in writing, appoint the members of each committee in respect of each competitive bid invitation, taking into account the provisions of section 117 of the Act in terms of which no councilor may be a member of any such committee nor attend any of its meetings as an observer. As for BSC and BEC a pool of members would be appointed which would constitute senior managers, managers, chief/superintendent or chief accountants to serve in those two committees on an ADHOC basis. Formulation of those mini committees would be approved/ authorized by the accounting officer.

(3) A neutral or independent observer, appointed by the accounting officer, may attend or oversee a committee when this is appropriate for ensuring fairness and promoting transparency.

(4) The committee system must be consistent with -

(a) paragraphs 27, 28 and 29 of this policy; and

(b) any other applicable legislation.

The accounting officer may, in appropriate cases and in his sole discretion, apply the committee system to formal written price quotations.

(7) That members of the public be allowed to attend Bid Adjudication Committee Meetings.

(8) To give effect to subsection (7) above, the Director: Corporate Services & Special Projects must place notices in the local newspapers, on the municipal website and notice boards, inviting the members of the public to attend.

27. BID SPECIFICATION COMMITTEES

(a) A bid specification committee must compile the specifications or, where applicable, the terms of reference for the procurement of goods, services or works by the municipality.

(b) The Bid Specification Committee shall be comprised of at least two KLM officials as members, consisting of an appointed Chairperson and a responsible technical official. The Supply Chain Management Practitioner serving a member of that committee and also on advisory capacity, relating to SCM matters. No bid committee meeting shall proceed without an SCM practitioner. Disagreements on the advice provided by the Supply Chain Management Practitioner must be dealt with in terms of the Rule of Order for Bid Committees and be recorded accordingly.

(c) 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.

(d) Where a bid specification or terms of reference are compiled with due regard to the findings and recommendations contained in a prior, associated feasibility study, the person, advisor or corporate entity who or which prepared the said feasibility study may be prohibited from bidding for the resulting contracts in circumstances where such person, advisor or corporate entity may or is likely to obtain an unfair advantage or where a conflict of interest may arise.

(e) A specification or terms of reference referred to in this paragraph must be approved by the accounting officer in writing prior to publication of the invitation for bids in terms of paragraph 22.

(f) The Municipal Manager, or his delegated authority, shall, taking into account section 117 of the MFMA, appoint the members of the Bid Specification Committees

(g) Where appropriate a representative of Internal Audit and/or Legal Services and/or other specialist advisors (internal or external) may form part of this committee.

27.A Bid Specifications or Terms of Reference

27.1 General Requirements

Bid Specifications or terms of reference, as the case may be -

(a) must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services to the municipality;

(b) must take account of any accepted standards such as those issued by Standards South Africa, the International Standards Organization or an authority accredited or recognized by the South African National Accreditation System with which the equipment or material or workmanship should comply;

(c) must, 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 labelling 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 word **"equivalent"**

(f) 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 together with any Circulars published by National Treasury and the National Treasury Standard for Infrastructure Delivery Management System (SIPDMS) to the extent adopted by Council.

(g) The bid documentation and evaluation criteria shall not be aimed at hampering competition, but rather to ensure fair, equitable, transparent, competitive and cost effective bidding, as well as the protection or advancement of persons, or categories of persons, as embodied in the preferential procurement section of this Policy.

27.2 Identification of preference point system, designated sector, objective criteria and subcontracting

27.2.1. The Municipality must;

a) determine and stipulate in the tender documents(i) the preference point system applicable to the tender as envisaged in regulation 6 or 7; or(ii) if it is unclear which preference point system will be applicable, that either the 80/20 or 90/10 preference point system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system;
b) determine whether pre-qualification criteria are applicable to the tender as envisaged in regulation 4;
c) determine whether the goods or services for which a tender is to be invited, are in a designated sector for local production and content as envisaged in regulation 8;
d) determine whether compulsory subcontracting is applicable to the tender as envisaged in regulation 9; and
e) determine whether objective criteria are applicable to the tender as envisaged in regulation 11.

27.3 Functionality

Where functionality is utilized as an evaluation criterion, bid specifications or terms of reference, as the case may be, must clearly specify:

(i) if the tender will be evaluated on functionality
(ii) The evaluation criteria for measuring functionality must be objective.
(iii) The tender documents must specify
    a) the evaluation criteria for measuring functionality;

b) the points for each criteria and, if any, each sub-criterion; and the minimum qualifying score for functionality.

(iv) the minimum qualifying score for functionality for a tender to be considered further

a) must be determined separately for each tender; and
b) may not be so(i) low that it may jeopardize the quality of the required goods or services; or (ii) high that it is unreasonably restrictive.

(v) Points scored for functionality must be rounded off to the nearest two decimal places.

(v) A tender that fails to obtain the minimum qualifying score for functionality as indicated in the tender documents is not an acceptable tender.

(vi) Each tender that obtained the minimum qualifying score for functionality must be evaluated further in terms of price and the preference point system and any objective criteria.

27.4 80/20 Preference Points System

(4.1) Where applicable, bid documentation must include the following preference points evaluation system for the procurement of goods, services or works up to a Rand value of R50 million (all applicable taxes included):

(i) the following formula will be used to calculate the points for price in respect of bids (including price quotations) with a Rand value equal to, or above R 30 000 and up to a Rand value of R50 million (all applicable taxes included):

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

Where;
Ps = Points scored for price of tender under consideration. Pt = Price of tender under consideration; and Pmin = Price of lowest acceptable tender.

1) *A maximum of 20 points may be awarded to a tenderer for the specified goals for the tender.*
2) *The points scored for the specific goal must be added to the points scored for price and the total must be rounded off to the nearest two decimal places.*
3) *Subject to section 2(1)(f) of the Act, the contract must be awarded to the tenderer scoring the highest points.*

(4.2) 80/20 preference points system for tenders for income-generating contracts with Rand value equal to or below R50 million

1. The following formula must be used to calculate the points for price in respect of an invitation for tender for income-generating contracts, with a Rand value equal

to or below R50 million, inclusive of all applicable taxes:

a) $$Ps = 80\left(1 + \frac{Pt - Pmax}{Pmax}\right)$$

Where

Ps = Points scored for price of tender under consideration. Pt = Price of tender under consideration; and
Pmax = Price of highest acceptable tender

1) *A maximum of 20 points may be awarded to a tenderer for the specific goal specified for the tender.*
2) *The points scored for the specific goal must be added to the points scored for*
price and the total must be rounded off to the nearest two decimal places.

I. As indicated by the table depicted below; a 50% of the 20/10 points will be allocated to promote this goal and points will be allocated in terms of the B-BBEE scorecard as follows.

B-BBEE Status Level of Contributor	**Number of Points for Preference (80/20)**	**Number of Points for Preference (90/10)**
1	10	5
2	8	4
3	6	3
4	4	2
5	3	1
6	2	1
7	2	1
8	2	1
Non-compliant contributor	0	0

II. a maximum of 20 points on an 80/20 point system may be allocated for specific goals

III. the points scored by a bidder in respect of B-BBEE contribution contemplated in subparagraph (ii) must be added to the points scored for price as calculated in accordance with subparagraph (i); and those of specific goals.

(4.3) A tenderer must submit proof of its B-BBEE Status level of contributor.

(4.3.1) A tender failing to submit proof of B-BBEE status level of contributor or is a non-compliant contributor to B-BBEE may not be disqualified, but –
(a) May only score points out of 80 for price
(b) Scores 0 for non submission of B-BBEE or required documents for specific goals.

(4.3.2) A tenderer may not be awarded points for B-BBEE Status level of contributor if the tender documents indicate that the tenderer intends subcontracting more than 25% of the value of the contract to any other person not qualifying for at least the points the tenderer qualifies for, unless the intended subcontractor is an EME that has the capability

to execute the subcontract.

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

(4.3.4) Subject to sub regulation (3.7) , the contract must be awarded to the Tenderer scoring the highest points.

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

(b) the organ of state may-

(i) negotiate a market related price with the tenderer scoring the highest points or cancel the tender.

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

(iii) if the tender scoring the second highest points does not agree to a Market related prices, negotiate a market- related price with the Tenderer scoring the third highest scoring points or cancel the tender;

(c) If the market- related price is not agreed as envisaged in paragraph 5.

(d) the organ of state must cancel the tender.

27.5 90/10 Preference Points System

(5.1(a))

1) Where applicable, bid documentation must include the following preference points evaluation system for the procurement of goods, services or works with a Rand value above R50 million (all applicable taxes included): the following formula will be used to calculate the points for price in respect of bids with a Rand value above R50 million (all applicable taxes included):

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

Where;

Ps = Points scored for price of tender under consideration; Pt = Price of tender under consideration; and Pmin = Price of lowest acceptable tender.

2) *A maximum of 10 points may be awarded to a tenderer for the specified goals for the tender.*

3) *The points scored for the specific goal must be added to the points scored for price and the total must be rounded off to the nearest two decimal places.*

(5.1(b) 90/10 preference point system for tenders for income-generating contracts with Rand value above R50 million

1. The following formula must be used to calculate the points for price in respect of a tender for income-generating contracts, with a Rand value above R50 million, inclusive of all applicable taxes:

a) $$Ps = 90\left(1 + \frac{Pt - Pmax}{Pmax}\right)$$

Where

Ps = Points scored for price of tender under consideration; Pt = Price of tender under consideration; and
Pmax = Price of highest acceptable tender

1) *A maximum of 10 points may be awarded to a tenderer for the specific goal specified for the tender.*
2) *The points scored for the specific goal must be added to the points scored for price and the total must be rounded off to the nearest two decimal places.*
3) *Subject to section 2(1)(f) of the Act, the contract must be awarded to the tenderer scoring the highest points.*

I. As indicated by the table depicted below; a 50% of the 20/10 points will be allocated to promote this goal and points will be allocated in terms of the B-BBEE scorecard as follows.

B-BBEE Status Level of Contributor	**Number of Points for Preference (80/20)**	**Number of Points for Preference (90/10)**
1	10	5
2	8	4
3	6	3
4	4	2
5	3	1
6	2	1
7	2	1
8	2	1
Non-compliant contributor	0	0

II. a maximum of 10 points out of 90/10-point system may be allocated for specific goals.

III. the points scored by a bidder in respect of B-BBEE contribution contemplated in subparagraph (ii) must be added to the points scored for price as calculated in accordance with subparagraph (i); and those of specific goals.

(5.2) **A tenderer must submit proof of its B-BBEE Status level of contributor.**

(5.3) A tender failing to submit proof of B-BBEE status level of contributor or is a non-compliant contributor to B-BBEE may not be disqualified, but –
(c) May only score points out of 90 for price
(a) Scores 0 for non submission of B-BBEE or zero(0) for none submission of specific goals.

(5.4) A tenderer may not be awarded points for B-BBEE Status level of contributor if
the tender documents indicate that the tenderer intends subcontracting more
than 25% of the value of the contract to any other person not qualifying

for at least the points the tenderer qualifies for, unless the intended subcontractor is an EME that has the capability to execute the subcontract.

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

(5.6) Subject to sub regulation (4.7), the contract must be awarded to the tenderer scoring the highest points.

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

(b) the organ of state may-

(i) negotiate a market related price with the tenderer scoring the Highest points or cancel the tender

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

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

(c) If the market- related price is not agreed as envisaged in paragraph 6.7 (b), the organ of state must cancel the tender.

(27.6) Preference in terms of the specific goals

a) Specific Goals Categories, the weighting below can be changed or vary from project to project. Please note that specific goals might not be feasible to be applied in some project. The SCM Manager must advise the user department prior to the project being presented and approved by BSC.

The table below depicts the allocation of points:

NO	Specific Goals Categories	Max points allocation Number of Points for Preference (80-Price/20 Specific Goals);	Max points allocation Number of Points for Preference (90-Price/10 Specific Goals);
1	BBBE	10	5
2	Local area of supplier or contractors	10	5
3	The promotion of SMMEs.	10	5
4	The creation of new jobs or the intensification of labour absorption.	10	5
5	The empowerment of the work force by standardizing the level of skill and knowledge of workers.	10	5
6	The development of human resources, including by assisting in tertiary and other advanced training programmes, in line with key indicators such as percentage of wage bill spent on education and training and improvement of management skills; and	10	5
7	The upliftment of communities through, but not limited to, housing, transport, schools, infrastructure donations, and charity organizations.	10	5
8	The promotion of export orientated production to create jobs.	10	5
9	An EME or QSE which is at least 51% owned by black people who are youth;	10	5
10	An EME or QSE which is at least 51% owned by black people who are women;	10	5
11	An EME or QSE which is at least 51% owned by black people with disabilities;	10	5

(27.6.1) Preference in terms of locality of the service provider/contractor rendering services to Kouga Local Municipality.

Local area of supplier	Number of Points for Preference	
	80/20	90/10
Within the boundaries of the Kouga Local Municipality	10	5
Within the boundaries of Sarah Baartman District Municipality	6	3
Within the boundaries of the Eastern Cape	4	2
Outside of the boundaries of the Eastern Cape	1	1

This can be used as a criterion for specific goal.

27.7 Additional Conditions

Bid documentation must include a reference to the following additional conditions, where applicable:

27. 7.1 Award of contracts to tenderers not scoring highest points

a) If two or more tenderers score an equal total number of points, the contract must be awarded to the tenderer that scored the highest points for specific goals.

b) If two or more tenderers score an equal total number of points, the objective criteria in addition to those contemplated justify the award to the tenderer that scored the highest points in terms in accordance with section 2(1)(f) of the Act.

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

27.7.2 Sub-contracting as condition of tender

I. If the municipality applies subcontracting as contemplated in sub-regulation (1), the municipality **must** advertise the tender with a specific tendering condition that the successful tenderer must subcontract a minimum of 30% of the value of the contract, ***where possible of feasible*** to:

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

II. The municipality must make available the list of all suppliers registered on a

database approved by the National Treasury to provide the required goods or services in respect of the applicable designated groups mentioned in sub regulation (iv) from which the tenderer must select a supplier (that being applicable for deviation and emergency projects.

III. As for projects that have been publicly advertised by KLM, the appointed main contractor would be expected to undertake a process of appointing subcontractors. The appointed contractor being assisted by the PSP managing the project MUST publicly prepare an advert to solicit SMME's from KLM Area. First preference in appointing the SMM's MUST be give the SMME's of the Ward where the works is taking place. Where SMME's could not be found in the that Ward the main contractor must extend the invite to the neighboring Ward/s.

IV. The sub-contracting of work is required for all construction and non-construction related project, **and their thresholds stated below MUST be adhered by all directorates:**

a) For any project < R2.5 M the Bidder may sub-contract what might be feasible.
b) R2.5M >, but <R5M requires Bidder to sub-contract 5% of the value of the project
c) R 5M>, but < R 10M requires Bidder to sub-contract 10% of the value of the project
d) R 10M >, but < R 15M requires Bidder to sub-contract 15% of the value of the project
e) R 15M>, but < R20 requires Bidder to sub-contract 20% of the value of the project
f) R 20M >, but < R 30M requires Bidder to sub-contract 25% of the value of the project
g) R 30M> requires Bidder to sub-contract 30% of the value of the project to EME's QSE. The feasible work-packages for subcontracting must be identified by the Project Manager or appointed PSP prior to advertisement.

V. The sub-contracting value will be based on the estimated value of the project either determined by the director or project manager. Where the successful bidder's price falls within any other range, the sub-contracting range included in the Bid Document will be applied.

VI. The municipality may include sub-contracting for any other none CIDB related project as may be requested by the Director of the Department to promote local development.

VII. Community based Suppliers or service providers/ward-based suppliers or service providers must be considered for subcontracting by the main contractor. The first preference for subcontracting must be given to community or ward-based suppliers of that ward where the project is taking place. If the required skill or expertise is not available from the ward / area where the project is taking place, the main contractor is permitted to accept service providers/contractors/suppliers within the KLM jurisdiction. Those service provider or suppliers would then contract directly with the main contractor.

27.7.3 Subcontracting after award of tender

a) A person awarded a contract may only enter into a subcontracting arrangement with the approval of the organ of state.
b) A person awarded a contract in relation to a designated sector, may not

subcontract in such a manner that the local production and content of the overall value of the contract is reduced to below the stipulated minimum threshold.

c) A person awarded a contract may not subcontract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level of contributor than the person concerned, unless the contract is subcontracted to an EME that has the capability and ability to execute the subcontract.

27.8 Miscellaneous Special Conditions of Contract

Bid documentation must, inter alia, include the following conditions as Special Conditions of Contract:

27.8.1 General

(a) Only a bidder who has completed and signed the declaration part of a bid may be considered;

(b) When comparative prices must be calculated, any discounts which have been offered unconditionally will be taken into account;

(c) A discount which has been offered conditionally will, despite not being taken into account for evaluation purposes, be implemented when payment to a bidder in respect of an accepted bid is effected;

(d) Points scored in any applicable scoring system will be rounded off to the nearest 2 decimal places.

(e) **(i)** If two or more tenderers score an equal total number of points, the Contract must be awarded to the tenderer that scored the highest points for specific goals.

(iii) Should two or more bids be equal in all respects, the award shall be decided by the drawing of lots.

27.8.2 Declarations

(a) A bidder must -

I. declare that the information provided in any bid document is true and correct;

II. declare that the signatory to a bid document is duly authorized; and

III. undertake to submit documentary proof regarding any bidding issue when required to the satisfaction of the municipality.

27.9 Remedies

1. Upon detecting that a tenderer submitted false information regarding its BBBEE status level of contributor, local production and content, or any other matter required in terms of these Regulations which will affect or has affected the evaluation of a tender, or where a tenderer has failed to declare any

subcontracting arrangements, the organ of state must:

1. inform the tenderer accordingly.

2. give the tenderer an opportunity to make representations within 14 days as to why:
(i) the tender submitted should not be disqualified or, if the tender has already been awarded to the tenderer, the contract should not be terminated in whole or in part;
(ii) if the successful tenderer subcontracted a portion of the tender to another person without disclosing it, the tenderer should not be penalized up to 10 percent of the value of the contract; and
(iii) the tenderer should not be restricted by the National Treasury from conducting any business for a period not exceeding 10 years with any organ of state; and

3. if it concludes, after considering the representations referred to in sub regulation;
(1)(b), that
(i) such false information was submitted by the tenderer(a) disqualify the tenderer or terminate the contract in whole or in part; and (bb) if applicable, claim damages from the tenderer; or
(ii) the successful tenderer subcontracted a portion of the tender to another person without disclosing, penalize the tenderer up to 10 percent of the value of the contract.

(2) (a) The Municipality must;

I. inform the National Treasury, in writing, of any actions taken in terms of sub regulation (1);
II. provide written submissions as to whether the tenderer should be restricted from conducting business with any organ of state; and
III. submit written representations from the tenderer as to why that tenderer should not be restricted from conducting business with any organ of state.

1. The National Treasury may request an organ of state to submit further information pertaining to sub regulation (1) within a specified period.

(3) The National Treasury must:
a. after considering the representations of the tenderer and any other relevant information, decide whether to restrict the tenderer from doing business with any organ of state for a period not exceeding 10 years; and
b. maintain and publish on its official website a list of restricted suppliers.

27.10 Cancellation of Tender

1. The Municipality may, before the award of a tender, cancel a tender invitation if-

a) due to changed circumstances, there is no longer a need for the goods, services or construction works requested;

b) funds are no longer available to cover the total envisaged expenditure;

c) no acceptable bids are received;

d) there is a material irregularity in the tender process; or the validity period expired prior to award of tender.

e) negotiations have failed with the preferred tenderer up to and including the tenderer who scoring the third highest points where the prices offered is not market related.

2. If it becomes necessary to cancel or re-advertise formal bids, then a report to this effect shall be submitted to the Bid Adjudication Committee for decision. A tender may only be cancelled for a second time with the prior approval of the relevant treasury. Such approval must be attached to the report submitted to the Bid Adjudication Committee.

3. If a bid has been cancelled, then all bidders must be notified in writing.

4. A decision to cancel a bid in terms of clause 27.10(a) to (e) above must be published in the media in which the original bid invitation was advertised.

5. It is not necessary to notify original bidders when calling for new bids, which will be advertised.

6. Unless no acceptable bids have been received, no bid may be re-advertised before the Bid Adjudication Committee has resolved to cancel the original bid, and all bidders have been notified accordingly.

27.11 Procurement from tertiary institutions

(a) Where the municipality is in need of a service provided by only tertiary institutions, such services must be procured through a bidding process with the identified tertiary institutions.

(b) Should the municipality require a service that can be provided by one or more tertiary institutions or public entities and enterprises from the private sector, the appointment of a contractor will be done by means of a bidding process.

(c) For purposes of this paragraph, a bidding process includes a written offer in a prescribed or stipulated form in response to an invitation by the municipality for the provision of services, through price quotations, advertised competitive bidding processes or proposals.

27.12 Alternative Bids

a) Alternative bids can be submitted provided that an acceptable bid, which complies with the bid conditions and specifications and submitted strictly in

accordance with the bid documents, is also submitted.

b) An alternative bid shall be submitted on a separate complete set of bid documents or in accordance with such conditions as may be set out in the bid document and shall be clearly marked "Alternative Bid" to distinguish it from the acceptable bid referred to above.

c) All acceptable bids (excluding alternative bids) shall first be evaluated in accordance with the bid conditions and ranked in terms of the preference point system described in the Preferential Procurement section of this policy. Only the alternative of the highest ranked acceptable bid (that is, submitted by the same bidder) may be considered, and if appropriate, recommended for award.

d) Alternative bids of any but the highest ranked acceptable bid, shall not be considered.

e) If the alternative bid of the highest ranked acceptable bid is considered to have merit, then the alternative bid shall be ranked along with all of the acceptable bids received.

f) An alternative of the highest ranked acceptable bid that is priced higher than the first ranked bid may be recommended for award, provided that the ranking of the alternative bid is higher than the ranking of the next ranked acceptable bid.

g) KLM will not be bound to consider alternative bids.

27.13 Samples

a) Where samples are called for in the bid documents, samples (marked with the bid and item number as well as the bidder's name and address) shall be delivered separately (to the bid) to the addressee mentioned in the bid documents.

b) Bids may not be included in parcels containing samples.

c) If samples are not submitted as required in the bid documents or within any further time stipulated by the KLM in writing, then the bid concerned may be declared non-responsive.

d) Samples shall be supplied by a bidder at his/her own expense and risk. KLM shall not be obliged to pay for such samples or compensate for the loss thereof, unless otherwise specified in the bid documents, and shall reserve the right not to return such samples and to dispose of them at its own discretion.

e) If a bid is accepted for the supply of goods according to a sample submitted by the bidder, that sample will become the contract sample. All goods/materials supplied shall comply in all respects to that contract sample.

28. BID EVALUATION COMMITTEES

(1) A bid evaluation committee must, as far as possible, be composed of-

(a) officials from departments requiring the goods, services or works; and

(b) at least one supply chain management practitioner of the municipality.

(2) A bid evaluation committee must -

(a) evaluate bids in accordance with the relevant bid specification or terms of reference, as the case may be, inclusive of unconditional discounts, sub-contracting and this policy; and

(b) evaluate each bidder's ability to execute the contract provided that, where bids are invited on the basis of functionality as a criterion, they must be evaluated in the following two stages:

I. First stage - evaluation of functionality

(a) bids must be evaluated in terms of the evaluation criteria embodied in the bid specification or terms of reference, as the case may be. The amendment of evaluation criteria, weights, applicable values and/or the minimum qualifying score for functionality after the closure of bids is not allowed as this may jeopardize the fairness of the process;

(b) a bid will be considered further if it achieves the prescribed minimum qualifying score for functionality;

(c) bids that fail to achieve the minimum qualifying score for functionality must be disqualified;

(d) score sheets should be prepared and provided to panel members to evaluate the bids;

(e) a score sheet should contain all the criteria and the weight for each criterion as well as the values to be applied for evaluation as indicated in the bid specification or terms of reference concerned;

(f) each panel member should, after thorough evaluation, independently award his own value to each individual criterion;

(g) score sheets should be signed by panel members and if necessary, a written motivation may be requested from panel members where vast discrepancies in the values awarded for each criterion exist, provided that if the minimum qualifying score for functionality is indicated as a percentage in the bid specification or terms of reference, as the case may be, the percentage scored for functionality may be calculated;

(h) the value awarded for each criterion should be multiplied by the weight for the relevant criterion to obtain the score for the various criteria;

(i) the scores for each criterion should be added to obtain the total score; and

(j) the following formula should be used to convert the total score to percentage for functionality:

$$Ps = \frac{So}{Ms} X\ 100$$

Where:

Ps = percentage scored for functionality by bid under consideration

So = total score of bid under consideration

Ms = maximum possible score

(k) the percentage of each panel member should be added and divided by the number of panel members to establish the average percentage obtained by each bidder for functionality.

(ii) Second stage - Evaluation in terms of the 80/20 or 90/10 preference point systems

Only bids that achieve the minimum qualifying score / percentage for functionality must be evaluated further in accordance with the bid specification or terms of reference for the bid concerned, as the case may be;

Evaluate bids based on a stipulated minimum threshold for local production and content as required in the relevant bid specification in the following two stages:

(iii) First stage - Evaluation in terms of the stipulated minimum threshold for local production and content

(a) bids must be evaluated in terms of the evaluation criteria stipulated in the bid specification. The amendment of the stipulated minimum threshold for local production and content after the closure of bids is not allowed as this may jeopardize the fairness of the process;

(b) a bid must be disqualified if:

- the bidder fails to achieve the stipulated minimum threshold for local production and content; and

- the Declaration Certificate for Local Content (Form MBD 6.2) is not submitted as part of the bid;

(c) calculate the local content (LC) as a percentage of the bid price in accordance with the SABS approved technical specification number SATS 1286: 201x;

(d) verify the accuracy of the rates of exchange quoted by the bidder in paragraph 4.1 of the Declaration Certificate for Local Content (Form MBD 6.2);

(iv) Second stage - Evaluation in terms of the 80/20 or 90/10 preference point systems

a) check in respect of the recommended bidder whether or not such bidder's municipal rates and taxes and municipal service charges are not in arrears;

b) verify the status of recommended bidders (including their directors(s), owners(s) or trustee(s)) by checking the Data Base of Restricted Suppliers maintained by National Treasury in order to ensure that no recommended bidder or any of its directors/owners/trustees are listed as companies or persons prohibited from doing business with the public sector;

c) submit to the adjudication committee a report and recommendations regarding the award of the bid or any other related matter provided that:

I. a contract must be awarded to the bidder who scored the highest total number of points in terms of the preference points systems referred to in paragraphs 29(3.3) and 29(4.3) as may be applicable; and

II. in exceptional circumstances and as provided in paragraph 29.9 of this policy, a contract may be awarded to a bidder that did not score the highest number of points provided that the reasons for such a recommendation must be recorded for audit purposes and be defendable in a court of law.

29. BID ADJUDICATION COMMITTEES

(1) A bid adjudication committee must consist of at least four senior managers of the municipality which must include -

(a) the chief financial officer or, if the chief financial officer is not available, another manager in the budget and treasury office reporting directly to the chief financial officer and designated by the chief financial officer; and

(b) at least one senior supply chain management practitioner who is an official of the municipality; and

(c) a technical expert in the relevant field who is an official of the municipality if the municipality has such an expert.

(3) The accounting officer must appoint the chairperson of the committee who shall preferably be the chief financial officer. 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 and such election must be recorded in the minutes of the meeting concerned.

(3) Only with the consent of the accounting officer and upon request by the bid adjudication committee, a member of a bid specification, bid evaluation committee and/or an advisor or person assisting these committees may attend a meeting of a bid adjudication committee only for the purpose of providing clarity and an explanation of difficult technical aspects relating to the bid being adjudicated and without having any right to vote on the said bid being adjudicated.

(4) A bid adjudication committee must -

(a) consider the report and recommendations of the bid evaluation committee submitted in terms of paragraph 28; and

(b) either -

(i) depending on its delegations, make a final award or a recommendation to the accounting officer to make the final award; or

(ii) make another recommendation to the accounting officer on how to proceed with the relevant procurement.

(5) If the bid adjudication committee decides to award a bid other than the one recommended by the bid evaluation committee, the bid adjudication committee must, prior to awarding the bid -

(a) check in respect of the preferred bidder whether that bidder's municipal rates and taxes and municipal service charges are not in arrears; and

(b) notify the accounting officer.

(6) The accounting officer may -

(a) after due consideration of the reasons for the deviation, ratify or reject the decision of the bid adjudication committee referred to in subparagraph 5; and

(b) if the decision of the bid adjudication committee is rejected, refer the decision of the adjudication committee back to that committee for reconsideration.

(7) 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.

(8) If a bid other than the one recommended in the normal course of implementing this policy is approved, the accounting officer must, in writing and within 10 working days, notify the Auditor-General and the National and Provincial Treasuries of the reasons for deviating from such recommendation.

(9) Subparagraph 8 does not apply if a different bid was approved in order to rectify an irregularity.

(10) Notwithstanding any provision to the contrary in this paragraph or any other provision in this policy:

(a) contracts above a value of R10m (all applicable taxes included) may only be awarded to the preferred bidder after the chief financial officer has verified in writing that budgetary provision exists for the procurement concerned and that it is consistent with the Integrated Development Plan of the municipality.

(b) during a competitive bidding and adjudication process or before the award of a contract, the accounting officer may, at his/her discretion, specifically request the internal audit function of the municipality or, when so required, an independent external audit service provider (including an organ of state) to carry out audit procedures and provide an opinion on compliance of the bidding process with supply chain management legislation applicable to the municipality.

(11) The accounting officer shall cause details of all bids awarded through a competitive bidding process to be advertised on the website of the municipality and such notification shall include at least the following information:

(a) Contract numbers and description of goods, service or works projects procured;
(b) Names of the successful bidder(s) and the total point scored for specific goals.

(c) The contract prices(s);

(d) Brand names and dates for completion of contracts.

(12) Notification of the decision made by accounting officer based on BAC recommendations;

a) The successful and unsuccessful bidders shall be notified in writing once a Final Award has been made.

b) The successful bidder shall, in addition, be advised of the 14-day appeal period, and be notified that no rights accrue to him/her until the bid is formally accepted in writing.

c) Where a preferred bidder has been identified and is referred to the accounting officer by the Bid Adjudication Committee in order to authorize the negotiation of the final terms of a contract, the preferred

bidder shall be notified of its preferred bidder status.

d) Every notification of decision shall be faxed or sent via electronic mail to the address chosen by the bidder, with a copy of proof of transmission kept for record purposes, or shall be delivered by hand, in which case acknowledgement of receipt must be signed and dated on a copy of such notification and kept for record purposes.

30. PROCUREMENT OF BANKING SERVICES

(1) A contract for banking services -

(a) must be procured through competitive bidding;

(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 paragraph 23 (1).

(4) Bids must be restricted to banks registered in terms of the Banks Act, 1990 (Act No. 94 of 1990).

31. PROCUREMENT OF IT RELATED GOODS OR SERVICES

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

(2) Both parties must enter into a written agreement to regulate the services rendered by, and the payments to be made to, SITA.

(3) The accounting officer must notify SITA together with a motivation of the IT needs if -

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

(b) the transaction value of a contract to be procured, whether for one or more years, exceeds R50 million (VAT included).

(4) If SITA comments on the submission and the municipality does not agree with such comments, the comments and the reasons for rejecting or not following such comments must be submitted to the council, the National and Provincial Treasuries and the Auditor-General.

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

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

(a) the contract has been secured by that other organ of state by means of a competitive bidding process applicable to that organ of state;

(b) there is no reason to believe that such contract was not validly procured;

(c) there are demonstrable discounts or benefits to do so; and

(d) that other organ of state and the provider concerned have consented to such procurement in writing.

(2) Subparagraphs (1) (c) and (d) do not apply if -

(a) a municipal entity procures goods or services through a contract secured by its parent municipality; or

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

33. PROCUREMENT OF GOODS NECESSITATING SPECIAL SAFETY ARRANGEMENTS

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

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

34. PROUDLY SA CAMPAIGN

(1) The Municipality supports the Proudly SA Campaign to the extent that, as far as possible, preference is given to procuring local goods and services in line with the Updated Preferential Procurement Regulation of 2017.

35. APPOINTMENT OF CONSULTANTS

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

(2) Consultancy services must be procured through competitive bids if -

(a) the value of the contract exceeds R300 000 (VAT included); or

(b) the duration period of the contract exceeds one year.

(3) In addition to any requirements prescribed by this policy for competitive bids, bidders must furnish particulars of -

(a) all consultancy services provided to an organ of state in the last five years; and

(b) any similar consultancy services provided to an organ of state in the last five years.

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

36. DEVIATION, AND RATIFICATION OF MINOR BREACHES OF, PROCUREMENT PROCESSES

1. The accounting officer may –dispense with the official procurement processes established by this policy and procure any required goods or services through any convenient process, which may include direct negotiations, but only -

i. in an emergency; the conditions warranting *emergency dispensation* should include the existence of one or more of the following:

a. the possibility of human injury or death;

b. the prevalence of human suffering or deprivation of rights;

c. the possibility of damage to property, or suffering and death of livestock and animals;

d. the interruption of essential services, including transportation and communication facilities or support services critical to the effective functioning of the KLM as a whole;

e. the possibility of serious damage occurring to the natural environment;

f. the possibility that failure to take necessary action may result in the KLM not being able to render an essential community service; and the possibility that the security of the state could be compromised.

ii. if such goods or services are produced or available from a single or sole provider only in circumstances where such supplier:

iii. for the acquisition of special works of art or historical objects where specifications are difficult to compile

iv. acquisition of animals for zoos and/or nature and 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 subparagraphs (1) (a)(i) to (v) and S36(1) (b) of this policy and report them to the next meeting of the council and also include such

reasons as a note to the annual financial statements of the municipality.

(3) Subparagraph (2) does not apply to the procurement of goods and services contemplated in paragraph 11(2) of this policy.

(4) For all Deviations, the standard Deviation Form (**Attached as Annexure C**) must be completed appropriately and required declarations with the necessary reviews and recommendations prior to the Municipal Manager's approval.

(5) **Single Source Selection;** National Treasury Guidelines provide for single-source selection in exceptional cases for consulting services. The justification for single-source selection must be examined in the context of the overall interests of the KLM and the project. Single-source selection may be appropriate only if it presents a clear advantage over competition: the following requirements must be met or covered in the motivation;

a) for services that represent a natural continuation of previous work carried out by the consultant, and continuity of downstream work is considered essential;

b) where rapid selection is essential;

c) for very small appointments;
d) when only one consultant is qualified or has experience of exceptional worth for the project.

(5.1) The reasons for single-source selection must be fully motivated in a report and approved by the Bid Adjudication Committee prior to conclusion of a contract, provided that if the award is for an amount of R200 000 or less, such award shall be approved by the Chief Financial Officer.

(6) Consultant appointments approved in terms of a single-source selection Process must be formalized in a written contract which describes the terms and conditions of contract, as well as the scope of services required.

37. UNSOLICITED BIDS

(1) An unsolicited bid is a bid that is submitted by a prospective supplier to the municipality without any procurement requirement first having been identified and advertised. This situation arises when a supplier identifies an opportunity to render services or supply products not ordinarily required by the municipality.

(2) In accordance with section 113 of the Act, there is no obligation upon the municipality to consider unsolicited bids received outside a normal bidding process.

(3) The accounting officer may decide in terms of section 113(2) of the Act to consider an unsolicited bid but only if -

(a) the product or service offered in terms of the bid is a demonstrably or proven unique innovative concept;

(b) the product or service will be exceptionally beneficial to the municipality or have exceptional cost advantages;

(c) the person who made the bid is the sole provider of the product or service concerned; and

(d) the reasons for not going through the normal bidding processes are found to be sound by the accounting officer.

(4) If the accounting officer decides to consider an unsolicited bid that complies with sub-paragraph (3), his 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 on the proposal within 30 days of the publication of the relevant notice.

(5) The accounting officer must submit all written comments received pursuant to subparagraph (4), including any responses from the unsolicited bidder, to the National and Provincial Treasuries for comment.

(6) Subject to subparagraphs (7) and (8) below, the adjudication committee must consider the unsolicited bid and may, depending on its delegations, award the bid or make a recommendation to the accounting officer.

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

(8) 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 and Provincial Treasuries.

(9) If any recommendations of the National and Provincial Treasuries are rejected or not followed, the accounting officer must submit to the Auditor-General and the National and Provincial Treasuries the reasons for rejecting or not following those recommendations.

(10) 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.

(11) The processes to be followed by the municipality with regard to the acceptance or rejection of an unsolicited bid shall clearly be made known to the bidder who submits the unsolicited bid concerned.

(12) The council shall exercise caution when interviewing a potential supplier or a person who may wish to offer services to the municipality in circumstance which may be tantamount to the submission of or negotiation with regard to an unsolicited bid and shall not do anything or cause anything to be done which may be contrary to this policy.

38. COMBATING OF ABUSE OF SUPPLY CHAIN MANAGEMENT SYSTEM

(1) The accounting officer must-

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

(b) investigate any allegations against an official or other role player of fraud, corruption, favouritism, unfair or irregular practices or a failure to comply with this policy, and when justified -

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

or

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

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

(d) reject any bid from a bidder -

(i) if any municipal rates and taxes or municipal service charges owed by that bidder or any of its directors to the municipality or to any other municipality or municipal entity, are in arrears for more than three months; or

(ii) who, during the last five years, has failed to perform satisfactorily on a previous contract with the municipality or any other organ of state after written notice was given to that bidder that performance was unsatisfactory;

(e) reject a recommendation for the award of a contract if the recommended bidder or any of its directors has committed a corrupt or fraudulent act in competing for the particular contract;

(f) cancel a contract awarded to a person if -

(i) such person committed any corrupt or fraudulent act during the bidding process or the execution of the contract; or

(ii) an official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of the contract that benefited that person; and

(g) Reject the bid of any bidder if that bidder or any of its directors -

(i) has abused the supply chain management system of the municipality or has committed any improper conduct in relation to such system;

(ii) has been convicted for fraud or corruption during the past five years;

(iii) has willfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or

(iv) has been listed in the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No. 12 of 2004).

(2) The accounting officer must inform the National and Provincial Treasuries in writing of any actions taken in terms of subparagraphs (1)(b)(ii), (e) or (f) above.

(3) If the accounting officer, on reasonable grounds, believes that a bidder or a contractor has engaged in bid rigging, he shall refer the matter to the Competition Tribunal for investigation and the taking of action against the bidder or contractor concerned in a manner contemplated in the Competition Act No. 89 of 1998.

Part 3: Logistics, Disposal, Risk and Performance Management

39. LOGISTICS MANAGEMENT SYSTEM

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

(a) the monitoring of spending patterns on types or classes of goods and services incorporating, where practical, the coding of items to ensure that each item has a unique number;

(b) the setting of inventory levels that includes minimum and maximum levels and lead times wherever goods are placed in stock;

(c) the placing of manual or electronic orders for all acquisitions other than those from petty cash; the following process must be adhered to;

i. Purchase orders will be created with reference to requisitions where the supply source is either bids or quotations.

ii. All purchase orders will be captured on the KLM SAMRAS system exclusive of VAT.

iii. Standing/Planned Purchase Orders may be used in cases where longer term arrangements, necessitating interim payments, are required.

iv. Purchase order approvals will be systems based and shall be authorized by the Stores Section through the office of Manager: SCM. That will happen after all the requisition have been approved by the duly delegated officials.

v. In respect of goods and services no work shall commence, or goods be delivered before an official order has been placed with the supplier.

vi. KLM shall not be liable for payment for any goods delivered or services rendered in contravention of clause 39(c)(v) above.

(d) before payment is approved, certification by the responsible officer that the goods and services are received or rendered on time and is in accordance with the order, the general conditions of contract and specifications where applicable and that the price charged is as quoted in terms of a contract;

(e) appropriate standards of internal control and warehouse management to ensure that goods placed in stores are secure and only used for the purpose for which they were purchased;

(f) regular checking to ensure that all assets including official vehicles are properly managed, appropriately maintained and only used for official purposes; and

(g) monitoring and review of the supply vendor performance to ensure compliance with specifications and contract conditions for particular goods or services.

2) Receiving of Orders; Goods received will be captured on the SAMRAS system via a *Goods Received Note* with reference to the relevant purchase order. Where applicable, the Budget and Treasury Office or the Assets Section (for asset creation) and Insurance Section (for claims) will be informed of the purchase. It must be noted that requisitions for the acquisition of assets must be verified by the assets section and the requisition must be stamped to confirm the process the be followed. The asset section must keep records of those requisition for asset register and insurance purpose.

3) Deliveries of goods may not exceed the order quantity. Short deliveries will keep the purchase order open until the balance of the order is received or cancelled.

4) Valuation of stock; Stock is valued on the weighted average costing method per stock item and is VAT exclusive. Stock is valued in terms of the generally recognized accounting procedures as adopted by the KLM.

5) Stock items shall be systematically replenished using the re-order point planning strategy. Open reservations shall be taken into account during the replenishment run.

6) Goods will be issued from stock with reference to reservations. Goods can be issued for consumption against internal orders, cost centres, projects and assets under construction.

7) Purchase orders will be created, where applicable, with reference to replenishment requisitions in respect of term supply contracts for goods. Replenishment requisition approvals will be systems based. All replenishment will be processed via the Acquisition Management System.

8) Stores Management; The stores function shall be centralized and will operate under the jurisdiction of the Supply Chain Management Department. The Supply Chain Manager must ensure proper financial, budgetary control; uphold the principle of effective administration, proper stock holding and control, product standardization, quality of products and a high standard of service levels. The Manager: Supply Chain Management will develop and implement appropriate stock management procedures. The Chief Financial Officer is the only delegated authority to write off stock.

40. DISPOSAL MANAGEMENT SYSTEM

(1) In terms of section 14 of the Act, the municipality may not transfer ownership as a result of a sale or other transaction or otherwise permanently dispose of a capital asset needed to provide the minimum level of basic municipal services.

(2) A municipality may transfer ownership or otherwise dispose of capital asset other than one contemplated in subsection (1), but only after the council, in a meeting open to the public-

(a) has decided on reasonable grounds that the asset is not needed to provide the minimum level of basic municipal services; and

(b) has considered the fair market value of the asset and the economic and community value to be received in exchange for the asset.

(3) An asset may be disposed of by -

(i) transferring the asset concerned to another organ of state in terms of a provision of the Act enabling the transfer of assets;

(ii) transferring the asset concerned to another organ of state at market related value or, when appropriate, free of charge;

(iii) selling the asset concerned; or

(iv) destroying such asset.

(4) The accounting officer must ensure that -

(a) when immovable property is sold by means of a competitive bidding process, the highest price offered shall be accepted, provided such price is equal to or higher than the market related price for the relevant immovable property;

(b) in other cases, only at a market related price except when the public interest or the plight of the poor demands otherwise in which event the sale price shall be determined in accordance with the applicable land disposal or indigent policy adopted by the council;

(c) movable assets are sold either by way of written price quotations, a competitive bidding process or by public auction at the highest offered price, provided such price is market related;

(d) firearms are not sold or donated to any person or institution within or outside the Republic unless approved by the National Conventional

Arms Control Committee;

(e) immovable property is let at market related rentals except when the public interest or the plight of the poor demands otherwise in which event the rental shall be determined in accordance with the applicable land disposal or indigent support policy adopted by the council;

(f) all fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property are annually reviewed;

(g) where assets are traded in for other assets, the highest possible trade-in price is negotiated; and

(h) in the case of the free disposal of computer equipment, the provincial department of education is first approached to indicate, within 30 days, whether or not any of the local schools are interested in such equipment.

(5) This paragraph must be read with and applied in conjunction with the Municipal Asset Transfer Regulations contained in Government Notice R. 878 of 22 August 2008 and the associated policies adopted by the council. In the event of conflict, the provisions of the aforesaid Regulations shall be applied.

41. RISK MANAGEMENT

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

(2) Risk management must include -

(a) the identification of risks on a case-by-case basis;

(b) the allocation of risks to the party best suited to manage such risks;

(c) acceptance of the cost of the risk where the cost of transferring the risk is greater than that of retaining it;

(d) the management of risks in a pro-active manner and the provision of adequate cover for residual risks; and

(e) the assignment of relative risks to the contracting parties through clear and unambiguous contract documentation.

42. PERFORMANCE MANAGEMENT

The accounting officer must establish and implement an internal monitoring system in order to determine, on the basis of a retrospective analysis, whether the authorized supply chain management processes were followed and whether the objectives of this policy were achieved.

1) Performance management shall accordingly be characterized by a monitoring process and retrospective analysis to determine whether:

a. value for money has been attained;
b. proper processes have been followed;

c. desired objectives have been achieved;
d. there is an opportunity to improve the process;
e. suppliers have been assessed and what that assessment is; and
f. there has been deviation from procedures and, if so, what the reasons for that deviation are.

2) The performance management system shall accordingly focus on, amongst others:
a. achievement of goals;
b. compliance to norms and standards;
c. savings generated;
d. cost variances per item;
e. non-compliance with contractual conditions and requirements; and
f. the cost efficiency of the procurement process itself.

Part 4: Other matters

43. TAX MATTERS

1) In terms of the Act municipalities are prohibited from awarding bids to persons whose tax matters have not been cleared by SARS.

2) Before making an award to a person, the Supply Chain Management Unit, must verify the tax compliance status of a taxpayer on the SARS e-Filling system.

3) The National Treasury's Centralized Supplier Database and the Tax Compliance Pin are the approved methods to be used to prove tax compliance.

4) Where goods and services are procured from foreign supplier with tax obligations in South Africa, proof of tax compliance status should be obtained from supplier.

5) Foreign Suppliers with neither South African tax obligations nor history of doing business in South should complete a pre-award questionnaire on the 2018 revised MBD 1 for their tax obligation categorization. The Accounting Officer must submit a copy of this completed MBD 1 received from the awarded bidder to SARS. SARS will issue a letter to the procuring entity confirming whether or not foreign supplier has tax obligations in South Africa.

6) Where the recommended bidder is not tax compliant, the bidder should be notified of their non – compliant status and the bidder must be requested to submit to the municipality within seven (7) working days, proof from SARS that they have remediate their tax compliance status. The proof of tax compliance status submitted by the bidder must be verified in terms of section 43(3) or via CSD or e-Filling.

7) The Accounting Officer should reject a bid submitted by the bidder if such bidder fails to provide proof of tax compliance status within the specified timeframe as stated in section 43(6) above.

8) If a bidder was tax compliant at the time of award, purchase order and thereafter, and the goods and services has been delivered satisfactorily without any dispute, the Accounting Officer should not delay processing payment of invoices due to outstanding tax matters. This only applies where

bidder was tax compliant on the date of tender award or the processing of official purchase order.

9) The tax status of all bidders procured through formal quotes which are less than R 30 000 **MUST** be Tax Compliant prior to the generation of purchase order/s. If the recommended bidder is Tax Non-Compliant, then the second highest scorer on points should be considered and so on, provided that the Tax Status is **Tax Compliant.**

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

Irrespective of the procurement process followed, no award may be made to a person in terms of this policy -

(a) who is in the service of the state;

(b) if that person is not a natural person, of which any director, manager, principal shareholder or stakeholder is a person in the service of the state; or

(c) who is an advisor or consultant contracted with the municipality.

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

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

(a) the name of that person;

(b) the capacity in which that person is in the service of the state; and

(c) the amount of the award.

46. ETHICAL STANDARDS

(1) The code of ethical standards annexed to this policy as Annexure A shall apply to all officials and other role players in the supply chain management system of the municipality in order to promote -

(a) mutual trust and respect; and

(b) an environment where business can be conducted with integrity and in a fair and reasonable manner.

(2) A breach of the aforesaid code of ethics must be dealt with as follows -

(a) in the case of an employee, in terms of the disciplinary procedures of the municipality envisaged in section 67(1)(h) of the Municipal Systems Act;

(b) in the case of a role player who is not an employee, through other appropriate means with due regard to the severity of the breach;

(c) in all cases, financial misconduct must be dealt with in terms of chapter 15 of the Act and for applicable regulations pertaining to financial misconduct by officials.

47. INDUCEMENTS, REWARDS, GIFTS AND FAVOURS TO MUNICIPALITIES, OFFICIALS AND OTHER ROLE PLAYERS

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

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

(b) any reward, gift, favour or hospitality to -

(i) any official; or

(2) The accounting officer must promptly report any alleged contravention of sub-paragraph 1 to the National Treasury for considering whether the offending person, and any representative or intermediary through which such person is alleged to have acted, should be listed in the National Treasury's database of persons prohibited from doing business with the public sector.

(3) Subparagraph (1) does not apply to gifts less than R350 in value.

48. SPONSORSHIPS

The accounting officer must promptly disclose to the National and Eastern Cape Provincial Treasury any sponsorship promised, offered or granted, whether directly or through a representative or intermediary by any person who is -

(a) a provider or prospective provider of goods or services to the municipality; or

(b) a recipient or prospective recipient of goods disposed of or to be disposed of by the municipality.

49. OBJECTIONS AND COMPLAINTS

a) In terms of Section 62 of the Municipal Systems Act, a person whose rights are affected by a decision taken by the KLM may appeal against that decision by giving written notice of the appeal, the service provider or contractor that is aggrieved must write and state the reasons to the accounting officer within 14 days of the date of receipt of the notification of the decision.

b) Bid documents must state that any appeal must be submitted to the accounting officer at the address stated, and must contain the following:

(i) must be in writing;
(ii) reasons for the appeal;

(iii) the way in which the appellant's rights have been affected;

(iv) the remedy sought by the appellant; and

(v) a copy of the notification advising the person of the decision.

50. RESOLUTION OF DISPUTES, OBJECTIONS, COMPLAINTS AND QUERIES

(1) The accounting officer must appoint an independent and impartial person who is not directly involved in the supply chain management processes -

(a) to assist in the resolution of disputes between the municipality and other persons regarding -

(i) any decisions or actions taken in the implementation of the supply chain management system; or

(ii) any matter arising from a contract awarded in the course of the supply chain management system; or

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

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

(3) The person appointed must -

(a) strive to resolve promptly all disputes, objections, complaints or queries received; and

(b) submit monthly reports to the accounting officer on all disputes, objections, complaints or queries received, attended to or resolved.

(4) A dispute, objection, complaint or query may be referred to the Eastern Cape Provincial Treasury if -

(a) if it is not resolved within 60 days of lodgment; or

(b) no response is forthcoming within 60 days of lodgment.

(5) If the Eastern Cape Provincial Treasury does not or cannot resolve the matter, the dispute, objection, complaint or query concerned may be referred to the National Treasury for resolution.

(6) This paragraph must not be read as affecting a person's rights to approach a competent court, at any time, for such order as may be just and necessary in the circumstances.

51. CONTRACTS PROVIDING FOR COMPENSATION BASED ON TURNOVER

If a service provider acts on behalf of the municipality to provide any service or act as a collector of fees, service charges or taxes and the compensation payable to him is fixed as an agreed percentage of turnover for the service

concerned or the amount collected, the contract between such service provider and the municipality must stipulate -

(a) a cap on the compensation payable to him; and

(b) that such compensation must be performance based.

52. CONTRACT MANAGEMENT:

(1) Issue of expansion and variation orders

(a) The accounting officer or nominee may, subject to the provisos to this subparagraph and subparagraphs (b) to (d) authorize the issue of expansion or variation orders (herein referred to as "variations orders") in respect of contract specifications or conditions of contract in order to accommodate costs for additional work either unforeseen when contracts were awarded for , essential or necessary additional work or in instances where factors beyond the control of an appointed contractor has led to or will lead to a delay in a contract completion date provided that:

(i) 15% for goods and/or services; and, provided further –
(ii) 20% for construction related project, that is informed by CIDB prescripts and Standard for Uniformity.
(iii) that any expansion or variation order issued in excess of the aforesaid thresholds shall be dealt with in a manner provided in section 116 (3) of the MFM Act.

(b) A variation order may only be issued after -

(i) the need for such order has been fully motivated by the responsible project manager and supported by the head of department concerned; and

(ii) the chief financial officer has certified that funds are available to cover the cost the required additional work.

(c) A request for the issue of a variation order in an amount exceeding R200 000 shall first be referred to the Bid Adjudication Committee which considered the initial bid for approval provided that the accounting officer may constitute a new Bid Adjudication Committee for this purpose.

(d) No request for a variation order may be approved in circumstance where new bids may be invited for the additional work concerned.

(e) The line manager responsible for the implementation of a project undertaken either departmentally or through an appointed contractor must keep a proper record of all variation orders issued in respect of a project.

(f) The original copy of an issued variation order must be filed with the original bid and contract documents.

(g) The responsible line manager must, upon completion of additional work or the expiry of any extended contract period authorized by a variation order, certify that the terms and conditions of such variation order have been complied with.

(2) Application of contract management by the responsible officials:

a) Contract management includes all activities and administrative duties associated with a contract that has arisen through one of the acquisition/procurement processes described in this policy.

b) Line departments are fully responsible for contract management and administration. Departmental Heads (Directors) shall be responsible to ensure that a contract manager who will be an internal official and is assigned to ensure the effective management of the contract. The contract manager will typically be the internal project manager assigned to the contract as a whole but may also be a cost centre owner or other responsible official.

c) The contract manager's duties and powers shall be governed by the applicable conditions of contract, this Supply Chain Management Policy, any Policies, Frameworks and Procedures relating to contract management adopted by the KLM and the general law.

d) Departmental Heads (Directors) shall ensure that contract managers are assigned to each contract within the Department Head's area of responsibility and, where possible, should ensure that such contract manager be involved from the earliest stages of the acquisition process.

e) Departmental Heads (Directors) shall further be responsible for ensuring that contract managers:

i. take all reasonable steps to ensure that a contract procured through the provisions of this policy is properly enforced;
ii. are adequately trained so that they can exercise the necessary level of responsibility in the performance of their duties;
iii. in administering a contract, adhere to applicable legislation and legal precedent, regulations, policy and formalised guidelines.

f) In discharging his duties, the contract manager shall:

I. ensure that all the necessary formalities in signing up the contract and/or issuing the purchase order(s) are adhered to;
II. ensure that contracts related to the procurement of goods and services are captured on the KLM's SAMRAS system in the form of a price schedule when appropriate;
III. ensure that all original contract documentation is lodged with the Supply Chain Management Department for record purposes;
IV. monitor, update and report, on a monthly basis, the cost status and delivery forecast of the contract and the performance of the supplier in order to ensure that all of the terms and conditions of the contract are met, including the supplier's obligations as regards preferential procurement, targeted labour and/or

resources and local production and content, as applicable;

V. where necessary, take appropriate action where a supplier is

VI. underperforming or is in default or breach of the contract;

VII. where appropriate, authorize payments due in terms of the contract by processing payment certificates (if applicable), and ensuring that the necessary Service Entry Sheets or Goods Received Notes are captured on the KLM's SAMRAS system;

VIII. manage contract variation or amendment procedures in compliance with the latest directive in this regard as issued by the municipal manager and approved by the applicable delegated authority;

IX. administer disputes where necessary, in terms of this policy and the applicable Conditions of Contract;

X. maintain adequate records in sufficient detail on an appropriate contract file to provide an audit trail;

XI. ensure that contractual actions relating to supplier liquidation proceedings are correctly and timeously taken to ensure the KLM's rights are protected and any negative impact on service delivery is mitigated, such options should include inter alia:

1) supplier proposal (via the liquidator) is deemed acceptable, by the relevant Director, to the KLM utilizing the appropriate contractual mechanisms; or

a. cancelling the contract, as the liquidator proposed supplier is deemed unacceptable to the KLM, and the KLM appointing an alternate supplier via appropriate procurement mechanisms); act with care and diligence and observe all accounting and legal requirements; and

b. for construction contracts, ensure that all contract administrative requirements of the CIDB is complied with.

53. APPLICATION OF POLICY TO MUNICIPAL ENTITIES

(a) The provisions of this policy generally do not apply to municipal entities.

(c) The supply chain management system of a municipal entity shall be applied with due regard to the provisions of this policy and the Regulations and, in the event of conflict, the provisions of the Regulations shall enjoy preference.

54. FRONTING

(a) For purposes of this paragraph, "fronting" shall include the under-mentioned acts on the part of a bidder or any person or party associated with a bidder:

(i) **Window-dressing:** This includes cases in which black people are appointed or introduced to an enterprise on the basis of tokenism and may subsequently be discouraged or inhibited from substantially participating in the core activities of the enterprise concerned and/or be discouraged or inhibited from substantially participating in the declared areas and/or levels of their participation;

(ii) **Benefit Diversion:** This includes initiatives where the economic benefits received by an organization for having B-BBEE Status do not flow to black people in the ratio specified by law;

(iii) **Opportunistic Intermediaries:** This includes enterprises that have concluded agreements with other enterprises in order to leverage the opportunistic intermediary's favorable B-BBEE status in circumstances where the agreement involves:

(a) Significant limitations or restrictions on the identity of the opportunistic intermediary's suppliers, service providers, clients or customers;

(b) The maintenance of their business operations in a context reasonably considered improbable having regard to resources; and

(c) Terms and conditions that are not negotiated at arms-length on a fair and reasonable basis.

(b) Where the accounting office detects fronting, he must act against the bidder concerned in terms of paragraph 27(9.3) and, in addition, report such fronting to the Department of Trade and Industry.

55 CONDITIONS RELATING TO THE GRANTING OF PREFERENCE:

(1) Local Production and Content,

a) The Department of Trade and Industry may, in consultation with the National Treasury designate a sector, sub-sector or industry or product in accordance with the national development and industrial policies for local production and content, where only locally produced services or goods or locally manufactured goods meet the stipulated minimum threshold for local production and content taking into account economic and other relevant factors and stipulate a minimum threshold for local production and content. The National Treasury must inform KLM of any designations made through the issue of a circular.

b) In the case of designated sectors, such bids must be advertised with a specific condition of bidding that only locally produced goods or locally manufactured goods, meeting the stipulated minimum threshold for local production and content will be considered.

c) any instructions, circulars and guidelines issued by National Treasury in the above regard must be complied with.

d) Where there is no designated sector, bids may include, as a specific condition of bidding, that only locally produced goods or locally manufactured goods with a stipulated minimum threshold for local production and content, will be considered, on condition that such prescript and threshold(s) are in accordance with the specific directives issued for this purpose by the National Treasury in consultation with the Department of Trade and Industry.

e) A person awarded a contract in relation to a designated sector, may not subcontract in such a manner that the local production and content of the overall value of the contract is reduced to below the stipulated minimum

threshold.

f) A bid that fails to meet the minimum stipulated threshold for local production and content is an unacceptable bid.

(2) Subcontracting as a condition of tender/bid:

Subcontracting as condition of a bid:

a. If feasible to subcontract for a contract above R30 million, the KLM must apply subcontracting to advance designated groups.

b. If KLM applies subcontracting as a condition of a bid, the KLM must advertise the bid with a specific bid condition that the successful bidder must subcontract a minimum of 30% of the value of the contract to:

1) an EME or QSE;
2) an EME or QSE which is at least 51% owned by black people;
3) an EME or QSE which is at least 51% owned by black people who are youth;
4) an EME or QSE which is at least 51% owned by black people who are women;
5) an EME or QSE which is at least 51% owned by black people with disabilities;
6) an EME or QSE which is at least 51% owned by black people living in rural or undeveloped areas or townships;
7) a co-operative which is at least 51% owned by black people;
8) an EME or QSE which is at least 51% owned by black people who are military veterans; or
9) more than one of the categories referred to in this clause.

c. The KLM must make available the list of all suppliers registered on a database approved by the National Treasury to provide the required goods or services in respect of the applicable designated groups mentioned in the preceding clause from which the bidder must select a supplier.

(3) Unbundling Strategies:

a) In order to encourage increased participation and the sustainable growth of the small business sector, the unbundling of larger projects into smaller, more manageable, contracts is encouraged. Unbundling must however be considered in the context of:

1. economies of scale being lost;
2. abortive work becoming necessary;
3. additional demands (not only financial) being placed on the KLM's resources; and
4. the risk of later phases not being completed as a result of budget cuts becoming necessary in the future.

b) Unbundling, and all of its associated implications, must therefore be carefully considered at the planning stage of any project and the budgets for, and design thereof, should be structured accordingly.

c) It is important to note that while it is the KLM policy to procure goods, services or construction works in the smallest practicable quantities, the practice of parceling such procurement in order to avoid complying with the requirements of the different range of procurement processes described in this policy is not permitted.

(4) Increasing Employment Opportunities:

a) One of the KLM key socio-economic objectives is to facilitate the creation of employment for the people of KLM.

b) Increasing employment opportunities through procurement may be achieved by specifying labour intensive technologies and/or methods of construction in the bid documents.

c) It is up to Responsible Agents to thoroughly investigate the options available in the above regard, to evaluate the positive versus negative impact of any proposals, and to specify labour intensive technologies and/or methods where appropriate.

d) All labour earning less than a threshold wage, determined in accordance with National Guidelines, that is employed for the provision of services or construction works for KLM, shall be reported in the prescribed format, on a monthly basis, to the Directorate responsible for Extended Public Works Programme (EPWP).

(5) Targeted Labour and or Targeted Enterprises:

a) The targeting of labour and/or enterprises from specific areas within the boundaries of the KLM area may be achieved, where appropriate, by specifying in the bid documents, a minimum level of participation (a contract participation goal) that must be achieved in respect of targeted labour and/or targeted enterprises in the performance of the contract.

b) Specified contract participation goals must be measurable and achievable, and the performance in respect of which must be monitored by the Responsible Agents during the execution of the contract.

c) Where a minimum contract participation goal has been specified in respect of targeted labour and/or enterprises, the supplier is obliged to meet that goal, and must be penalized if he or she does not.

d) Contract participation goals in respect of targeted labour and/or enterprises may not be introduced into the preference point system used for the evaluation of bids.

56 ARCHIVE OF BIDDING DOCUMENTS

(1) Bidding documents have to be kept in a safe.

(2) The following will be applicable before the destruction of any documents:

a) The tender documents must be kept for a minimum of seven (7) years.
b) The original tender document of the successful bidder for all project related commitments must kept on record and an electronic copy must be kept.
c) For all other types of tenders, the successful bidder's document may only be destroyed if an electronic copy is kept.

57 CONSTRUCTION INDUSTRY DEVELOPMENT BOARD

1) The Construction Industry Development Board (CIDB) has been established by government to promote the uniform application of policy to the construction industry.

a) When calling for construction related bids:
   i. the prescribed CIDB (uniformity standard bid documents) may be utilized.
   ii. only Contractors registered with the CIDB may be used.
   iii. all tenders must be advertised on the CIDB i-tender system.
   iv. consultants used in the procurement process must adhere to the CIDB legislation.
   v. consultants used in the procurement process are prohibited to provide goods,
   vi. works or services related to the project; and (vii) subcontract arrangements and joint venture initiatives must be aligned to CIDB guidelines and requirements.
   vii. the same Bid Committee system as for all other bids will be applicable.

b) When evaluating construction related bids - (i) the registration and grading on the CIDB website must be verified; (ii) the contractor and has to be valid on the day the Bid Evaluation Committee evaluates the bid; (iii) the CIDB contractor requirements; and (iv) calculations for joint venture gradings must be done according to the CIDB prescriptions.

2) Other matters - (a) all projects approved by the Municipality must be registered with the CIDB; (b) contracts registered on the i-tender systems must be updated and completed; (c) non-performance and non-compliance of contractors must be reported to the CIDB as per the CIDB guidelines; and (d) Sub-contracting arrangements and joint-venture initiatives must be aligned to the CIDB guidelines and requirements.

58 PUBLIC-PRIVATE PARTNERSHIPS

Public-Private Partnerships will be procured in terms of Part 2 of Chapter 11 of the Act.

59 TRANSVERSAL CONTRACTS

All commodities, services and products covered by a transversal contract concluded by the National Treasury must be considered before approaching the market, to benefit from savings where lower prices or rates have been negotiated.

60 FRAMEWORKS FOR INFRASTRUCTURE DELIVERY

1) **The Infrastructure Delivery Management**

Project Processes

The project process of infrastructure delivery management contains control stage deliverables at the end of each stage. Table 1 outlines the stage deliverables that must be approved. The control stages are specific to project management processes; and outline and describe the stages in the life of a project from start to end. The specific stages are determined by the specific project's governance and control needs. The stages follow a logical sequence with a specified start and end. The deliverable is considered to have passed through the relevant stage when it is approved and signed off. The project then moves on to the next sequential stage. It is expected that the municipality's process reflects an engagement between the Budget & Treasury Office, Engineers and Planners when developing and approving projects. It is also expected that there should be engagements with the National and Provincial Treasury where appropriate or where projects dictate so.

Table 1: Project stage deliverables

Stage		**Project Stage Deliverables**
No	**Name**	**End of Stage Deliverables**
1	**Initiation**	**Initiation Report or Pre-feasibility Report** **(i)** The Initiation Report defines project objectives, needs, acceptance criteria, organization's priorities and aspirations, and procurement strategies, which set out the basis for the development of the Concept Report. Or I. A Pre-feasibility Report is required on Mega Capital Projects, to determine whether to proceed to the Feasibility Stage; where sufficient information is presented to enable a final project implementation decision to be made. Mega capital projects should be determined in the municipality's policy approved by the Municipal Council. **Stage 1 is complete when the Initiation Report or Pre-feasibility Report is approved.**
2	**Concept**	**Concept Report or Feasibility Report** I. The Concept Stage presents an opportunity for the development of different design concepts to satisfy the project requirements developed in Stage 1. This stage presents alternative approaches and an opportunity to select a particular conceptual approach. The objective of this stage is to determine whether it is viable to proceed with

		the project, premised on available budget, technical solutions, time frame and other information that may be required. II. The Concept Report should provide the following minimum information: **(a)** Document the initial design criteria, cost plan, design options and the selection of the preferred design option; or the methods and procedures required to maintain the condition of infrastructure, or the project. Establish the detailed brief, scope, scale, form and cost plan for the project, including, where necessary, the obtaining of site studies and construction and specialist advice. **(b)** Provide an indicative schedule for documentation and construction, or maintenance services, associated with the project. **(c)** Include a site development plan, or other suitable schematic layouts, of the works. **(d)** Describe the statutory permissions, funding approvals and utility approvals required to proceed with the works associated with the project. **(e)** Include a baseline risk assessment for the project and a health and safety plan, which is a requirement of the Construction Regulations issued in terms of the Occupational Health and Safety Act. **(f)** Contain a risk report, need for further surveys, tests, investigations, con-sents and approvals, if any, during subsequent stages.

		(iii) A Feasibility Report must provide the following minimum information: a) Details regarding the preparatory work covering: • A needs and demand analysis with output specifications. • An options analysis. b) A viability evaluation covering: • A financial analysis. • An economic analysis, if necessary. c) A risk assessment and sensitivity analysis; d) A professional analysis covering: • A technology options assessment. • An environmental impact assessment. • A regulatory due diligence. e) An implementation readiness assessment covering: • Institutional capacity. • A procurement plan. **Stage 2 is complete when the Concept Report or the Feasibility Report is approved.**

3	**Design Development**	**Design Development Report** (i) The Design Development Report must, as necessary: a) Develop, in detail, the approved concept to finalize the design and definition criteria. b) Establish the detailed form, character, function and costings. c) Define the overall size, typical detail, performance and outline specification for all components. d) Describe how infrastructure, or elements or components thereof, are to function; and how they are to be safely constructed, be commissioned and be maintained. e) Confirm that the project scope can be completed within the budget or propose a revision to the budget. **Stage 3 is complete when the Design Development Report is approved.**
4	**Design Documentation**	**Design Documentation** (i) Design documentation provides: a) the production information that details performance definition, specification, sizing and positioning of all systems and components b) that will enable construction; c) the manufacture, fabrication and construction information for specific components of the work, informed by the production information. **Stage 4 is complete when the Design Documentation Report is approved.**
5	**Works**	**Completed Works capable of being used or occupied (**i) Completion of the Works Stage requires: a) Certification of the completion of the works in accordance with the provisions of the contract; or b) Certification of the delivery of the goods and associated services in accordance with the provisions of the contract. **Stage 5 is complete when the Works Completion Report is approved.**
6	**Handover**	**Works which have been taken over by the user or owner; Completed** **Training; Record Information** (i) The handover stage requires the following activities to be undertaken: **(a)** Finalize and assemble record information which accurately reflects the infrastructure that is acquired, rehabilitated, refurbished or maintained; **(b)** Hand over the works and record information to the user organization and, if necessary, train end user staff in the

		operation of the works. **Stage 6 is complete when the Handover/Record Information Report is approved.**
7	**Close-Out**	**Defects Certificate or Certificate of Final Completion; Final Account; Close-Out Report** (i) The Close-Out Stage commences when the end user accepts liability for the works. It is complete when: a) Record information is archived; b) Defects certificates and certificates of final completion are issued in terms of the contract; c) Final amount due to the contractor is certified in terms of the contract; d) Close-Out Report is prepared by the Implementer and approved by the Municipality. **Stage 7 is complete when the Close-out Report is approved.**

61 FRAMEWORKS FOR INFRASTRUCTURE PROCUREMENT

1) **Introduction**

The framework for infrastructure procurement outlines the minimum infrastructure procurement policy requirements for municipal planning and implementation. The strategic direction set in the Integrated Development Plan (IDP) informs the framework for infrastructure procurement. For example, procurement strategies must be aligned to the municipality's developmental and internal transformational needs, as specified in the IDP.

2) **Minimum requirements for infrastructure procurement**

a) Infrastructure procurement must be undertaken in accordance with the Local Government Framework for Infrastructure Delivery and Procurement Management and all applicable infrastructure procurement related legislation.

b) Infrastructure procurement must be implemented in accordance with the institutional Supply Chain Management System, which promotes differentiated procurement for infrastructure.

c) Infrastructure procurement must be implemented in accordance with the procurement gates prescribed in paragraph 56 below.

d) The accounting officer must ensure that a budget is available for the duration of the project, in line with MFMA provisions for capital and operating budgets.

e) The accounting officer must ensure that cash flow management processes are in place to meet payment obligations within the time periods specified in the contract.

f) Procurement gates provided in paragraph 56 below must be used as appropriate, to:

(i) Authorize commencement of activities that lead to the next

control gate;

(ii) Confirm conformity with requirements; and/or

(iii) Provide information to eliminate any cause of non-conformity and to prevent reoccurrence.

1) The authorization to proceed to the next procurement gate must be given by a delegated person or body. The delegated person or body must be able to apply relevant built environment knowledge and skill to achieve the intended results required at the relevant procurement gate. The level of detail contained in the documentation on which a decision to proceed to the next procurement gate is made, must be sufficient to enable an informed decision.

2) The accounting officer must develop and implement effective and efficient emergency procurement procedures, including relevant approval delegation, in compliance with relevant legislation.

a) The accounting officer must develop and implement an effective and efficient infrastructure disposal policy in line with the Municipal Asset Transfer Regulations. The institution may consider disposal strategies aligned to their internal disposal policy, prior to continuing with the procurement strategy.

b) The accounting officer must keep records of Procurement Gate Approvals, in a manual or electronic format, with the following minimum requirements:

(i) Procurement gate;

(ii) Delegated person/s or body;

(iii) Date on which the approval request was received;

(iv) Date on which the approval was actioned; and (v) Signature of the delegated person or body.

c) All assets must be recorded in the municipal asset register as required by the GRAP standards.

62 INFRASTRUCTURE PROCUREMENT GATES (PG)

1) **Procurement Gate 1**

a) Initiate a procurement process

b) Minimum Requirement for Gate 1

(i) Establish and clarify the procurement need, aligned to the municipality's development and transformation priorities specified in the IDP.

(ii) Determine a suitable title for the procurement, to be applied as the project description.

(iii) Prepare the broad scope of work for the procurement.

(iv) Perform market analysis.

(v) Estimate the financial value of proposed procurement and contract for budgetary purposes, based on the broad scope

work.

(vi) Confirm the budget.

(vii) Compliance with section 33 of the MFMA with respect to community and stakeholder participation.

c) PG 1 is complete when a designated person or body makes the decision to proceed/not to proceed, with the procurement of the infrastructure.

2) **Procurement Gate 2**

a) Approve procurement strategy to be adopted.

b) Minimum Requirement for Gate 2

(i) Develop a procurement strategy aligned to the institutional procurement strategy.

(ii) Establish contracting and pricing strategy comprising of an appropriate allocation of responsibilities and risks; and the methodology for contractor payments.

(iii) Identify service required for works.

(iv) Decide on contracting strategy.

(v) Decide on form of contract.

(vi) Establish opportunities for promoting preferential procurement in compliance with legislative provisions and the Construction Sector Code.

c) PG 2 is complete when a delegated person or body approves the procurement strategy that is to be adopted.

3) **Procurement Gate 3**

a) Approve procurement documents

b) Minimum Requirements for Gate 3

(i) Prepare procurement documents that are compatible with:

(ii) Approved procurement strategies

(iii) Project management design documentation.

c) PG 3 is complete when the bid specification committee approves the procurement document.

4) **Procurement Gate 4**

a) Confirm that cash flow processes are in place to meet projected contractual obligations.

b) Minimum Requirement for Gate 4:

(i) Confirm that cash flow processes are in place to meet Contractual obligations.

(ii) Establish control measures for settlement of payment within the Time period specified in the contract.

c) PG 4 is complete when a delegated person or body confirms in writing that cash flow processes are in place; and control measures are established for the procurement to take place.

5) **Procurement Gate 5**

a) Solicit tender offers.

b) Minimum Requirements for Gate 5

(i) Invite contractors to submit tender offers.

(ii) Receive tender offers.

(iii) Record tender offers.

(iv) Safeguard tender offers.

c) PG 5 is complete when tender offers received are recorded and safeguarded by a delegated person from the SCM unit.

6) **Procurement Gate 6**

a) Evaluate tender offers premised on undertakings and parameters established in procurement documents.

b) Minimum Requirement for Gate 6

(i) Determine whether tender offers are complete.

(ii) Determine whether tender offers are responsive.

(iii) Evaluate tender submissions.

(iv) Review minimum compliance requirements for each tender.

(v) Perform a risk analysis.

(vi) Prepare a report on tender offers received, and on their achievement of minimum compliance.

PG 6 is complete when the chairperson of the Bid Evaluation Committee approves the BEC report.

7) **Procurement Gate 7**

a) Award the contract.

b) Minimum Requirement for Gate 7

(i) Bid adjudication committee review of the BEC evaluation report.

(ii) Bid adjudication committee makes a recommendation of an award.

(iii) Accounting Officer approval of the tender process.

(iv) Notify successful tenderer and unsuccessful tenderers of the outcome.

(v) Sign contract document.

(vi) Formally accept tender offer.

c) PG 7 is complete when the Accounting Officer, or the Bid Adjudication

d) Committee, where delegated, confirms that the tenderer has provided evidence of complying with all the requirements as stated in the tender data and formally accepts the tender offer in writing, and issues the contractor with a signed copy of the contract.

8) Procurement Gate 8

a) Administer and monitor the contract.

b) Minimum Requirements for Gate 8:

(i) Contract Management to:

(a) Capture contract award data.

(b) Administer contract in accordance with the terms and provisions of the contract.

(ii) Financial Services to:

(a) Manage cash flow projection.

(iii) User Department to:

(a) Ensure compliance with contractual requirements.

c) PG 8 is complete when a delegated person captures the contract completion/termination data (close out reports and relevant documents), including payment certificates due.

63 GATEWAY REVIEWS

1) Gateway reviews for mega capital projects

a) The MFMA (Act 56 of 2003), section 19 (2) states: "Before approving a capital project in terms of subsection (1)(b), the council of a municipality must consider the projected cost covering all financial years from the start until the project is operational; and the future operational costs and revenue on the project, including municipal tax and tariff implications."

b) The LGFIDPM prescribes the Gateway Review at the end of stage 2, as the minimum requirement to comply with section (i) above.

c) The focus of such a review must be on the quality of the documentation in the first instance, and thereafter on:

(i) Deliverability: the extent to which a project is deemed likely to deliver;

(ii) Expected benefits: within the declared cost, time and performance area;

(iii) Affordability: the extent to which the project's level of expenditure and financial risk can be accepted, given the organization's overall financial position, both singly, and when considering its other current and projected commitments; and

(iv) Value for money: The optimum combination of whole life costs and quality (or fitness of purpose), to meet the user's requirements.

d) A gateway review team must comprise of not less than three persons who are neither involved, nor associated with the project, but have a broad understanding of the subject matter.

e) A gateway review must be led by a person who has experience in the planning of infrastructure projects and is registered as a professional with a statutory council under the built environment professions. The members of the team must, as relevant, have expertise in the key technical areas, cost estimating, scheduling and implementation of similar projects.

f) It is the duty of the institution's Accounting Officer or Authority to appoint a team responsible for the gateway review of his or her institution.

g) The gateway review team must base its findings primarily on:

(i) The information contained in the end-of-stage deliverable;

(ii) Supplementary documentation, if any, provided by key staff and obtained during an interview process; and

(iii) Interviews with key staff members and stakeholders.

h) The gateway review team must issue a report at the conclusion of a gateway review, which reflects the team's assessment of the information at the end of a stage; and provides findings or recommendations on areas where further work should be undertaken to improve such information.

i) The gateway review findings must be classified by the gateway review team as:

1) Critical: Findings that pose adverse effect to the project or package. Critical findings are findings related to the stage deliverable that are wholly unacceptable.

2) Major: Findings that pose a potentially adverse effect to the project or package. Major findings are serious findings and are in direct violation of key legislation, e.g. The Constitution of the Republic of South Africa, the MFMA or the PPPFA.

3) Minor: Findings that do not pose any adverse effect to the project or package. Minor findings indicate the need for improvement of practices and processes.

j) A Stage 2 deliverable must not be approved until such time that all findings have been resolved.

64 COMMENCEMENTS

This policy takes effect on the date of its adoption by the council.

ANNEXURE A

KOUGA LOCAL MUNICIPALITY

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

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

1. General Principles

The municipality commits itself to a policy of fair dealing and integrity in the conducting of its business. Officials and other role players involved in supply chain management (SCM) are in a position of trust which implies a duty to act in the public interest. Officials and other role players should not perform their duties to unlawfully gain any form of compensation, payment or gratuity from any person or provider / contractor either for themselves, their family, their friends and business associates.

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

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

2. Conflict of interest

An official or other role player involved with supply chain management -

(a) must treat all providers and potential providers equitably and fairly;

(b) may not use his/her position for private gain or to improperly benefit another person;

(c) may not accept any reward, gift, favour, hospitality or other benefit directly or indirectly, including to any close family member, partner or associate of that person, of a value more than R350;

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

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

(f) must immediately withdraw from participating in any manner whatsoever in a procurement or disposal process or in the award of a contract in which that

person or any close family member, partner or associate has any private or business interest;

(g) must declare any business, commercial and financial interests or activities undertaken for financial gain that may give rise to a possible conflict of interest;

(h) should not place him/herself under any financial or other obligation to outside individuals or organizations that might seek to influence him/her in the performance of his/her official duties; and

(i) should not take improper advantage of his/her previous office after leaving his/her official position.

3. Accountability

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

3.2 Practitioners should use public property scrupulously.

3.3 Only accounting officers or their delegates have the authority to commit the municipality to any transaction for the procurement of goods, services or works.

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

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

3.6 Practitioners must report to the accounting officer any alleged irregular conduct in the supply chain management system which they may become aware of, including but not limited to -

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

(ii) any alleged contravention of the policy on inducements, rewards, gifts and favours to municipalities or municipal entities, officials or other role players; and

(iii) any alleged breach of this code of conduct.

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

4. Openness

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

5. Confidentiality

5.1 Any information that is the property of the municipality or its providers should be protected at all times. No information regarding any bid/contract/bidder/contractor may be revealed if such an action will infringe the relevant bidder's/contractors' personal rights.

5.2 Matters of confidential nature in the possession of officials and other role players involved in SCM should be kept confidential unless legislation, the performance of duty or the provisions of law requires otherwise. Such restrictions also apply to officials and other role players involved in SCM after they have left the service of the municipality.

6. Bid Specification / Evaluation / Adjudication Committees

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

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

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

6.4 No person should-

6.4.1 interfere with the supply chain management system of the municipality; or

6.4.2 amend or tamper with any price quotation / bid after its submission.

7. Combative Practices

Combative practices are unethical and illegal and should be avoided at all cost. They include but are not limited to:

(i) suggestions to fictitious lower quotations.

(ii) reference to non-existent competition.

(iii) exploiting errors in price quotations / bids.

(iv) soliciting price quotations / bids from bidders / contractors whose names appear on the Register for Tender Defaulters.

Annexure B

DELEGATION OF POWERS AND DUTIES PARAGRAPH 4.1		
As far as contractual obligations are concerned: Personnel to be nominated in writing by the Municipal Manager, and Directors, subject to the undermentioned criteria, and further subject to the municipality's Supply Chain Management Policy, financial regulations and council resolutions where applicable.		
4.2.1	***APPROVAL / AWARD / CANCELLATION* OF QUOTATIONS, FORMAL QUOTATIONS AND TENDERS**	
RAND VALUE (VAT inclusive)	**LEVEL OF APPROVAL** (With due regard to proper segregation of duties)	**QUOTATIONS / TENDERS PROCESS FOLLOWED**
Up to R2 000	Level of approval as delegated by relevant director	Petty cash Purchases in terms of the Petty Cash Policy AND / OR One (1) written quotation
R2 000.01 – R300 000.00	Chief Financial Officer (As for approval of requisition the CFO would delegate, and such would be in writing for each manager.	Make recommendation to the CFO for formal written price quotations in terms of Paragraph 18(b) of the SCM Policy
R300 000.01 – R10 million	Bid Adjudication Committee	Competitive Bidding – committee system
> R10 million	Municipal Manager after recommendation from the Bid Adjudication Committee	Competitive Bidding – committee system
36.1	***APPROVAL OF DEVIATIONS***	
All deviations regardless of the amount.	Accounting Officer	
39	***APPROVAL OF REQUESTS* FOR PURCHASE MUNICIPAL STORE ISSUES**	
All orders	Level of approval as delegated to SCM Manager, that has been further delegated to Senior Accountant Acquisition& Chief Accountant: Logistics.	
4.2.81.4	***CERTIFICATION AND AUTHORISATION OF ALL PAYMENTS* inclusive of where an official order has been issued in terms of subparagraph 4.2.1 above**	
RAND VALUE (VAT inclusive)	**LEVEL OF APPROVAL (With due regard to proper segregation of duties)**	
All ranges	The recipient of the service or good from the user department is expected to sign the good receive note is provided. If not, the recipient will append his/her signature as an acknowledgement that a service or good was delivered. Thereafter the delegated PM by the director of each directorate will sign or authorize the invoice for payment.	

4.2.81.5	*APPROVAL OF SPECIFICATIONS* FOR COMPETITIVE BIDS, in terms of Paragraph 27(2)(g) of the SCM Policy	
Cryptic description of Power or Duty	**Sub-delegated to**	**Remarks, Limitations or Conditions**
Specifications for Competitive Bids must be approved prior to the publication of the invitation for bids in terms of **[clause]** paragraph 22 of the SCM Policy.	All Directors	This delegation applies in so far as each director's responsibility for managing the respective votes of the municipality and to whom powers and duties for this purpose have been delegated in terms of Section 79 of the MFMA (Act 56 of 2003).
4.2.81.6	***APPROVAL OF COMMUNICATION* WITH PROSPECTIVE BIDDERS**	
Cryptic description of Power or Duty	**Sub-delegated to**	**Remarks, Limitations or Conditions**
The budget holder must approach the bid specification committee to consider authorizing communication with bidders prior to the closing date of tenders in terms of paragraph 22(6)(a) of the SCM Policy	Bid Specification Committee	This delegation applies in so far as the tender to which the communication relates and the members of the committee as appointed by the accounting officer
The budget holder must approach the bid evaluation committee to consider authorizing communication with bidders after the closing of tenders in terms of paragraph 24(3)(c) of the SCM Policy	Bid Evaluation Committee	This delegation applies in so far as the tender to which the communication relates and the members of the committee as appointed by the accounting officer

52.1	APPROVAL OF EXPANSIONS / VARIATIONS / AMENDMENTS IN THE CONTRACT SUM OR PERIOD	
/RAND VLUE (VAT inclusive)	**LEVEL OF APPROVAL**	**PROCESS FOLLOWED**
R0 – R300 000.00 (total inclusive of Vat)	Manager: SCM reviews those submission and makes recommendation to CFO for approval subject to the requirement of how approval was obtained initially	Circular 62 Expansion / Variation
R300 000.01 – R10 million (total inclusive of amendment)	Bid Adjudication Committee	Circular 62 Expansion / Variation
R10 million- unlimited	Municipal Manager with consent from Council	S116(3) Amendments

Annexure C

Deviation No:

SUPPLY CHAIN MANAGEMENT DEVIATION FORM

DIRECTORATE	
SECTION:	

Supplier / Service Provider name:	
Nature of Goods Supplied / Services rendered	
Estimated value of Goods/ Services procured (incl. VAT):	
Date of request:	

Reasons for Supply Chain Management Deviation per sec 36 of the Supply Chain Management Policy and the Regulation 36 of MFMA:

sec 36 (1)(a)**(i)**	In the case of an emergency:	
	a. the possibility of human injury or death.	
	b. the prevalence of human suffering or deprivation of rights.	
	c. the possibility of damage to property or suffering and death of livestock and animals.	
	d. the interruption of essential services, including transportation and communication facilities or support services critical to the effective functioning of the KLM as a whole.	
	e. the possibility of serious damage occurring to the natural environment	
	f. the possibility that failure to take necessary action may result in the KLM not being able to render an essential community service; and the possibility that the security of the state could be compromised.	
sec 36 (1)(a)**(ii)**	If such goods or services are produced or available from a single provider only;	

sec 36 (1)(a)**(iii)**	For the acquisition of special works of art or historical objects where specifications are difficult to compile; or	
sec 36 (1)(a)**(iv**)	Acquisition of animals for zoos and/or nature and game reserves	
sec 36 (1)(a)**(v)**	In any other exceptional case where it is impractical or impossible to follow the official procurement processes; and	
sec 36 (1)**(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.	

BACKGROUND

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MOTIVATION

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RECOMMENDATION:

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To be completed by Budget and Treasury Office:

BUDGET AVAILABLE	
UKEY	
CHECKED BY: BUDGET & TREASURY OFFICE	
DATE	

Compulsory documents (to attach):

Registration on National Treasury Supplier database (CSD)- SCM	
MBD 4 Declaration of Interest Form	
MBD 8 Declaration of Past Supply Chain Practices	
MBD 9- Certificate of Independent Bidding	

	SIGNATURE	**DATE**
PREPARER OF DEVIATION		
HEAD OF DEPARTMENT		

REVIEWED BY SCM MANAGER		
RECOMMENDED BY CHIEF FINANCIAL OFFICER		
The Accounting Officer certifies that the Deviation meets all the requirements in accordance with Section 36 of the Supply Chain Management Policy.		
APPROVED BY: ACCOUNTING OFFICER		