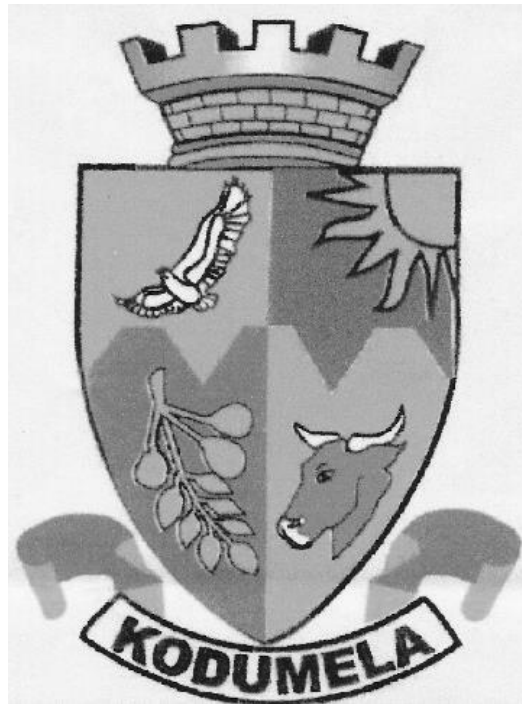


DRAFT

POLICY

SUPPLY CHAIN MANAGEMENT



CHAPTER 1

1. INTRODUCTION

A Green Paper on Public Sector Procurement Reform in South Africa was published in April 1997. The Green Paper recognized that public sector procurement could be used by government as a mechanism to also achieve certain broader policy objectives such as black economic empowerment, local economic development spin-offs for small and medium sized business, skills transfer and job creation. To achieve this, institutional and economic reform was necessary within two broad themes, namely, to establish principles of good governance in the area of supply chain management and to introduce a preference system to achieve certain Socio-economic policy objectives.

This document is to serve as a both a policy guideline and as a general user manual for the personnel of the BLM in which the policy and directives with regard to supply chain management are made known. This policy therefore addresses the following as required by the Local Government: Municipal Finance Act, 2003 and the Preferential Procurement Regulations of 2004, the Broad-Based Black Economic Empowerment Act (Act 53 of 2003) and the Draft Supply Chain Management Regulations from National Treasury (3 May 2005):

- Procurement of goods and services;
- Disposal of goods no longer needed;
- Selection of contractors to provide assistance in the provision of municipal services otherwise than in circumstances where Chapter 8 of the Systems Act applies; and
- Selection of external mechanisms referred to in section 80(1)(b) of the Systems Act

This policy does not apply if the municipality contracts with another organ of state for-

- Provision of goods or services to the municipality;
- The provision of a municipal service or assistance in the provision of a municipal service; or
- The procurement of goods and services under a contract secured by that other organ of state, provided that the relevant supplier has agreed to such procurement.

2. ABBREVIATIONS

BEE Black Economic Empowerment

BBEEA Broad-Based Black Economic Empowerment Act (Act 53 of 2003)

MFMA Municipal Finance Management Act, 2003 (Act 56 of 2003)

BLM Blouberg local municipality established i.t.o. Act No 117 of 1998

CEO Chief Executive Officer

CFO Chief Financial Officer

CBC Central Bid Committee

HDI Historically Disadvantaged Individual

HOD Head of Department

MM Municipal Manager

PPPFA Preferential Procurement Policy Framework Act, (Act no 5 of 2000)

RDP Reconstruction and Development Programme

RFI Request for Information

RFP Request for Proposal

SCM Supply Chain Management

SFEC Standing Financial Expenditure Committee

SMME Small Medium and Micro Enterprise

TOR Terms of Reference

3. DEFINITIONS

In this Policy, unless a written context otherwise indicates, a word or expression to which a meaning has been assignment in the Act has the same meaning as in the Act, and:

"Bid" means a written offer submitted in a prescribed or stipulated form, in response to an invitation by the Blouberg Municipality for a procurement as part of a competitive bidding process;

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

"Final award" means the final decision on which bid or quote to accept;

"In the service of state" means to be:

- (a) a member of
 - (i) any municipal council;
 - (ii) any provincial legislature;
 - (iii) the National Assembly or 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 entity or constitutional institution within the meaning of Public Finance Management Act, 1999(Act No. 1 of 1999)
- (e) a member of the accounting authority of any national or provincial public entity;
or
- (f) an employee of parliament or a provincial legislature;

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

“Other applicable legislation” means any other legislation applicable to municipal Supply chain management, including:

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

“Municipality” means Blouberg Municipality;

“Historically Disadvantaged Individual” means a South African citizen:

- (a) Who had no franchise in national elections prior to the introduction of the Constitution of the Republic of South Africa, 1983 (Act no 110 of 1983) or the Constitution of the Republic of South Africa, 1993 (Act no 200 of 1993) (“the Interim Constitution”); and/or
- (b) Who is a female; and/or
- (c) Who has a disability;
- (d) Provided that a person who obtained South African citizenship on or after the coming into effect of the Interim Constitution, is deemed not to be an HDI.

“Small Medium and Micro Enterprise” SMME is as defined in the National Small Business Act, 102 of 1996. Employing a maximum of 100 employees in any sector except manufacturing or construction where the maximum is 200 employees.

“Council” means Blouberg Municipal council referred to in Sec 157(1) of the constitution;

“Delegation” means the issuing of a written authorization by delegating authority to a delegated body to act in his stead;

“Physically disabled” shall mean suffering from an impairment of a physical, intellectual or sensory function, resulting in a restriction or lack of ability to perform an activity in a manner or within a range considered normal.

“Head of department” shall mean a senior manager as referred to in Section 56 of the Municipal Systems Act.

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

"the Regulation" means the Local Government: Municipal Finance Management Act, 2003, Municipal Supply Chain Management Regulations Gazetted in Gazette Number 865 of 2005;

"youth" means any person who is thirty-five years old and below;

"Municipal Finance Management Act" shall mean the Municipal Finance Management Act no 56 of 2003

"Municipal manager" shall mean the person appointed in terms of Section 82 of the Municipal Structures Act.

"Municipal Structures Act" shall mean the Local Government: Municipal Structures Act No. 117 of 1998.

"Municipal Systems Act" shall mean the Local Government: Municipal Systems Act No. 32 of 2000.

"Supply chain management policy" shall mean the policy referred to in Section 111 of the Municipal Finance Management Act.

"Budget and treasury office" shall mean the office established in terms of Section 80 of the Municipal Finance Management Act"

"Chief financial officer" shall mean the person designated as such in terms of Section 80(2)(a) of the Municipal Finance Management Act No. 56 of 2003.

"Councilor" shall mean a member of the municipal council.

4. LEGISLATIVE ENVIRONMENT & REGULATORY FRAMEWORK

4.1 THE CONSTITUTION

In establishing a supply chain management policy document, the Blouberg local municipality must produce a document that complies with section 217 of the Constitution of the Republic of South Africa, 1996 Act 208 of 1996) which reads as follows:

(1) When an Organ of State in the national, provincial or local sphere of government, or any other institution identified in national legislation, contracts for goods and services, it must do so in accordance with a system which is fair, equitable, transparent, competitive and cost-effective.

(2) Subsection (1) does not prevent the Organs of State or institutions referred to in that subsection from implementing a procurement policy providing for-

(a) categories of preference in the allocation of contracts; and (b) the protection or advancement of persons, or categories of persons, disadvantaged by unfair discrimination.

(3) National legislation must prescribe a framework within which the policy referred to in subsection (2) must be implemented.

4.2 THE MUNICIPAL SYSTEMS ACT

The "Municipal Systems Act 2000 (Act 32 of 2000) requires that municipalities assess, according to specific criteria and processes, whether to provide municipal services internally or externally by way of service delivery agreements. This Act stipulates the requirements for service delivery agreements through competitive bidding selection and pre-qualification processes which-

- Are competitive, fair, transparent, equitable and cost-effective,
- Allow all prospective service providers to have equal and simultaneous access to information relevant to the bidding process;
- Minimise the possibility of fraud and corruption; and
- Make the municipality accountable to communities, residents and role-players about progress with selecting a service provider and the reasons for any decision in this regard; and
- Take into account the need to promote the empowerment of small and emerging enterprises.

4.3 THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT

The Preferential Procurement Policy Framework Act, (Act No. 5 of 2000) and its regulations are applicable to local government. It provides that BLM shall implement a preference system in the allocation of contracts for categories of service providers to advance the interest of persons disadvantaged by unfair discrimination. However, it must be applied without compromising or limiting the quality, coverage, cost and developmental impact of the services.

4.4 THE LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003 (ACT 56 OF 2003)

This Act and Chapter 11 in particular deals with supply chain management in detail and it is essential that it is strictly adhered to by the municipality in order to achieve the objectives as set out in this document. It is compulsory for a municipality to have a supply chain management policy to give effect to the relevant provisions of the Act.

The Municipal Finance Management Act, 2003 (Act 56 of 2003) provides that the municipal supply chain management shall comply with a regulatory framework that must cover at least the following:

- The range of supply chain management processes that will be used including tenders, quotations, auctions and other types of competitive bidding.
- When a particular type of process must be used.
- Procedures and mechanisms for each type of process.
- Procedures and mechanisms for more flexible processes where the value of a contract is below a prescribed amount.
- Open and transparent pre-qualification processes for tenders or other bids.
- Competitive bidding processes in which only pre-qualified persons may participate.
- Bid documentation, advertising of and invitations for contracts.

Procedures and mechanisms for-

- The opening, registering and recording of bids in the presence of interested persons;

- The evaluation of bids to ensure best value for money;

- Negotiating of final terms of contracts; and

- The approval of bids.

Screening processes and security clearances for prospective Contractors on tenders or other bids above a prescribed value.

- Compulsory disclosure of any conflicts of interests prospective contractors may have in specific tenders and the exclusion of such prospective contractors from those tenders or bids.

- Participation in the supply chain management system of persons who are not officials of the municipality

- The barring of persons from participating in tendering or other bidding processes, including persons who were convicted for fraud or corruption during the past five years;

-Who wilfully neglected, reneged on or failed to comply with a government contract during the past five years; or -Whose tax matters are not cleared by SARS.

- Measures for:

- Combating fraud, corruption, favouritism and unfair and irregular practices in municipal supply chain management; and

- Promoting ethics of officials and other role players involved in municipal supply chain management.

- The invalidation of recommendations or decisions that were unlawfully or improperly made, taken or influenced, including recommendations or decisions that were made, taken or in any way influenced by –

- Councillors in contravention of item 5 or 6 of their Code of Conduct;

- Municipal officials in contravention of items 4 or 5 of their Code of Conduct.

- The procurement of goods and services by municipalities through contracts procured by other organs of state.

- Contract management and dispute settling procedures.

- Delegation of municipal supply chain management powers and duties.

5. VISION AND OBJECTIVES

BLM is a municipality that undertakes to ensure equitable distribution of resources and act as a catalyst for development and service delivery in a co-ordinated, inclusive and sustainable manner.

BLM intends to use the new acquisitioning policy as a tool to achieve the following objectives:

- stimulate economic growth
- stimulate socio- economic development
- enhance quality of services
- enhance delivery of services
- promote fairness, transparency, competitiveness and cost-effectiveness

This supply chain management policy is intended to be in line with the prescribed national procurement policy and will also take into consideration the following key principles:

- Creating opportunities for SMME's; ensuring that value for money is obtained; to eliminate and counter any form of corruption, favouritism and irregular practices;
- Implementation of systems of control and accountability; and standardisation in procedures of bid evaluations, documentation and contracts;
- Effective monitoring and support
- Total quality management

6. DELEGATION OF SUPPLY CHAIN MANAGEMENT POWERS.

(1) The council of the municipality delegate powers and duties to the accounting officer so as to enable the accounting officer to:

(a) Discharge the supply chain management responsibilities conferred on accounting officers in terms of chapter 8 or 10 of the Act.

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

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

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

(2) The council may not delegate any supply chain powers or duties to a person who is not official of municipality or to a committee which is not exclusively composed of officials of the municipality

(3) No decision-making in terms of any supply chain management powers and duties may be delegated to an advisor or consultant.

CHAPTER 2

Supply chain Management System

Municipality shall use the following system of Supply Chain Management:

(a) demand management;

- (b) acquisition management;
- (c) logistics management;
- (d) risk management;
- (e) performance management;

1. DEMAND MANAGEMENT

1.1 SYSTEM OF DEMAND MANAGEMENT

(a) Accounting Officer must establish and implement an effective demand Management system in order to ensure that the resources required to support the strategic and operational commitments of the municipality are delivered at correct time, at the right price and at a right locations as outlined in the Integrated Development Plan of municipality.

(b) Every Head of department shall during preparation of budget for the year:

- (i) determine which function it must perform;
- (ii) determine goods and services to be procured in the performance of those functions;
- (iii) determine quantity and specifications for the required goods;

(c) the SCM Unit shall after consultation with Heads of departments compile a schedule of procurements for capital projects and any other requirements for each financial year;

2. ACQUISITION MANAGEMENT

2.1 SYSTEM OF ACQUISITION MANAGEMENT

(a) the accounting officer must implement the system of acquisition management as set out in this section in order to ensure:

- (i) that goods and services are procured by municipality in accordance with authorized processes only;
- (ii) that expenditure on goods and services is incurred in terms of an approved budget and IDP in terms of section 15 of the Act;
- (iii) that the threshold values for the procurement for the different procurement processes are complied with;
- (iv) that bid documentation, evaluation and adjudication criteria, and general conditions of contract, are in accordance with any applicable legislation; and
- (v) that any treasury guidelines on acquisition management are properly taken into account.

(b) this policy does not apply in respect of procuring goods and services contemplated in section 110(2) of the Act, including:

- (i) water from department of water affairs or a public entity, another municipality or municipal entity; and
- (ii) electricity from Eskom or another public entity, another municipality or municipal entity.

(c) Accounting officer must ,when procuring goods or services contemplated in section 110(2) of the Act make public the fact that it procures such goods or

services otherwise than through its Supply Chain Management system, including:
(i) the kind of goods or services; and (ii) the name of supplier.

2.2 RANGE OF PROCUREMENT PROCESSES

(a) Goods may only be procured by way of:

- (i) petty cash purchases, up to a transaction value of R 500(VAT Included);
- (ii) One quotation for procurement of transaction value of over R 500 up to R 2000 (VAT included)
- (iii) formal written quotations for procurements of transaction value over R 2000 up to R 200 000 (VAT included); and
- (iv) Competitive bidding process for procurement above R30000.00R and long term contracts.

(b) Goods or services may not deliberately be split into parts or items of a lesser value merely to avoid complying with the requirements of this policy.

(c) When determining transaction values, a requirement for goods or services consisting of different parts or items must as far possible be treated and dealt with as a single transaction.

2.3 GENERAL PRECONDITIONS FOR CONSIDERATION OF WRITTEN QUOTATIONS OR BIDS

A written quotation or bid may not be considered unless the provider who submitted quotation or bid (a) has furnished the following:

- (i) full name
- (ii) identification number or company or other registration number;
- (iii) tax reference number and VAT registration number, if any;

(b) has authorized the municipality to obtain a tax clearance from South African Revenue Service that the Provider's tax matters are in order.

(c) has indicated

(i) whether he or she is in the service of the state or has been in the service of the state in the previous twelve months

(ii) if the provider is not natural person, whether any of its directors, managers, principal shareholders or shareholder is in the service of state, or has been in the service of state in the previous twelve months

; or

(iii) Whether a spouse, child or parent of the service provider or of director, shareholder or stakeholder referred to in subparagraph(ii) is in the service of state or has been in the service of state in the previous twelve months.

2.4 CENTRAL SUPPLIERS DATABASE

(a) The Blouberg Local Municipality must only do a business with Suppliers from Treasury's Central Supplier's Database.

(b) The CSD 's report should include the following:

- Confirmation and status of Business Registration Documents
- Proof of Bank Account Registration
- Tax compliance status
- Employee in the service of state as defined in the Municipal SCM Regulations with information only available in the PERSAL system at this time, namely National and Provincial officials
- Identity Documentation
- Tender defaulters and restrictions status

2.5 PETTY CASH PURCHASES

The following petty cash procurement process shall apply:

(a) Procurement of goods to a maximum amount of R 500 per transaction may be made by means of petty cash purchases;

(b) Maximum amount of petty cash on hand shall be R 5000 per month;

(c) Only Supply Chain Manager can give a department a go ahead to request petty cash after taking into account the nature of expenditure and satisfying himself that procurement can be done via petty cash and that petty cash system is not abused.

(d) Each department must compile monthly reconciliation reports to the Chief Financial Officer, including:

- (i) The total amount of petty cash for that amount; and
- (ii) Receipts and appropriate documents for each purchase.

2.6 WRITTEN OR VERBAL QUOTATIONS.

(a) Written or Verbal quotation must be obtained from at least three different suppliers from, but not limited to, suppliers whose names appear on the suppliers database of the municipality, provided that if quotations are obtained from suppliers who are not listed, such suppliers must meet the listing criteria required by this policy.

(b) To the extent feasible Suppliers must be requested to submit such quotations in writing.

(c) if it is not possible to obtain three quotations, the reasons must be approved by Chief Financial Officer, recorded and reported quarterly to accounting officer;

(d) Accounting officer must record names of potential providers requested to provide quotations as referred in (c) above and their quoted price;

(d) If quotation was submitted verbally, the may be placed against written confirmation by selected supplier.

2.6 FORMAL WRITTEN QUOTATIONS

- (a) Quotations must be obtained from at least three different providers preferably from, but not limited to, providers whose names appear on the list of accredited prospective providers of the municipality, provided that if quotations are obtained from providers who are not listed, such providers must meet the listing criteria required by this policy.
- (b) if it is not possible to obtain three quotations, the reasons must be approved by Chief Financial Officer, recorded and reported quarterly to accounting officer;

2.7 PROCEDURES FOR PROCUREMENT VIA WRITTEN QUOTATIONS

- (a) all requirements in excess of R 30 000(VAT included) must be advertised for at least for at least seven days on the website of municipality or local notice boards.
- (b) Rotation system where possible must be used when procuring from suppliers on the list of accredited suppliers.
- (C) Accounting officer via SCM unit must take all reasonable steps to ensure that procurement of goods or service via quotations is not abused.
- (d) SCM unit must on a monthly basis notify in writing of all written quotations accepted by it.
- (e) where quotations have been invited via local notice boards and municipal website, no additional quotations are needed should the number of received quotations be less than three.

2.8 COMPETITIVE BIDS

- (a) goods and services above a transaction value of more than R 200 000 (VAT included) and long term contracts may be procured by municipality via competitive bidding process.

2.9 PROCESS FOR COMPETITIVE BIDS

Procedures for competitive bidding process will be as follows:

- (i) Compilation of bid documents
- (ii) Public Invitation of bids;
- (iii) Site meetings or briefing sessions, if applicable;
- (iv) Handling of bids submitted in response to public invitation;
- (v) The evaluation of bids
- (vi) Award of contracts
- (vii) Administration of contracts
- (viii) Proper record keeping

2.9.1 BID DOCUMENTATION FOR COMPETITIVE BIDS

Municipal Bid documents must comply with following requirements:

(a) take into account :

- (i) the general conditions of contact;
- (ii) treasury guidelines on bid documentation and
- (iii) the requirements of the construction Industry Development board, in respect of bids relating to construction, upgrading or refurbishment of buildings or infrastructure;

(b) Stipulate the preference point system which will be applied in evaluation and adjudication of contracts;

(c) Compel bidders to make declaration of interest and fill declaration of interest form;

(d) if the transaction value is estimated to exceed R 10 million(VAT included), require bidders to furnish the followings:

(i) the audited financial statements(if bidder is required by law to prepare financial statements) for the past three years or since establishment if entity is established within or during the past three years;

(ii) a certificate signed by the bidder certifying that the bidder has no undisputed commitments for municipal services towards a municipality or other service provider in respect of which payment is overdue for more than 30 days;

(iii) particulars of any contracts awarded to the bidder by an organ of state during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract;

(iv) a statement indicating whether any portion of the goods or services are expected to be sourced from outside Republic, and, if so, what portion and whether any portion of payment from municipality is expected to be transferred out of the Republic;

(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.

2.9.2 PUBLIC INVITATION OF BIDS

(a) Accounting officer of BLM is required to advertise all bids on the eTender Publication Portal as provided below.

All bids advertised on the eTender Publication Administrator must at least contain the following information:

- Bid description;
- Bid number;
- Name of Municipality or Entity;
- The physical location where the goods, services or works specified in the bid are required; □ The closing date and time of the bid;

- Municipality or entity's contact details (postal and physical address, telephone number, email address, etc.);
- The physical location where hard copies of bids can be collected;
- The physical location where bids should be delivered; and
- The bid documents (MBDs, Terms of Reference, GCC and any other relevant document).

(b) The minimum period of time, which may be allowed between the publication date of bid invitations and closing time for bids, must be stipulated and should be sufficient for bidders to reply to the specific requirement. This period may not be less than 14 days for bid which does not exceed R 10 million and 30 days for bid of transaction value equal or exceeding R 10 million. When determining a closing date, sufficient time must be allowed for prospective bidders to prepare and submit their bids. The necessary information regarding the date and time of closure must appear in the bid document and shall be collected from the BLM offices during working hours. It is essential that a definite cut-off time for submitting bids should be set and it should be strictly observed. Late bids, bids by telephone, fax or email are not considered.

(c) Accounting officer may determine closure of bids which is less than 30 or 14 days requirements only on grounds of urgency or emergency or any exceptional case where it is impractical or impossible to follow official procurement process;

(d) The bid advertisement must clearly indicate that it is the municipality's

prerogative not to award the bid or any part thereof to the lowest or any bidder.

(e) Bids advertisement must contain statement that bids may only be submitted on the bid documentation provided by municipality.

(f) Bids submitted to municipality must be sealed.

2.9.3 SITE INSPECTION/BRIEFING OR INFORMATION SESSION

(a) The necessary information regarding a site inspection/information session must appear in the bid document, if applicable. A fully explanatory site inspection may be conducted before the close of bids to ensure that the bidders understand the scope of the project and that they can comply with the conditions and requirements.

(b) Should it be a condition that prospective bidders attend a site inspection, nonattendance of this site inspection may invalidate a bid.

(c) The following information shall be necessary:

(i) Particulars of the place and time of the site inspection, indicated in the advertisement as well as in the bid document

(ii) Proper minutes to be taken on all information disclosed during the site inspection

- (iii) Copies of these minutes must be made available to all interested parties that attend the meeting
- (iv) The same copies must also be made to all other prospective bidders (v) Bidders should be requested in the Bid documents to certify that the site inspection was attended and that they are fully aware of the extent of the task
- (d) Bidders should certify that the site inspection meeting was attended and that they are fully aware of what is reasonably expected from them
- (e) Bidders should state on a form (to be included in the Bid document)
- (f) The name of the person who represented the company/firm;
- (g) Particulars of the company/firm;
- (h) Date and place of inspection; and
- (i) Any other information that is required by the BLM

2.9.4 PROCEDURE FOR HANDLING, OPENING AND RECORDING OF BIDS

- (a) The following procedure shall be followed when opening bids:
 - (i) SCM unit shall open the bids in public.
 - (ii) The opening of bids must be at the same time as soon as possible after the closing time.
 - (iii) Names of bidders and their bidding price must be read out to public.
 - (iv) All bids received must be recorded in the register for that purpose
 - (v) Register will be available to public; and
 - (vi) Entries in the bid register and bid results shall be published on the website of the municipality.

2.10. NEGOTIATIONS WITH PREFERRED BIDDERS

- (a) Accounting officer can negotiate the final terms of a contract with bidders identified through a competitive bidding process as preferred bidders, provided that such negotiations
 - (i) does not allow any preferred bidder to a second or unfair opportunity;
 - (ii) is not to the detriment of other bidder; and
 - (iii) does not lead to a higher price than the bid as submitted
- (b) Minutes of such negotiations must be kept for record purpose.

2.11. TWO STAGE BIDDING PROCESS

- (a) two stage process is allowed only for:
 - (i) large complex projects
 - (ii) projects where it may be undesirable to prepare complete detailed (iii) long term projects with a duration period exceeding three years.

(b) In the first stage technical proposals on conceptual design or performance specification should be invited, subject to technical as well as commercial clarifications and adjustments.

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2.12.1 BID SPECIFICATION COMMITTEE

(a) a bid specification committee must compile the specifications for each procurement of goods or services by the municipality.

(b) Specifications:

(i) must be in an unbiased manner to allow all potential suppliers to offer their goods or services;

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

(iii) where possible described, be described in terms of performance required rather than in terms of descriptive characteristics for design;

(iv) may not create trade barriers in contract requirements in the forms of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labeling of conformity certification;

(v) may not make reference to any particular trade mark, name, patent, design, type, specific origin or producer unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the words "equivalent".

(vi) Must indicate each specific goal for which points may be awarded in terms of the points system set out in this policy;

(vii) Must be approved by the accounting officer or delegated sec 57 Senior Manager preferably CFO prior to publication of the invitation to bid.

(c) a bid specification committee must be composed of one or more officials of municipality from the End-User department and must include manager responsible for function involved.

(d) no person, advisor or corporate entity involved with bid specification committee, or director of such a corporate entity, may bid for any resulting contracts.

2.12.2 BID EVALUATION COMMITTEE

(1) Bid evaluation committee must

(a) Evaluate bids in accordance with:

(i) the specifications for specific procurement; and (ii) the points system as set out in this policy.

- (b) evaluate each bidder's ability to execute the contract;
- (c) Check in respect of the recommended bidder whether municipal rates and taxes and service charges are not in arrears.; and
- (d) Via Supply Chain Unit submit the evaluation report to Bid adjudication committee;
 - (i) make final award or a recommendation to Accounting Officer to make the final award; or
 - (ii) make another recommendation to accounting officer how to proceed with the relevant procurement
- (b) the accounting officer must appoint the chairperson of the committee; and if he chairperson is absent the present members must elect one of them to preside at the meeting.
- (c) a bid adjudication committee must consist of at least four Senior Managers which must include:
 - (i) the chief financial officer
 - (ii) at least one senior supply chain practitioner
- (d) Neither a member of bid evaluation committee, nor advisor or person assisting the evaluation committee, may be a member of bid adjudication committee.
- (e) If bid adjudication committee decides to award a bid other than the one recommended by the bid evaluation committee must prior to awarding of contract check in respect of the preferred bidder's municipal rates and service charges are not in arrears and notify the accounting officer of its intention.
- (f) the accounting officer may after due consideration of the reasons for adjudication committee to deviate from evaluation committee recommendations, approve or reject the decision and if the decision is rejected refer the matter back to adjudication committee for reconsideration.
- (g) If accounting officer approves the decision of the bid adjudication committee to deviate from bid evaluation committee recommendation he or she must comply with section 114 of the Act within 10 working days.

2.13 PROCUREMENT OF BANKING SERVICES

- (a) A contract for provision of banking services to a municipality:
 - (i) must be procured through competitive bids;
 - (ii) must be consistent with sections 7 and 85 of the Act; and
 - (iii) may not be for a period of more than five years at a time.
- (b) The process for procuring a contract for banking services must commence at least nine months before the end of an existing contract.

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

2.14 PROCUREMENT OF IT RELATED GOODS OR SERVICES

(a) Accounting Officer may request State Information Technology Agency(SITA) to assist the municipality with acquisition of IT related goods or services through competitive bidding process.

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

(c) The Accounting Officer must notify SITA together with a motivation of the IT needs of the municipality if:

(i) the transaction value of IT related goods or services required by the municipality in any financial year will exceed R 50 million(VAT included); or

(ii) the transaction value of a contract to be procured by the municipality whether for a one year or more years exceeds R50 million (VAT Included).

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

2.15 PROUREMENT OF GOODS AND SERVICES UNDER CONTRACTS SECURED BY OTHER ORGANS OF STATE

(a) Accounting Officer may procure goods or services for the municipality under a contract secured by another organ of state, but only if:

(i) the contract has been secured by that other organ of state by means of a competitive bidding process applicable to that organ of state; (ii) the municipality has no reason to believe that such contract was not validly procured;

(iii) there are demonstrable discounts or benefits for the municipality to do so;

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

2.16 PROCUREMENT OF GOODS NECESSITATING SPECIAL SAFETY ARRANGEMENTS

(a) The policy restricts the acquisition and storage of goods in bulk (other than water) which necessitate special safety arrangements, including gasses and fuel.

(b) Where the storage of goods in bulk is justified, such justification must be based on sound reasons, including the total cost of ownership and cost advantages for the municipality.

2.17 PROUDLY SOUTH AFRICAN CAMPAIGNS

(a) Blouberg Municipality will support Proudly SA Campaign aimed at promoting locally manufactured/produced products.

2.18 APPOINTMENT OF CONSULTANT

(a) Accounting officer can appoint consulting services provided that any treasury guidelines in respect of consulting services are taken into account when such procurement are made.

(b) A contract to appoint consultants must be procured via competitive bids if :
(i) the value of the contract exceeds R 200 000(VAT included) or (ii) the duration period of contract exceed one year.

(c) in addition to requirements prescribed by this policy for competitive bids, bidders must furnish particulars of all and similar consultancy services provided to organ of state in the last five years.

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

2.19 DEVIATION FROM AND RATIFICATION OF MINOR BREACHES OF, PROCUREMENT PROCESS.

(a) Accounting Officer may dispense with the official procurement processes established by this policy and procure any required item via any convenient process, which may include direct negotiations, but only

(i) In an emergency;

(ii) If such goods or services are available from single supplier only; (iii)

For the acquisition of special works of art or historical objects where specification are difficult to compile; (iv) Acquisition of animals for zoo; or

(v) In any other exceptional cases where it is impractical or impossible to follow the official procurement processes.

(b) Accounting Officer may ratify any breaches of the procurement processes by an official or committee acting in terms of delegated powers or duties which are purely of technical nature.

(C) Accounting Officer must record the reasons for any deviations and report them to the next meeting of the council and include as a note to the annual financial statements.

2.20 UNSOLICITED BIDS

(a) The Municipality in terms of section 113 of the Act is not obliged to consider unsolicited bids received outside a normal bidding process.

(b) If Municipality decides in terms of section 113(2) of the Act to consider an unsolicited bid, it may do so only if :

- (i) The product or service offered in terms of the bid is demonstrably or proven unique innovative concept;
- (ii) The product or service will be exceptionally beneficial to, or have exceptional cost advantages for, the municipality;
- (iii) The person who made the bid is the sole provider of product or service;
- (iv) The reason for not going through the normal bidding process are found to be sound by the Accounting Officer.

(c) If a municipality decides to consider an unsolicited bid that complies with paragraph (b), the municipality must make its decision public in accordance with section 21A of the Municipal Systems Act, together with:

- (i) Its reasons as to why the bid should not be open to other competitors; (ii) An explanation of the potential benefits for the municipality were it to accept the unsolicited bid;
- (iii) An invitation to the public or other potential suppliers to submit their comments within 30 days of the notice.

(d) Once the municipality has received written comments pursuant to paragraph (c)

,it must submit such comments, including any responses from the unsolicited bidder, to the National Treasury and relevant provincial treasury for comment.

(e) The adjudication committee must consider the unsolicited bid and may award the bid or recommend to the accounting officer, depending on its delegations. (f) A meeting of adjudication committee to consider unsolicited bid must be open to public.

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

- (i) Any comments submitted by the public; and
- (ii) Any written comments and recommendations of the National Treasury and relevant provincial treasury.

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

(I) 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.

2.21 COMBATING OF ABUSE OF SUPPLY CHAIN MANAGEMENT SYSTEM

(a) Accounting Officer must take all reasonable steps to prevent abuse of the supply chain management system.

(b) Accounting Officer must investigate any allegation against any official or other role player of fraud, corruption, favoritism, unfair or irregular practices or failure

to comply with the supply chain management policy, and when justified- (i) Take appropriate steps against such official or other role player; or (ii) Report any alleged criminal conduct to the South African Police Service.

(c) Accounting Office must 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 public sector'

(d) Accounting Officer can 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 unsatisfactorily;

(e) Accounting Officer can 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) Accounting Officer can cancel a contract awarded to a person if-

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

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

(g) Accounting Officer can reject the bid of any bidder if that bidder or an of its directors-

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

Has been convicted for fraud or corruption during the past five years;

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

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

(h) The Accounting Officer must inform the National Treasury and relevant provincial treasury in writing of any actions taken in terms of sub regulation (1) (b) (ii), (e) or (f).

2.22 ACQUISITIONING EVALUATION PROCESS

2.22.1 EVALUATION CRITERIA

(a) The decision of awarding a contract to a prospective provider must be based on a determination of which bidder has the best likelihood of successfully completing the contract at the best value to the BLM.

Proposal evaluation is the process of evaluating both the proposal and the bidder to determine whether the bidder by means of that proposal can successfully accomplish the contract. It forms the basis of choosing between competing offers.

- (b) Evaluation factors (criteria) are those aspects of a proposal that will be
- Local business should receive preference
 - Technical requirements of personnel.
 - Perceived ability to render the services required.
 - Flexibility (to adapt to client requirements).
 - Availability to meet deadlines.

2.22.2 PREFERENCE POINT SYSTEM AND BROAD-BASED BLACK ECONOMIC EMPOWERMENT

(a) In the acquisition of local goods and services this policy will provide for categories of preference in terms of Section 5 of the Preferential Procurement Policy Framework Act 2000 (Act No.5 of 2000) and applicable Preferential Procurement Regulations and Schedules published in the Government Gazette (Notice 2174 of 2004).

(b) The preference point system as detailed below will be followed. No system will be applied in respect of bids/acquisition with a Rand value of less than R30 000 per legislation.

2.22.3 THE 80/20 PREFERENCE POINT SYSTEM FOR ACQUISITION OF GOODS AND/OR SERVICES UP TO A RAND VALUE OF R 50 000 000.00

PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2017

(a) The following formula must be used to calculate the points for price in respect of competitive bids/price quotations with a Rand value equal to, or above R30 000 and up to a Rand value of R50 000 000.

$$P_s = 80 \left\{ \frac{1 - P_t - P_{min}}{P_{min}} \right\}$$

Where

P_s = Points scored for comparative price bid / offer under consideration

P_t = Comparative price of bid / offer under consideration

P_{min} = Comparative price of lowest acceptable bid / offer.

(b) The balanced scorecard measuring Broad-Based Black Economic Empowerment prescribed by the National Treasury must form part of the evaluation criteria of all bids. **(See Annexure SCM 1 and Annexure SCM 2)**

(c) A maximum of 20 points may be awarded to a bidder for achieving governments procurement related socio-economic objectives. The total percentage scored for Broad-Based Black Economic Empowerment will be converted to a point

out of a maximum of 20 points. No points will be awarded for achieving Governments Broad-Based Black Economic Empowerment objectives if the total percentage scored for Broad-Based Black Economic Empowerment is less than the prescribed minimum.

(d)The points scored by a bidder in respect of the objectives above on Broad-Based Black Economic Empowerment must be added to the points scored for price.

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

2.22.4 THE 90/10 PREFERENCE POINT SYSTEM FOR ACQUISITIONING OF GOODS AND/OR SERVICES WITH A RAND VALUE ABOVE R 50 000 000.00

PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2017

(a) The following formula must be used to calculate the points for price in respect of competitive bids with a Rand value above R 50 000 000.

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

Where

Ps = Points scored for comparative price of bid under consideration

Pt = Comparative price of bid under consideration

Pmin = Comparative price of lowest acceptable bid.

(b)The balanced scorecard measuring Broad-Based Black Economic Empowerment prescribed by the National Treasury must form part of the evaluation criteria of all bids. Where the Minister of Trade and industry, in terms of section 9 of the Broad Based Black Economic Empowerment Act, No 53 of 2003, gazetted a code of good practice for a particular sector, the scorecard contained in the gazetted code of good practice must be utilised in the evaluation process. In the absence of such code of good practice for a particular sector, the balanced scorecard prescribed by National Treasury must form part of the evaluation criteria.

(See Annexure SCM 1 and Annexure SCM 2)

(c)A maximum of 10 points may be awarded to a bidder for achieving Governments procurement related socio-economic objectives. The total percentage scored for Broad-Based Black Economic Empowerment will be converted to a point out of a maximum of 10 points. This will be calculated by multiplying the total percentage scored by 10. No points will be awarded for achieving Governments Broad-Based Black Economic Empowerment objectives if

the total percentage scored for Broad-Based Black Economic Empowerment is less than the prescribed minimum.

(d) The points scored by a bidder in respect of the objectives above on Broad-Based Black Economic Empowerment must be added to the points scored for price.

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

2.22.5 THE 80/20 PREFERENCE POINT SYSTEM FOR THE SALE AND LETTING OF ASSETS UP TO A RAND VALUE OF R 50 000 000

(a) The following formula must be used to calculate the points for price in respect of competitive bids / price quotations with a Rand value equal to, or above R30 000 and up to a Rand value of R 50 000 000 and which relate to the sale and letting of assets.

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

Ps = Points scored for price of bid / offer under consideration

Pt = Price of bid / offer under consideration

Ph = Price of highest acceptable offer

(b) The balanced scorecard measuring Broad-Based Black Economic Empowerment prescribed by the National Treasury must form part of the evaluation criteria of all bids. **(See Annexure SCM 1 and Annexure SCM 2)**

(c) A maximum of 20 points may be awarded to a bidder for achieving Governments procurement related socio-economic objectives. The total percentage scored for Broad-Based Black Economic Empowerment will be converted to a point out of a maximum of 20 points. No points will be awarded for achieving Governments Broad-Based Black Economic Empowerment objectives if the total percentage scored for Broad-Based Black Economic Empowerment is less than the prescribed minimum.

(d) The points scored by a bidder in respect of the objectives above on Broad-Based Black Economic Empowerment must be added to the points scored for price.

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

2.22.6 THE 90/10 PREFERENCE POINT SYSTEM FOR SALE AND LETTING OF ASSETS WITH A RAND VALUE ABOVE R 50 000 000.

(a) The following formula must be used to calculate the points for price in respect of bids with a Rand value above R 50 000 000 and which relate to the sale and letting of assets.

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

Ps = Points scored for price of bid under consideration

Pt = Price of bid under consideration

Ph = Price of highest acceptable bid

(b) The balanced scorecard measuring Broad-Based Black Economic Empowerment prescribed by the National Treasury must form part of the evaluation criteria of all bids. **(See Annexure SCM 1 and Annexure SCM 2)**

(c) A maximum of 10 points may be awarded to a bidder for achieving Governments procurement related socio-economic objectives. The total percentage scored for Broad-Based Black Economic Empowerment will be converted to a point out of a maximum of 10 points. This will be calculated by multiplying the total percentage scored by 10. No points will be awarded for achieving Governments Broad-Based Black Economic Empowerment objectives if the total percentage scored for Broad-Based Black Economic Empowerment is less than the prescribed minimum.

(d) The points scored by a bidder in respect of the objectives above on Broad-Based Black Economic Empowerment must be added to the points scored for price.

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

2.22.7 EVALUATION OF CONSULTANTS OR OTHER PROFESSIONAL SERVICES ON FUNCTIONALITY.

(a) the following formula shall be used to evaluate consultants based on Functionality

$$Ps = \frac{SO \times AP}{MS}$$

Ps = Points scored for functionality

SO= points awarded by a panel member

MS= Maximum weight

AP = Percentage points for functionality

(b) the following formula shall be used to evaluate points scored for price for Consultants

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

Ps = points scored for price

Pmin= lowest acceptable bid price

Pt = bid price under consideration

AP = Total score for functionality

2.22.8 80/20 POINT SYSTEM FOR EVALUATION OF CONSULTANTS

(a) the following formula shall be used to determine the points scored by bidders through 80/20 system

$$Ps = 80 \left(\frac{1 + HS - RS}{RS} \right)$$

Ps = Points scored

HS = Highest acceptable points for sum of points for price and Functionality.

RS = sum of points scored for price and functionality for bid under Consideration

2.22.9 STIPULATION OF PREFERENCE POINT SYSTEM TO BE USED

(a) The Blouberg Municipality must, in the bid documents, stipulate the preference point system which will be applied in the adjudication of bids.

2.22.10 EVALUATION OF BIDS ON FUNCTIONALITY (QUALITY) AND PRICE, INCLUDING WHEN CONSULTANTS ARE APPOINTED

(a) The municipality must, in bid documents, indicate if, in respect of a particular bid invitation, bids will be evaluated on functionality and price.

(b) The total combined points allowed for functionality and price may, in respect of bids / offers with an estimated Rand value equal to or below, R 50 000 000, not exceed 80 points.

(c) The total combined points allowed for functionality and price may, in respect of bids / offers with an estimated Rand value above, R50 000 000, not exceed 90 points.

(d) When evaluating the bids contemplated in this item, the points for functionality must be calculated for each individual bidder,

(e) The conditions of bid may stipulate that a bidder must score a specified number of points for functionality to qualify for further adjudication

(f) The points for price, in respect of a bid which has scored the specified minimum number of points contemplated above must, subject to the application of the evaluation system for functionality and price, be established separately and be calculated in accordance with the other provisions in this section 9.4

(g) The number of points scored for achieving Governments Broad-Based Black Economic Empowerment objectives must be calculated separately and must be added to the points scored for functionality and price.

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

2.22.11 AWARD OF CONTRACT TO BIDS NOT SCORING THE HIGHEST NUMBER OF POINTS

(a) Despite the above regulations, a contract may, on reasonable and justifiable grounds, be awarded to a bidder that did not score the highest points. Preference calculations or decisions, made during proposal / bid evaluations or candidate selection through interviews, shall be clear and documented. The specific goals must be measurable and quantifiable and must be monitored in the execution of the contract.

2.22.12 CANCELLATION AND RE-INVITATION OF BIDS

(a) In the event that, in the application of the 80/20 preference point system, as stipulated in the bid documents, all bids received exceed the estimated Rand value of R 50 000 000, the bid invitation must be cancelled.

(b) In the event that, in the application of the 90/10 preference point system, as stipulated in the bid documents, all bids received are equal to, or below R 50 000 000, the bid invitation must be cancelled.

(c) The municipality must, if the bid invitation has been cancelled in terms of the above, re-invite bids and must, in the bid documents, stipulate the correct preference point system to be applied.

(d) The Blouberg Municipality may, prior to the award of a bid, cancel the bid if;

(i) Due to changed circumstances there is no longer a need for the goods, works or services offered, or

(ii) Funds are no longer available to cover the total envisaged expenditure; or

(iii) No acceptable bids are received.

2.22.13 THE SPECIFIC ACTIVITIES, WHICH MAY BE STIPULATED TOWARDS ACHIEVING SPECIFIC GOALS AS PER SECTION 17 OF THE REGULATIONS, ARE AS FOLLOWS:

(a)

(i) The promotion of South African owned enterprises;

(ii) The promotion of export orientated production to create jobs;

(iii) The promotion of SMMEs;

(iv) The creation of new jobs or the intensification of labour absorption.

(b) Enterprises located within blouberg municipality include:

(i) Suppliers who have offices within blouberg municipality;

(ii) In case of emerging suppliers with no offices their address of registered office must be within blouberg municipality and the individual owners of entity must be the residents of blouberg municipality.

2.22.16 INTERVIEW SELECTION CRITERIA

(a) If the selection is going to be made through interview, the selection criteria should be known beforehand (it could be in the form of evaluation criteria and weights). During the interview the members of the interview panel should assign a score to each criteria, and these scores are then added to arrive at a total score. This total score is then used to assist in making the selection decision.

2.23 OTHER FACTORS IN THE ACQUISITIONING PROCESS

2.23.1 TAX CLEARANCE CERTIFICATE

(a) It is a specific requisite that on all projects, a Tax Clearance Certificate, issued by the SA Revenue Services for the bidding company/entity is to be submitted as part of the bid documentation.

(b) No contract may be awarded to a person who has failed to submit an original Tax Clearance Certificate from the South African Revenue Service ("SARS") certifying that the taxes of that person to be in order or that suitable arrangements have been made with SARS.

2.23.2 ACCESS TO BIDDING INFORMATION

(a) To ensure complete transparency in the bidding process, bid documents should provide details of adjudication criteria. This will be especially important in bids where price will no longer be the only criteria in awarding bids.

(b) The BLM will assist with the compilation and dissemination of bidding and related information in a simplified and uncomplicated format.

(c) Bid results and awards must be made available to bidders when requested. This process, which will ensure transparency, will also enable bidders to evaluate their performance and competitiveness for future bids.

(d) BLM will be required to display both the bids and awards in the offices on for example bid notice boards. This place of display should be accessible to the public even after normal working hours. This will enable the information to reach the local community as effectively as possible. Local councillors are responsible to further disseminate information to their constituencies.

2.23.3 UNIFORMITY IN BID PROCEDURES, POLICIES AND CONTROL MEASURES

(a) Uniformity in bid procedures and control measures should be enhanced to ensure efficiency and effectiveness in procurement/ acquisitioning management. This can be accomplished through:

(b) The implementation of a uniform acquisitioning policy that must address at least the following:

- (i) The range of processes to be used for example tender (local/national), quotation (formal/informal) auction etcetera
- (ii) Procedures and mechanisms for each type of process

- (iii) When a particular type of process must be used
- (iv) Categorisation of processes relating to value of transactions (financial thresholds)
- (v) Open and transparent pre-qualification processes
- (vi) Ensuring that bid procedures are easy to interpret, clear, cost-effective, inexpensive, quick, transparent and free of corruption;
- (vii) A system of supply chain management, which is uniformly applied by all organs of State
- (viii) Proper rules pertaining to unsolicited bids (sect. 113 of the MFMA)

2.23.4 GENERAL ACQUISITIONING PRINCIPLES

- (a) Irrespective of who will be responsible for the acquisitioning process, the general principles of being fair, equitable, transparent, competitive and cost-effective will apply to, and will be the guiding principles for all stakeholders during all activities in the process.
- (b) This entails a proper definition of what is required, adherence to the prescribed selection and evaluation process, as well as proper implementation, monitoring and evaluation.

2.23.5 LETTERS OF ACCEPTANCE

- (a) Letters of acceptance shall be issued by the Head of Procurement once a tender has been approved by a person/structure in accordance with the delegated authority. Such letters may also be signed by the relevant delegated authority.
- (b) Letters of acceptance must be accurate, unambiguous, complete and contain detail of discounts that the BLM may qualify for and must reflect the approval accurately. Such letters are to be handed to the tenderer against signature or sent by registered post as soon as possible after it has been approved and before the validity period expires. A copy must also be made available to the Finance division in order that this commitment can be captured in their records. The Corporate/Admin. Department, who is responsible for the management of the administration of contracts, must also be furnished with a copy.
- (c) A formal contract may also be concluded and must display the same principles than those contained in a letter of acceptance.
- (d) New conditions that did not form part of the original tender documentation, may not be included in a letter of acceptance/contract.

2.23.6 PUBLISHING RESULTS

- (a) As the letter of acceptance/contract concludes the process of competing for the business, it is important that the final results also be publicized.
- (b) Bid results must at least be displayed in the offices of the BLM on for example bid notice boards.

2.23.7 REPORTING

(a) The Accounting Officer should report, in the prescribed formats and frequencies prescribed by the relevant Treasury, management information to the executive authorities and the National and relevant treasuries.

2.24 POWERS OF ACQUISITIONING STRUCTURES/ INDIVIDUALS

2.24.1 POWERS OF THE COUNCIL

The Council has the power to:

- Priorities expenditure
- Receive for the purpose of maintaining oversight over the implementation of the municipality's supply chain management policy, a report within 30 days of the end of each financial year, from the MM regarding the implementation of the supply chain management policy and spending patterns on the budget. □ Monitor the activities of the BLM.

The Council and the Accounting Officer may not delegate any supply chain management power 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 Blouberg municipality.
- To a single person or single member of any bid committee. The power to make final awards in a competitive bidding process has been delegated to the committee and therefore the committee system must be used.

2.24.2 POWERS OF THE BID ADJUDICATION COMMITTEE

The Bid Adjudication Committee has the power to:

(a) amend or cancel concluded agreements if delivered goods and services do not conform to specifications

(b) approve bids over the amount of R 200 000.

©To invalidate bids on the grounds mentioned in section 112(1)(n) MFMA

(d) The Bid Adjudication Committee must within 5 days of the end of each month submit to the Municipal Manager through the Chief Financial Officer, a written report containing particulars of each final award made by this committee during that month, including –

- (i) the amount of the award;
- (ii) the name of the person/business to whom the award was made
- (iii) the reason why the award was made to that person/business.

3. LOGISTICS MANAGEMENT

(a) Accounting officer must establish and implement an effective system of logistics management, which include;

- (i) the day to day management of stores and warhorse.

- (ii) determining the range and nature of items that will be carried in the store facility
- (iii) Setting inventory level
- (iv) Timely placement of orders when stock levels are low
- (v) Receiving and distribution of goods; and
- (vi) Expediting orders'
- (vii) Transport Management
- (viii) Vendor Performance
- (ix) Maintenance and contract administration

4. DISPOSAL MANAGEMENT

- (a) This policy provide for an effective system of disposal management for the disposal or letting of assets, including unserviceable, redundant or obsolete assets, subject to sections 14 and 90 of the Act.
- (b) Assets may be disposed in this way:
 - (i) Transferring the asset to another organ of state in terms of a provision of the Act enabling the transfer of assets;
 - (ii) Transferring the asset to another organ of state at market related value or, when appropriate free of charge;
 - (iii) Selling the asset; or
 - (iv) Destroying the asset;
- (c) The SCM policy stipulate that-
 - (i) Immovable property may be sold only at market related prices except when the public interest or the plight of the poor demands otherwise; (ii) Movable assets may be sold either by way of written price quotations, a competitive bidding process, auction or at market related price, whichever is the most advantageous to the municipality;
 - (iii) In the case of the free disposal of computer equipment, the provincial department of education must first be approached to indicate within 30 days whether any of the local schools are interested in the equipment; and
 - (iv) In the case of the disposal of firearms, the National Conventional Arms Control Committee has approved any sale or donation of firearms to any person or institution within or outside the Republic.
- (d) The policy provide that –
 - (i) Immovable property is let at market related rates except when the public interest or the plight of the poor demands otherwise; and
 - (ii) All fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property are annually reviewed; and
 - (iii) That where assets are traded in for other assets, the highest possible trade-in price is negotiated.

5. RISK MANAGEMENT

5.1 GENERAL

(a) It is imperative to take cognisance of potential risks during the supply chain management and specifically the acquisitioning process. Due consideration should ideally be given to the following:

- (i) Identification of acquisitioning risks on a case-by-case basis;
- (ii) Allocation of risks to the party best equipped to manage such; (iii) The Municipality bearing the cost of risks where the cost of transferring them is greater than that of retaining them;
- (iv) The exercising of risk management in a proactive manner and providing adequately for the cover of residual risks;
- (v) Contract documentation clearly and unambiguously assigning relative risks to the contracting parties.
- (vi) Development and implementation of appropriate processes. (vii) Development and implementation of procedures and mechanisms to minimise risk such as screening processes and security clearances. (viii) Development and implementation of adequate administrative procedures relating to the advertising, invitation, opening, registering and recording of bids.
- (ix) Disqualification of bidders who are inherent risks such as those who were found guilty of fraud or who failed to comply with previous government contracts.
- (x) Elimination of prospective contractors who have conflict of interests in specific tenders by implementing a system in terms whereof bidders are obliged to disclose any form of conflict they possibly may have.
- (xi) Risk management should therefore form part of the business plan for the acquisitioning of all goods and services.

5.2 INSURANCE

(a) Any of the following, or a combination thereof, should be applied to protect the interests of the municipality in the procurement process:

- (i) That insurance is taken out in deserving cases.
- (ii) That risk management programmes are established.
- (iii) That liquidated damage clauses be included in contracts where applicable.
- (b) Suitable arrangements should also be made to ensure that insurance related excesses do not cause the failure of emerging small and micro enterprises.

5.3 GUARANTEES

- (a) Performance guarantees should be commensurate with the degree of contractual risk to which BLM are exposed.
- (b) In cases of large and complex contracts, it is advisable to call for bid guarantees to circumvent the submission of irresponsible bids.
- (c) Performance guarantees should spread the cost of the risk of failure between the contracting parties and should be set at such a level that all BLM costs relating to such failure are likely to be recovered.
- (d) It would be prudent to make adequate provision in all engineering and construction works contracts to ensure that monies are available to rectify defects.

(e) Performance bonds in engineering and construction works contracts should be waived in low value, low risk contracts or where a third party carries the risk of failure in an acceptable manner.

5.4 CONTRACT MANAGEMENT

(a) The basic requirements as stipulated in the MFMA (section 116) should be adhered to namely: writing, dispute resolution mechanisms, termination, periodic review of contracts and the duties of the Accounting Officer such as enforcement of contracts, monthly monitoring, regular reporting to council, amendment of contracts etc.

5.5 SURETIES

(a) Though the BLM is sensitive to the plight of Emerging Contractors, all projects considered being of high risk due to the nature and scope of work should be subject to high sureties.

(b) In terms of the risk management approach, all constraints are subjected to risk analysis from which alternative strategies are developed to avoid, reduce or control the associated risk for the Contractor as well as the BLM.

(c) It is suggested that the following sureties shall be applicable:

Micro projects(0 - R200 000) Nil

Small projects (R200 000 – R500 000) 2.5%

40

Medium Projects (R500 000 – R1 000 000) 5%

Large projects (R1 000 000 >) 10%

(d) When classified as a contract that does not require a surety, then such status will apply even if the bid exceeds the maximum amount to prevent bidders preparing a bid under the perception that no surety will be required, but only discover later the surety requirements changed.

(e) In the case of small and medium projects, the sureties have been reduced and a cash surety may be deducted in equal percentages from the progress payments for the duration of the contract. In the case of large projects not exceeding R2,0 million a cash deduction from the first three progress payments covering the full surety percentage will be allowed. In case of large projects over R2,0 million only bank bonds will be allowed.

5.6 RETENTION

(a) The BLM shall retain the following percentages of the project cost from the Contractor during the construction as a guard against defects that might be noticed after practical completion- Micro 5%

Small 5%

Medium 10% Large

10%

The retention will be released as follows:

Micro - 2.5% released at completion of the Project and the balance after 3 months

Small - 2.5% released at completion of the Project and balance after 6 months

Medium - 5% released at completion of the Project and the balance after 12 months

Large - 5% released at completion of the Project and the balance after 12 months

5.7 TECHNICAL AND OTHER PROFESSIONAL CONSULTANTS

(a) BLM has accepted as a fact the appointment of consultants where the in-house skills are in short supply. In order to do work on contract, it is necessary that the planning, contract documentation and site supervision be done in an absolute professional manner, maintaining a very high standard and completed in a minimum time and within budget.

(b) The consultants are to be appointed by applying these guidelines on a rotating roster system and will be grouped together in the different disciplines.

5.8 PROFESSIONAL REGISTRATION AND INDEMNITY INSURANCE

(a) In order to maintain such a high standard of work and keeping in mind the possible risk Council is exposed to, as well as the relevant legislation regarding the professions; it is of utmost importance that only firms registered with their relevant professional bodies be allowed to be appointed by BLM. Furthermore, all such firms must have a valid and current Professional Indemnity insurance policy in place. The purpose of such a policy is to provide protection for any loss, damage, death liability or take-over of a third party or a loss sustained by the BLM, related to an oversight, omission or negligence pertaining to the non-adherence of professional duties for which the consultant is responsible.

(b) In keeping with the principles of the RDP as well as procurement and delivery reform, it is essential that a certain margin of preference should be applied, targeting historically disadvantaged consultants.

5.9 UNSATISFACTORY PERFORMANCE

5.9.1 GENERAL

(a) Where unsatisfactory performance of a contractor occurs, it should be brought to his/her attention in writing, preferably by registered mail. If it is not corrected in an acceptable time (which is agreed upon by the BLM and the contractor), the contractor could be informed that the BLM would withdraw from its contractual obligations if a suitable response were not forthcoming. If this persists, legal counsel should be consulted to unilaterally withdraw from the contract in a manner recommended by such counsel. All other costs (over and above the contract price), should also be recovered from the contractor who did not perform should it be necessary to procure emergency goods/services at a higher price. The agreement entered into should form the basis of such action.

5.9.2. PENALTIES

(a) All contracts awarded to contractors will be subject to a fair penalty clause. The penalty clause is necessary to encourage contractors to complete their assignments within the contract time. However, due care should be taken so that

penalties imposed should not harm emerging contractors to such an extent that the empowerment of HDIs cannot be realised. (a) The following penalties should be applicable

Micro projects 0.02 % of contract amount per day

Small projects 0.04 % of contract amount per day

Medium projects 0.06 % of contract amount per day

Large projects 0.08 % of contract amount per day

(c) A penalty clause does not and cannot ensure that a contract will be completed on time and therefore the enforcement of penalties will become a reality.

Penalties should at least cover any loss incurred by the BLM.

5.10 CONTRACT AMENDMENTS

(a) To enhance the flexibility of the procurement process, it is proposed that the BLM be allowed to extend the quantities of an approved quotation or tender by not more than 20 percent provided that the budget accommodates the additional 20 percent and the requirement is approved. This may be approved by the BLM at the delegated level, provided that the provider agrees to such extension and the additional goods are supplied at the same (or lower) price originally agreed to.

5.11 PAYMENT FACILITATION

(a) For the sustainability of contractors generally, early payments should be made as soon as all certifications and verifications have been completed. Late payments are detrimental to emerging and small contractors' continuity in business. The BLM undertakes to effect processing invoices as soon as possible but within the time stipulated in the tender document but not exceeding 30 days.

(b) It is therefore the responsibility of the relevant functionary in the BLM to certify/assess invoices as soon as they are presented to determine whether the invoices actually mirrors the services rendered/goods delivered and that services/goods are of the required quality.

5.12 CONTRACTS HAVING FUTURE BUDGETARY IMPLICATIONS

(a) The requirements of section 33 of the MFMA must be adhered to in regard to contracts which impose financial implications for three years or more (current financial year excluded).

6. PERFORMANCE SYSTEM

(a) Accounting Officer must establish an effective internal monitoring system in order to determine, on the basis of retrospective analysis, whether the authorized To a maximum of

5% of

43

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

7. OTHER MATTERS.

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

(a) Municipality may not make any award above R 15 000 to a person whose tax matters have not been declared by the South African Revenue Service to be in order.

(b) Before making an award to a person, a municipality must first check with SARS whether that person's tax matters are in order.

(c) If SARS does not respond within seven days such person's tax matters may for purpose of sub regulation (a) be presumed to be in order.

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

(a) Irrespective of procurement processes followed the Municipality may not make award to a person –

(i) Who is the service of state;

(ii) 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

(iii) Who is an advisor or consultant contracted with the municipality.

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

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

(i) The name of the person;

(ii) The capacity in which that person is in the service of the state; and (iii) The amount of the award.

7.4 COMBATING CORRUPTION AND ETHICS

(a) In supply chain management and more specifically procurement/acquisition management, all parties are required to comply with the highest ethical standards to promote:

(i) mutual trust and respect; and

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

(b) The Municipal Manager (Accounting Officer) must take all reasonable steps to ensure that proper mechanisms and separation of duties in the system are in place

to minimise the likelihood of fraud, corruption, favouritism and unfair and irregular practices.

(c) All members of the bid/evaluation committees as well as the secretaries to these committees must declare interest with each activity performed.

(d) An official / employee who is involved in the decision-making process must, if a conflict of interest is prevalent:

(i) Declare the interest;

(ii) Excuse himself/herself from such decision-making processes (iii)

Refrain from discussion in any matter related to such process.

(iv) Refrain from exerting any form of pressure on decision makers. (v)

Prior to the award of any contract, the BLM must ensure that neither the recommended bidder nor any of the directors are listed as companies/directors/persons restricted to do business with the Public Sector.

(e) The BLM must:

(i) Reject a proposal for award if it is determined that the bidder recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question

(ii) Reject a proposal for award if it is determined that the bidder or contracting party were convicted of fraud or corruption during the past five years

(iii) Reject a proposal if it is determined that the contracting party willfully neglected, reneged on or failed to comply with a government contract during the past five years

(iv) Ignore any bid from a bidder whose name appears on the national list of restricted bidders/providers/persons; and

(v) Cancel the contract allocated to a bidder for goods, services or works if it is at any time determined that corrupt or fraudulent practices were engaged in by representatives of the department and/or the provider during the acquisition or the execution of that contract.

(vi) Address any interference in the process. (sect. 118 of the MFMA)

(f) To address public complaints, different pieces of legislation were passed in recent years relating to transparency and anti-corruption measures and may the public complain in the first instance at the Municipal Manager. If not satisfied, the person may refer the complaint to the Public Protector or the Courts.

(g) Legislation that are aimed at addressing complaints and therefore preventing corruption are:

- Public Protector Act of 1998
- Corruption Act of 1994
- Protected Disclosure Act of 2000
- Promotion of Administrative Justice Act of 2000
- Promotion of Access to Information Act of 2000.

7.5 INDUCEMENTS, REWARDS, GIFTS AND FAVOURS TO MUNICIPALITY, OFFICIALS AND OTHER ROLE PLAYERS.

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

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

(ii) Any reward, gift, favour or hospitality to any official of the municipality or any role player involved in the implementation of the supply chain management policy of the municipality.

(b) The accounting officer must promptly report any alleged contravention of sub regulation (a) 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.

(c) Sub regulation (a) does not apply to gifts less than R350 in value.

7.6 SPONSORSHIPS

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

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

(ii) A recipient or prospective recipient of goods disposed or to be disposed, of by the municipality.

7.7 OBJECTIONS AND COMPLAINTS.

(a) Persons aggrieved by decisions or actions taken by the municipality in the implementation of its supply chain management system, to lodge within 14 days of

the decision or action a written objection or complaint to the municipality against the decision or action.

7.8 DISPUTE RESOLUTION GUIDELINES

(a) The accounting officer may appoint an independent and impartial person not directly involved in the supply chain management process of municipality to assist in the resolution of the dispute between municipality and other persons regarding:

(i) Any decision or actions taken by the municipality in implementation of its supply chain management system; or

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

(iii) To deal with objections, complaints or queries regarding any such decisions or actions or any other matters from such contract.

- (b) The accounting officer, or any other official designated by the accounting officer, is responsible to assist the appointed person to perform his/her functions effectively.
- (c) A person must:
- (i) Strive to resolve promptly all disputes, objections, complaints or queries received; and
 - (ii) Submit monthly report to the accounting officer on all disputes, objections, complaints or queries received, attended to or resolved.
- (d) A dispute, objection, complaint or query may be referred to the provincial treasury if-
- (i) The dispute, objection, complaint or query is not resolved within 60 days; or
 - (ii) No response is received from municipality within 60 days.
- (e) If the provincial treasury does not or cannot resolve the matter, the dispute, objection, complaint or query may be referred to the National Treasury for resolution.
- (f) This resolution guidelines do not affect a person's rights to approach a court at any time.

7.9 CONTRACTS PROVIDING FOR COMPENSATION BASED ON TURNOVER

- (a) If a service provider acts on behalf of a municipality to provide any service or act as a collector of fees, service charges or taxes and compensation payable to the service provider is fixed as an agreed percentage of turnover for the service or the amount collected, the contract between the service provider and the BLM.

8. NON COMPLIANCE

- (a) Non compliance to relevant legislation and this policy statement in regard to supply chain management might result in unauthorized, irregular and fruitless expenses and functionaries may incur personal liability if they are negligent in exercising their duties in terms hereof.

SUMMARY OF AUTHORITY OF PROCUREMENT POWERS OF FUNCTIONARIES Functionary Purchasing power Process

- Managers to be given powers to approve purchases up to a maximum of R10 000.00. this is subject to the condition that the Manager: Supply Chain should co-sign all the memorandum.
- All payment certificates for capital projects should be signed by the Municipal Manager & Payments above R30 000
- The appointment of the Specification and Evaluation Committees be delegated to the Chief Financial Officer with the Municipal Manager retaining the power to appoint the Adjudication Committee;
- Satellite Managers should have the power to authorize petty cash vouchers

Bid Adjudication Committee/Municipal Manager Over R200 000. Public tenders

Municipal Manager Over R 30 000 up to +R200 000

Purchases over R30 000 up to R200 000: At least 3 written quotations and

Chief Financial Officer Up to R30 000 Purchases up to R 2000: At least one written quotation.

Purchases over R 2000: At least 3 written quotations.

Petty Cash Up to R250 per transaction through the authority of the Departmental Head

Preference Point Systems or Point Scoring System

ANNEXURE SCM1

PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2017

The 80/20 Preference point system is applicable to bids (including price quotations) with a Rand value from R30000.00 to R50 million (all applicable taxes included)

	Points
Points Scored for Price	80
Points Scored for B-BBEE status level of contributor	20
Total	100

B-BBEE Status Level of Contributor	Number of Points(80/20 System)
1	20
2	18
3	14
4	12
5	8
6	6
7	4
8	2
Non-Compliant Contributor	0

ANNEXURE SCM2

The 90/10 Preference point system is applicable to bids (including price quotations) with a Rand value above R50 million (all applicable taxes included)

	Points
Points Scored for Price	90
Points Scored for B-BBEE status level of contributor	10
Total	100

B-BBEE Status Level of Contributor	Number of Points(90/10 System)
1	10
2	9
3	6
4	5
5	4
6	3
7	2
8	1
Non-Compliant Contributor	0

Determine the manner in which, and the conditions under which the offers must be made

Conclude agreements

Inspect and test the supplies and services offered, or to have them inspected and tested.

Respond to queries raised by the external and internal auditors,

2.24.4 POWERS OF THE MANAGERS OF DEPARTMENTS

The Manager of a department has the power to:

To approve bids up to the amount of R 20 000.

Manage the budget that has been allocated to the department,

Submit all expenditure requirements as per the budget for the department to the acquisitioning section for approval for initiation,

Assist the acquisitioning section by rendering advice and skills in the bid process.

2.24.5 POWERS OF CHIEF FINANCIAL OFFICER

CFO has the power to approve bids up to R 30 000

Manage the budget of the municipality and approve every procurement transaction of the municipality.

Invalidate any unauthorized procurement

END OF THE POLICY