

POLICY 020/2017 RAADSBELEID

TO BE READ WITH POLICY 053/2017

SUBJECT/ONDERWERP: **SUPPLY CHAIN POLICY**

REFERENCE/VERWYSING: **5.21.B & 6.1.B**

RESOLUTION NR/BESLUIT NO: **13.19/04/2017** DATE/DATUM: **25 April 2017**

OBJECTIVE:

To ensure that Council receive the best possible services and goods through supply chain management processes complying with the principles of the Preferential Procurement Policy Framework Act, 2000 (Act No 5 of 2000); the Preferential Procurement Regulations, 2001; the Municipal Finance Management Act, 2003 (Act No 56 of 2003); and, the Municipal Supply Chain Management Regulations, 2005.

POLICY OBJECTIVE & PRINCIPLES:

Council recognises her role and responsibility to manage public finances to the most economical and efficient way and also to avoid unfair discrimination in the awarding of tenders and quotations.

GUIDELINES:

1. Implementation of supply chain management policy

2. Supply chain management system
 - 2.1 Demand management
 - 2.2 Acquisition management
 - 2.3 Logistics, Disposal, Risk and Performance Management
 - 2.4 Other matters

3. Preferential procurement points scoring system

4. Code of Conduct for Supply Chain Management Practitioners and other Role Players

**MUNICIPAL SUPPLY CHAIN MANAGEMENT POLICY
LOCAL GOVERNMENT: MUNICIPAL FINANCE
MANAGEMENT ACT, 2003**

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Local Content – Annexure E

Definitions

1. In this Policy, unless the context otherwise indicates, a word or expression to which a meaning has been assigned in the Act has the same meaning as in the Act, and –

"Accounting officer" means the Accounting Officer referred to in section 60 of the Municipal Finance Management Act, No. 56 of 2003, in relation to a municipal entity, means the official referred to in section 93, and includes a person acting as the accounting officer;

"Accredited Agent" means a provider who is authorized to deliver certain goods/services and can be trading in a specific area, however, an accredited agent is not a sole provider;

"Act" means the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000);

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

"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, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;

"Broad-Based Black Economic Empowerment Act" means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);

"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 competitive bidding process referred to in paragraph 12(1)(d) of this Policy;

"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;

"Contract" means the agreement that results from the acceptance of a tender by an organ of state;

"CSD" Central supplier database (CSD) is a single database to serve as the source of all supplier information for all spheres of government. The purpose of centralising government's supplier database is to reduce duplication of effort and cost for both supplier and government while enabling electronic procurement processes.

"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;

“emergency procurement” emergency cases are cases where immediate action is necessary in order to avoid dangerous or risky situation (life threatening) or misery such as floods or fires.

“E – TENDER PORTAL” - The eTender Publication Portal facilitates all government institutions to publish their tenders, corrigendum and award notices on a single platform. This portal gives FREE access to public sector tender opportunities in South Africa.

“exceptional/urgent cases” exceptional cases are cases where early delivery is of critical importance and the invitation of competitive bids is either impossible or impractical. However a lack of proper planning should not be constituted as an urgent case subject to the approval of the Accounting Officer. The nature of the urgency and the details of the justifiable procurement must be recorded and the AO to approve.

“Exempted Micro Enterprise” [EME’s] Enterprises with an annual total revenue of R5 million or less [all taxes included] for goods and services. Sector charters have been developed for the Tourism and Construction industry where thresholds of Rand 2.5 million and Rand 1.5 million respectively have been established.

“Qualifying Small Business” [QSE’] Enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 91 of the Broad-Based Black Economic Empowerment Act;

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

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

“Fruitless expenditure”- is defined in section 1 of the MFMA as follows: expenditure made in vain and would have been avoided had reasonable care been exercised;

“Formal written price quotation” means quotations referred to in paragraph 12(1)(c) of this Policy;

“Functionality” means the measurement according to predetermined norms, as set out in the tender documents, of a service or commodity that is designed to be practical and useful, working or operating, taking into account, among other factors, the quality, reliability, viability and durability of a service and the technical capacity and ability of a tenderer;

“Imported content” means that portion of the 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 subcontractors) 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 Public Finance Management Act, 1999 (Act No.1 of 1999);
- (e) an executive member of the accounting authority of any national or provincial public entity; or
- (f) an employee of Parliament or a provincial legislature;

“Irregular expenditure”-means-

- (a) expenditure incurred by a municipality or municipal entity in contravention of, that is not in accordance with, a requirement of the MFMA, or that is not in accordance with, a requirement of the MFMA, and which has not been condoned in terms of section 170;
- (b) expenditure incurred by a municipality or municipal entity in contravention of, or that is not in accordance with, a requirement of the Municipal Systems Act, and which has not been condoned in terms of that Act;
- (c) expenditure incurred by a municipality in contravention of, or that is not in accordance with, a requirement of the Public Office-Bearers Act, 1998[ACT No. 20 of 1998]; or
- (d) expenditure incurred by a municipality or municipal entity in contravention of, or that is not in accordance with a requirement of the supply chain management policy of the municipality or entity or any of the municipality’s by-laws giving effect to such policy; and which has not been condoned in terms of such policy or by-law, but excludes expenditure by a municipality which falls within the definition of ***“unauthorised expenditure”***.

In this context ***“expenditure”*** refers to any use of municipal funds that is in contravention of the following legislation:

- Municipal Finance Management Act, Act 56 of 2003, and its regulations
- Municipal Systems Act, Act 32 of 2000, and its regulations
- Public Office-Bearers Act, Act 20 of 1998, and its regulations; and
- The municipality’s supply chain management policy and any by-laws giving effect to that policy.

"**Local content**" means that portion of the 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 14 of this policy;

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

"**Other applicable legislation**" means any other legislation applicable to municipal supply chain management, including –

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

"**Person**" includes a juristic person;

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

"**Senior manager**" means -

- (a) in relation to a municipality, means a manager referred to in section 56 of the Municipal Systems Act; or
- (b) in relation to a municipal entity, means a manager directly accountable to the chief executive officer of the entity;

"**Sole Provider**" - means a provider of specialized or exclusive goods/services who has a sole distribution/patent/manufacturing rights and copy rights.

"**Stipulated minimum threshold**" means that portion of local production and content as determined by the Department of Trade and Industry;

"**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 the contract;

"**Tender**" means a written offer in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of services, works or goods, through price quotations, advertised competitive tendering processes or proposals;

"**Total revenue**" bears the same meaning assigned to this expression in 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 promulgated in the Government Gazette on 9 February 2007;

“Transversal contract” means a contract arranged for more than one dept/mun or for more than one level of government eg. National and Provincial Government.

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

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

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

“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; and

“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.

“Unauthorized expenditure means” any expenditure incurred by a municipality otherwise than in accordance with section 15 or 11 [3] and includes-

- (a) overspending of the total amount appropriated in the municipality’s approved budget;
- (b) overspending of the total amount appropriated for a vote in the approved budget;
- (c) expenditure from a vote unrelated to the department or functional area covered by the vote;
- (d) expenditure of money appropriated for a specific purpose ,otherwise than for that specific purpose;
- (e) spending of an allocation referred to in paragraph [b],[c] or [d] of the definition of **“allocation”** otherwise than in accordance with any conditions of the allocation; or
- (f) a grant by the municipality otherwise than in accordance with the MFMA.

“Unforeseen and unavoidable expenditure” is discussed in section 29 of the MFMA and reads as follows:

- (1) The mayor of a municipality may in emergency or other exceptional circumstances authorise unforeseen and unavoidable expenditure for which no provision was made in an approved budget.
- (2) Any such expenditure-
 - (a) must be in accordance with any framework that may be prescribed;
 - (b) may not exceed a prescribed percentage of the approved annual budget;
 - (c) must be reported by the mayor to the municipal council at its next meeting; and
 - (d) must be appropriated in an adjustments budget.

- (3) If such adjustments budget is not passed within 60 days after the expenditure was incurred, the expenditure is unauthorised and section 32 applies.

“Written or verbal quotations” means quotations referred to in paragraph 12(1)(b) of this Policy.

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 Dawid Kruiper Municipality must implement this Policy in a way that -
- (a) gives effect to -
 - (i) section 217 of the Constitution; and
 - (ii) Part 1 of Chapter 11 and other applicable provisions of the Act;
 - (b) is fair, equitable, transparent, competitive and cost effective;
 - (c) complies with -
 - (i) the Regulations; and
 - (ii) any minimum norms and standards that may be prescribed in terms of section 168 of the Act;
 - (d) is consistent with other applicable legislation;
 - Broad Based Black Economic Empowerment Act [B-BBEEA];
 - Corruption Act, 1998 – anti-corruption measures and practices;
 - Competition Law and Regulations;
 - Promotion of Administrative Justice Act, 2000;
 - National Archives of South Africa Act, 1996;
 - National Small Business Act;
 - Construction Industry Development Board Act, 2000 [Act no 38 of 2000].
 - (e) does not undermine the objective for uniformity in supply chain management systems between organs of state in all spheres; and
 - (f) is consistent with national economic policy concerning the promotion of investments and doing business with the public sector.
- (2) This Policy applies when the Dawid Kruiper Municipality -
- (a) procures goods or services;
 - (b) disposes goods no longer needed;
 - (c) selects contractors to provide assistance in the provision of municipal services otherwise than in circumstances where Chapter 8 of the Municipal Systems Act applies; or

- (d) 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 -
 - (a) water from the Department of Water Affairs or a public entity, another municipality or a municipal entity; and
 - (b) electricity from Eskom or another public entity, another municipality or a municipal entity.

3. Amendment of the supply chain management policy

- (1) The accounting officer must -
 - (a) at least annually review the implementation of this Policy; and
 - (b) when the accounting officer considers it necessary, submit proposals for the amendment of this Policy to the Dawid Kruiper Municipal Council.
- (2) If the accounting officer submits proposed amendments to the Dawid Kruiper Municipal Council that differs from the model policy issued by the National Treasury, the accounting officer must -
 - (a) ensure that such proposed amendments comply with the Regulations; and
 - (b) report any deviation from the model policy to National Treasury and the relevant provincial treasury.
- (3) When amending this supply chain management policy the need for uniformity in supply chain practices, procedures and forms between organs of state in all spheres, particularly to promote accessibility of supply chain management systems for small businesses must be taken into account.

4. Delegation of supply chain management powers and duties

- (1) The Dawid Kruiper Municipal Council hereby delegates all powers and duties to the accounting officer which are necessary to enable the accounting officer -
 - (a) to discharge the supply chain management responsibilities conferred on accounting officers in terms of -
 - (i) Chapter 8 or 10 of the Act; and
 - (ii) this Policy;
 - (b) to maximise administrative and operational efficiency in the implementation of this Policy;
 - (c) to enforce reasonable cost-effective measures for the prevention of fraud, corruption, favouritism and unfair and irregular practices in the implementation of this Policy; and
 - (d) to comply with his or her responsibilities in terms of section 115 and other applicable provisions of the Act.

- (2) Sections 79 and 106 of the Act apply to the sub delegation of powers and duties delegated to an accounting officer in terms of sub paragraph (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 Dawid Kruiper Municipality or to a committee which is not exclusively composed of officials of the Dawid Kruiper 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 26 of this Policy.

5. Sub delegations

- (1) The accounting officer may in terms of section 79 or 106 of the Act sub delegate any supply chain management powers and duties, including those delegated to the accounting officer in terms of this Policy, but any such sub delegation must be consistent with sub paragraph (2) of this paragraph 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 but only to -
 - (i) the chief financial officer;
 - (ii) a senior manager (director of Dawid Kruiper Municipality); 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 but only to -
 - (i) the chief financial officer;
 - (ii) a senior manager (director of Dawid Kruiper Municipality);
 - (iii) a manager directly accountable to the chief financial officer or a senior manager (director of Dawid Kruiper Municipality); or
 - (iv) a bid adjudication committee.
- (3) An official or bid adjudication committee to 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-
 - (a) the amount of the award;
 - (b) the name of the person to whom the award was made; and
 - (c) the reason why the award was made to that person.

- (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 (director of Dawid Kruiper Municipality); or
 - (iii) a bid adjudication committee of which the chief financial officer or a senior manager (director of Dawid Kruiper Municipality) is a member; or
 - (b) to the chief financial officer or the senior manager (director of Dawid Kruiper Municipality) 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 (director of Dawid Kruiper Municipality) is not a member.
- (5) Subparagraphs (3) and (4) of this policy 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 council

- (1) The Dawid Kruiper Municipal Council reserves its right to maintain oversight over the implementation of this Policy.
- (2) 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 and the supply chain management policy of any municipal entity under the sole or shared control of the municipality, to the council of the municipality; and
 - (b) whenever there are serious and material problems in the implementation of this Policy, immediately submit a report to the Dawid Kruiper Municipal Council.
- (3) The accounting officer must, within 10 days of the end of each quarter, submit a report on the implementation of the supply chain management policy to the mayor.
- (4) The reports must be made public in accordance with section 21A of the Municipal Systems Act.

7. Supply chain management unit

- (1) A supply chain management unit is hereby established to implement this Policy.
- (2) The supply chain management unit operates under the direct supervision of the chief financial officer or an official to whom this duty has been delegated in terms of section 82 of the Act.

8. Training of supply chain management officials

The training of officials involved in implementing this Policy should be in accordance with any Treasury guidelines on supply chain management 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.
- (vii) asset 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 Dawid Kruiper Municipality support its operational commitments and its strategic goals outlined in the Integrated Development Plan.
- (2) The demand management system must -
 - (a) include timely planning and management processes to ensure that all goods and services required by the Dawid Kruiper Municipality are quantified, budgeted for and timely and effectively delivered at the right locations and at the critical delivery dates, and are of the appropriate quality and quantity at a fair cost;
 - (b) take into account any benefits of economies of scale that may be derived in the case of acquisitions of a repetitive nature;
 - (c) provide for the compilation of the required specifications to ensure that its needs are met; and
 - (d) to undertake appropriate industry analysis and research to ensure that innovations and technological benefits are maximised.

- (e) The municipality must compile a Procurement Plan containing all planned procurement for the financial year in respect of the procurement of goods, services and infrastructure projects which exceed R 200 000 [all applicable taxes included] per case as described in the Supply Chain Management Guide for Accounting Officers. The procurement plan must be finalized on the 1 July every year. The relevant information should preferably be furnished in the format contained in the Procurement Plan Template enclosed as Annexure A.
- (f) Also refer to National Treasury MFMA Circular 62.

Part 2: Acquisition management

11. System of acquisition management

- (1) The accounting officer must implement the system of acquisition management set out in this Part in order to ensure -
 - (a) that goods and services are procured by the Dawid Kruiper Municipality in accordance with authorised processes only;
 - (b) that expenditure on goods and services is incurred in terms of an approved budget in terms of section 15 of the Act;
 - (c) that the threshold values for the different procurement processes are complied with;
 - (d) that bid documentation, evaluation and adjudication criteria, and general conditions of a contract, are as per National and Provincial prescripts [SCM Practice note 2, Explanatory notes: Revised quotation / bid forms];
 - (e) that the preference point system used in accordance with the Revised Preferential Procurement Policy Regulations of 7 December 2017 [utilizing B-BBEE status level verification certificates to claim preference points].
 - (f) that any Treasury guidelines on acquisition management are properly taken into account.
 - (g) Verification of bids in excess of R10 million

Prior to advertisement:

Verification by the CFO

The senior manager responsible for a bid must submit to the CFO:

- proof that budgetary provision exists for the procurement of the goods/services and / or infrastructure projects;
- any ancillary budgetary implications related to the bid;
- any multi -year budgetary implications;

Prior to the award of a bid

Contracts above the value of R 10 million [all applicable taxes included] may only be awarded to the preferred bidder after the CFO has verified in writing that budgetary provision exists for the acquisition of the goods, infrastructure projects and /or services and that it is consistent with the Integrated Development Plan.

- (h) Publication of awards in respect of advertised competitive bids [above the threshold value of R 200 000]

The following information on the successful bids must be placed on the

municipal website:

- Contract numbers and description of goods, services or infrastructure projects;
- Names of the successful bidders and the B-BBEE level of contribution claimed;
- Brand names and dates for completion of contracts.
- If an organ of state decides to apply pre-qualifying criteria to advance certain designated groups, that organ of state must advertise the tender with a specific tendering condition that only one or more of the following tenderers may respond-

- (a) a tenderer having a stipulated minimum B-BBEE status level of contributor;
- (b) an EME or QSE;
- (c) a tenderer subcontracting a minimum of 30% to-

- (i) an EME or QSE which is at least 51% owned by black people;
- (ii) an EME or QSE which is at least 51% owned by black people who are youth;
- (iii) an EME or QSE which is at least 51% owned by black people who are women;
- (iv) an EME or QSE which is at least 51% owned by black people with disabilities;
- (v) an EME or QSE which is 51% owned by black people living in rural or underdeveloped areas or townships;
- (vi) a cooperative which is at least 51% owned by black people;
- (vii) an EME or QSE which is at least 51% owned by black people who are military veterans;
- (viii) an EME or QSE.

(2) A tender that fails to meet any pre-qualifying criteria stipulated in the tender documents is an unacceptable tender.

(j) Functionality

- (1) An organ of state must state in the tender documents if the tender will be evaluated on functionality.
- (2) The evaluation criteria for measuring functionality must be objective.
- (3) 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
 - (c) the minimum qualifying score for functionality.

- (4) 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 jeopardise the quality of the required goods or services; or
 - (ii) high that it is unreasonably restrictive.
- (5) Points scored for functionality must be rounded off to the nearest two decimal places.
- (6) A tender that fails to obtain the minimum qualifying score for functionality as indicated in the tender documents is not an acceptable tender.
- (7) 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 envisaged in regulation 11.

Pre-evaluation

After closure of the bid pre-evaluation is done to ensure all bidders comply with the prescribed minimum norms and standards, NO TECHNICAL EVALUATION IS DONE AT THIS POINT.

Bidders are then invited to prepare for a functionality presentation in line with the criteria set out in the bid document on a specific date and provided with a time slot.

Appointment of a functionality committee

The functionality committee is an ad-hoc committee appointed per bid.

It should consist out of a cross functional team

To be included as well:

- A SCM Practitioner;
- The end-user;
- Technical experts;
- Members of the Bid Evaluation- and Adjudication committees;
- CFO or a person with knowledge of the available budget from the CFO's office;
- Any other official deemed to be relevant;
- Provincial SCM official.
- Each member will complete a score sheet per bidder.
- The totals to be calculated by SCM, an average calculated and only the bidders who scored the minimum qualifying score will be evaluated further.
- Prior to the functionality committee meeting the end-user and the technical experts can
- sit with all the appointed committee members and peruse each bidder's proposal and draw-up a list of questions for clarification. Each member can add his / her own questions and during the presentations clarify or verify the information presented with relevant questions.

NOTE: There cannot be two [2] technical evaluation processes, only one done by a duly appointed functionality committee.

- Functionality evaluation forms part of the formal evaluation processes and is open for legal scrutiny and challenges –therefore it is a formal once off process with proper procedures and score sheets to be completed per committee member for each bidder, duly signed off by the relevant committee member.
 - Score sheets form part of a bid and year-end audit by the Auditor –General.
 - Not following proper processes may lead to expenditure been classified as irregular by the Auditor-General’s office.
- (3) When procuring goods or services contemplated in section 110(2) of the Act, the accounting officer must make public the fact that such goods or services are procured otherwise than through the Dawid Kruijer 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 or one quotation for transaction up to the value of R 2,000 (VAT included);
 - (b) written or verbal quotations for procurements of a transaction value over R 2,000 up to R 10,000 (VAT included);
 - (c) formal written price quotations for procurements of a transaction value over R 10,000 up to R 200,000 (VAT included); and
 - (d) a competitive bidding process for-
 - (i) procurements above a transaction value of R 200,000 (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 sub paragraph (1); or
 - (b) direct that -
 - (i) written or verbal quotations be obtained for any specific procurement of a transaction value lower than R 2,000 (VAT included);
 - (ii) formal written price quotations be obtained for any specific procurement of a transaction value lower than R 10,000 (VAT included); or
 - (iii) a competitive bidding process be followed for any specific procurement of a transaction value lower than R 200,000 (VAT included).

- (3) In cases where a supplier is not VAT registered, the municipality will evaluate all bids / quotations excluding VAT. This will result in the municipality paying less for goods or service, by claiming back VAT from the receiver of revenue.
- (4) Goods or services may not deliberately be split into parts or items of a lesser value merely to avoid complying with the requirements of the policy. When determining transaction values, a requirement for goods or services consisting of different parts or items must as far as possible be treated and dealt with as a single transaction.

13. General preconditions for consideration of written quotations or bids

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

- (a) has furnished that provider's -
 - (i) full name;
 - (ii) identification number or company or other registration number; and
 - (iii) tax reference number and VAT registration number, if any;
 - (iv) original valid tax clearance certificate from the South African Revenue Services;
 - (v) check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not in arrears for more than three [3] months; Bids/ quotations should only be awarded to suppliers who are not in arrears with their municipal rates and taxes. If the suppliers are not resident in this municipality, but offer their services from any other municipality, the same applies. It should be established if they are not in arrears in their own municipality.
 - (vi) requirements for construction and engineering related bids should be awarded according to CIDB regulations;
 - (vii) The CIDB Act requires that all projects need to be registered with the CIDB;
 - (viii) Before an award is done to a contractor, the contractor's CIDB grading must be confirmed with the CIDB website;
 - (ix) The CIDB grading designation is as follows:

Grading designation	Less than or equal to
1	R 200 000
2	R 650 000
3	R 2 000 000
4	R 4 000 000
5	R 6 500 000
6	R 13 000 000
7	R 40 000 000
8	R 130 000 000
9	No Limit

- (b) has authorised the Dawid Kruiper Municipality to obtain a tax clearance from the South African Revenue Services that the provider's tax matters are in order; (the CSD is now able to verify the tax clearance certificate) and

- (c) has indicated –
 - (i) whether he or she is in the service of the state, or has been in the service of the state in the previous twelve months;
 - (ii) if the provider is not a natural person, whether any of its directors, managers, principal shareholders or stakeholder is in the service of the state, or has been in the service of the state in the previous twelve months; or
 - (iii) whether a spouse, child or parent of the provider or of a director, manager, shareholder or stakeholder referred to in subparagraph (ii) is in the service of the state, or has been in the service of the state in the previous twelve months.

14. Lists of accredited prospective providers

- (1) The accounting officer must -
 - (a) keep a list of accredited prospective providers of goods and services that must be used for the procurement requirements through written or verbal quotations and formal written price quotations; and
 - (b) at least once a year through newspapers commonly circulating locally, the website and any other appropriate ways, invite prospective providers of goods or services to apply for evaluation and listing as accredited prospective providers;
 - (c) specify the listing criteria for accredited prospective providers; and
 - (d) disallow the listing of any prospective provider whose name appears on the National Treasury's database as a person prohibited from doing business with the public sector.
- (2) The list must be updated at least quarterly to include any additional prospective providers and any new commodities or types of services. Prospective providers must be allowed to submit applications for listing at any time.
- (3) The list must be compiled per commodity and per type of service.
- (4) All the above-mentioned points are no longer in effect since the Implementation of the national central supplier database.
- (5) Utilization of web based national central supplier database, the CSD will therefore be fully effective from 1st July 2016.

15. Petty cash purchases

The accounting officer must establish the conditions for the procurement of goods by means of petty cash purchases referred to in paragraph 12(1)(a) of this Policy, which must include conditions –

- (a) determining the terms on which a manager may delegate responsibility for petty cash to an official reporting to the manager;
- (b) limiting the maximum number of petty cash purchases or the maximum amounts per month for each manager;

- (c) excluding any types of expenditure from petty cash purchases, where this is considered necessary; and
- (d) requiring a monthly reconciliation report from each manager to the chief financial officer, including -
 - (i) the total amount of petty cash purchases for that month;
 - (ii) receipts and appropriate documents for each purchase; and
 - (e) any other conditions determined by the Chief Financial Officer.

16. Written or verbal quotations

The conditions for the procurement of goods or services through written or verbal quotations are as follows -

- (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 Dawid Kruiper Municipality provided that if quotations are obtained from providers who are not listed, such providers must meet the listing criteria set out in paragraph 14(1)(b) and (c) of this Policy; (the quotations will be sourced from the national central supplier database which has been fully effective since 1 July 2016)
- (b) where no suitable accredited service providers are available from the list, quotations may be obtained from other possible providers not on the list, provided that such service providers meet the listing criteria set out in paragraph 14(1)(b) and (c) of this policy. (all quotations will be sourced from the central supplier database).
- (c) to the extent feasible, providers must be requested to submit such quotations in writing;
- (d) if it is not possible to obtain at least three quotations, the reasons must be recorded and reported quarterly to the accounting officer or another official designated by the accounting officer;
- (e) the accounting officer must record the names of the potential providers requested to provide such quotations with their quoted prices;
- (f) if a quotation was submitted verbally, the order may be placed only against written confirmation by the selected provider; and
- (g) any other condition determined by the Dawid Kruiper Municipal Council.
- (h) The municipality will investigate and utilize various other options to advertise bids/quotations viz. community boards, the library, public buildings, police station, etc. This is to ensure that the municipality tried to obtain at least three quotations.
- (i) In cases where there are only a few suppliers for certain goods and, vehicle repairs, the municipality will then use these suppliers on a rotation basis, in order to give everybody a chance. This practice will only be utilized in exceptional cases. As soon as more suppliers become available, such goods / services will be provided via the database.

17. Formal written price quotations

- (1) 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 list of accredited prospective

- providers of the Dawid Kruiper Municipality; (quotations must be sourced from the central supplier database)
 - (b) quotations may be obtained from providers who are not listed, provided that such providers meet the listing criteria set out in paragraph 14(1)(b) and (c) of this Policy; (quotations must be sourced from the central supplier database)
 - (c) if it is not possible to obtain at least three quotations, the reasons must be recorded and approved by the chief financial officer or an official designated by the chief financial officer;
 - (d) the accounting officer must record the names of the potential providers and their written quotations; and
 - (e) any other condition determined by the Dawid Kruiper Municipal Council.
- (2) A designated official referred to in subparagraph (1) (c) must within three days of the end of each month report to the chief financial officer on any approvals given during that month by that official in terms of that subparagraph.

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

The accounting officer must determine the operational procedure for the procurement of goods or services through written or verbal quotations or formal written price quotations, which must stipulate –

- (a) that when using the list of accredited prospective providers the accounting officer must promote ongoing competition amongst providers by inviting providers to submit quotations on a rotation basis; (quotations must be sourced from the central supplier database)
- (b) that all requirements in excess of R 30,000 (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 and an official notice board of the Dawid Kruiper Municipality;
The revised PPPFA prescripts are applicable, eg. Point system and Status level verification certificates [score cards] must be applied in the adjudication process. Please refer to paragraph 19 [3] for more detail.
- (c) that offers received must be evaluated on a comparative basis taking into account unconditional discounts;
- (d) that the accounting officer or chief financial officer must on a monthly basis be notified in writing of all written or verbal quotations and formal written price quotations accepted by an official acting in terms of a sub delegation;
- (e) that offers below R 30,000 (VAT included) must be awarded based on compliance to specifications and conditions of contract, ability and capability to deliver the goods and services and lowest price;
- (f) acceptable offers, which are subject to the preference points system (PPPFA and associated regulations), must be awarded to the bidder who's offer is according to specifications, has the ability to deliver and is compliant with all the other requirements and scored the highest points.
- (g) Minimum requirements for proper record keeping must be complied with.

19. Competitive bids process

- (1) Goods or services above a transaction value of R 30,000 (VAT included) and long term contracts may only be procured through a competitive bidding process, subject to paragraph 11(2) of this Policy.
- (2) No requirement for goods or services above an estimated transaction value of R 30,000 (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) 80/20 preference point system for acquisition of goods or services for Rand value equal to or above R30 000 and up to R50 million and 90/10 above R50 million.

B-BBEE Status Level of Contributor	Number of points [80 / 20]	Number of points [90/10]
1	20	10
2	18	9
3	14	6
4	12	5
5	8	4
6	6	3
7	4	2
8	2	1
Non-compliant Contributor	0	0

The points scored for price must be added to the points scored for B-BBEE status level of contribution to obtain the bidder's total points scored out of 100.

A bid must not be disqualified from the bidding process if the bidder does not submit a certificate substantiating the B-BBEE status level of contribution or is a non-compliant contributor. Such a bidder will score 0 out of a maximum of 10 or 20 points for B-BBEE status.

PLEASE NOTE: [a] The 80/20 point system is applicable from R30 000 [all taxes included] up to R50million [all taxes included] [b] The 90/10 point system is applicable to bids invited exceeding R 50million [all taxes included]

This should not be interpreted that quotations can be invited for up to R 50million. The threshold for the invitation of quotations did not change and it is still at R30 000.

Note: Quotations can only be invited not exceeding R 200 000.

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
- (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 approval of a bid, the accounting officer and the bidder must enter into a written agreement; and
- (h) Sub-contracting

A bidder must not be awarded the points claimed for B-BBEE status level contribution if it is indicated in the bid documents that such a bidder intends sub-contracting more than 25% of the contract value to any other enterprise that does not qualify for at least the same number of points that the bidder qualifies for, unless the intended sub-contractor is an EME that has the capacity to execute the sub-contract.

A contractor is not allowed to sub-contract more than 25% of the contract value to another enterprise that does not have an equal or higher B-BBEE status level, unless the intended sub-contractor is an EME that has the capacity and ability to execute the sub-contract.

- (1) If feasible to subcontract for a contract above R30 million, an organ of state must apply subcontracting to advance designated groups.
 - (2) If an organ of state applies subcontracting as contemplated in sub regulation (1), the organ of state 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 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
 - (i) more than one of the categories referred to in paragraphs (a) to (h).
 - (3) The organ of state 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 (2) from which the tenderer must select a supplier.
- (i) Evaluation of bids that scored equal points
In the event that two or more bids have scored equal total, the successful bid must be the one that scored the highest points for B-BBEE.

If two or more bids have equal points, including equal preference points for B-BBEE, the successful bid must be the one scoring the highest points for functionality, if functionality is part of the evaluation process.

In the event that two or more bids are equal in all respects, the award must be decided by drawing lots.

(j) Cancellation and re-invitation of bids

- (1) In the application of the 80/20 point system, if **all** bids received exceed R1 million, the bid must be cancelled. If one or more of the acceptable bid[s] received are within the R 1 million thresholds, all bids received must be evaluated on the 80/20 preference point system.
- (2) In the application of the 90/10 preference point system, if all bids received are equal or below R1million, the bid must be cancelled. If one or more of the acceptable bid[s] received are above the R1million threshold, all bids received must be evaluated on the 90/10 preference point system.
- (3) If a bid was cancelled as indicated above, the correct preference point system must be stipulated in the bid documents of the re-invited bid.
- (4) An organ of state 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 or services specified in the invitation;
 - (b) funds are no longer available to cover the total envisaged expenditure;
 - (c) no acceptable tender is received; or
 - (d) there is a material irregularity in the tender process.
- (5) The decision to cancel a tender invitation in terms of sub regulation (1) must be published in the same manner in which the original tender invitation was advertised.
- (6) An organ of state may only with the prior approval of the relevant treasury cancel a tender invitation for the second time.

(k) Awarding of contracts

A contract must be awarded to the bidder who scored the highest total number of points in terms of the preference point system. Points scored must be rounded off to the nearest 2 decimal places.

In exceptional circumstances a contract may, on reasonable and justifiable grounds be awarded to a bidder that did not score the highest number of points. The reasons for such a decision must be approved and recorded for audit purposes and must be defensible in a court of law.

(l) Criteria for breaking deadlock in scoring

- (1) 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 B-BBEE.
- (2) If functionality is part of the evaluation process and two or more tenderers score equal total points and equal preference points for B-BBEE, the

contract must be awarded to the tenderer that scored the highest points for functionality.

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

(m) Subcontracting after award of tender

- (1) A person awarded a contract may only enter into a subcontracting arrangement with the approval of the organ of state.
- (2) 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.
- (3) 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.

(n) Sale and letting of assets

The Preferential Procurement Regulations, 2017, are not applicable to the sale and letting of assets.

In instances where assets are sold or leased, by means of a bidding process, the bid must be awarded to the bidder with the highest price.

(o) Proper record keeping.

Original/legal copies of written contracts agreements should be kept in a secure place for reference purposes.

(p) 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-

(a) inform the tenderer accordingly;

(b) 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 penalised up to 10 percent of the value of the contract; and

(ii) 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

- (c) if it concludes, after considering the representations referred to in sub regulation (1)(b), that-
 - (i) such false information was submitted by the tenderer-
 - (aa) 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, penalise the tenderer up to 10 percent of the value of the contract.
- (2) (a) An organ of state 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.
- (b) 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.

21. Bid documentation for competitive bids

The criteria to which bid documentation for a competitive bidding process must comply, must

-

- (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; and
 - (iii) the requirements of the Construction Industry Development Board, in the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure;

- (b) include the preference points system to be used, goals as contemplated in the Preferential Procurement Regulations and evaluation and adjudication criteria, including any criteria required by other applicable legislation;
- (c) compel bidders to declare any conflict of interest they may have in the transaction for which the bid is submitted;
- (d) if the value of the transaction is expected to exceed R 10 million (VAT included), require bidders to furnish-
 - (i) if the bidder is required by law to prepare annual financial statements for auditing, their audited annual financial statements -
 - (aa) for the past three years; or
 - (bb) since their establishment if established during the past three years;
 - (ii) a certificate signed by the bidder certifying that the bidder has no undisputed commitments for municipal services towards a municipality or other service provider in respect of which payment is overdue for more than 30 days;
 - (iii) particulars of any contracts awarded to the bidder by an organ of state during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract;
 - (iv) a statement indicating whether any portion of the goods or services are expected to be sourced from outside the Republic; and, if so, what portion and whether any portion of payment from the municipality or municipal entity 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; and
- (f) The Accounting Officer reserves the right to stipulate such a dispute to be settled utilizing a court of law preferably within the municipal boundaries or as close as possible to the municipal boundaries
- (g) any other criteria determined by the Dawid Kruiper Municipal Council.

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 website of the Dawid Kruiper Municipality and any other appropriate ways (which may include an advertisement in the Government Tender Bulletin); and
 - (b) Advertisement of Bids and the Publication of notices in respect of Awards, Cancelled Bids, Verification and Extension of existing contracts on the e-Tender Publication Portal.
 - (c) the information contained in a public advertisement, must include -
 - (i) the closure date for the submission of bids, which may not be less than 30 days in the case of transactions over R 10 million (VAT included), or which are of a long term nature; or 14 days in any other

- case, from the date on which the advertisement is placed in a newspaper, subject to subparagraph (2) of this policy;
 - (ii) a statement that bids may only be submitted on the bid documentation provided by the Dawid Kruiper Municipality; and
 - (iii) date, time and venue of any proposed site meetings or briefing sessions;
- (2) The accounting officer may determine a closure date for the submission of bids which is less than the 30 or 14 days requirement, but only if such shorter period can be justified on the grounds of urgency or emergency or any exceptional case where it is impractical or impossible to follow the official procurement process.
- (3) Bids submitted must be sealed.
- (4) Where bids are requested in electronic format, such bids must be supplemented by sealed hard copies.
- (5) Any other condition(s) determined by the Dawid Kruiper Municipal Council.

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 period for the submission of bids has expired; and
 - (iii) received after the closing time should not be considered and returned unopened immediately.
- (b) Any bidder or member of the public has the right to request that the names of the bidders who submitted bids in time must be read out and, if practical, also each bidder's total bidding price;
- (c) No information, except the provisions in subparagraph (b), relating to the bid should be disclosed to bidders or other persons until the successful bidder is notified of the award; and
- (d) The accounting officer must -
 - (i) record in a register all bids received in time;
 - (ii) make the register available for public inspection; and
 - (iii) publish the entries in the register and the bid results on the website.

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.

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

25. Two-stage bidding process

- (1) A two-stage bidding process is allowed for -
 - (a) large complex projects;
 - (b) projects where it may be undesirable to prepare complete detailed technical specifications; 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) A committee system for competitive bids is hereby established, consisting of the following committees for each procurement process or cluster of procurements as the accounting officer may determine:
 - (a) a bid specification committee;
 - (b) a bid evaluation committee; and
 - (c) a bid adjudication committee.
- (2) The accounting officer appoints the members of each committee, taking into account section 117 of the Act.
- (3) A neutral or independent observer, appointed by the accounting officer, must attend or oversee a committee when this is appropriate for ensuring fairness and promoting transparency.
- (4) The committee system must be consistent with -
 - (a) paragraph 27, 28 and 29 of this Policy; and
 - (b) any other applicable legislation.
- (5) The accounting officer may apply the committee system to formal written price quotations.

27. Bid specification committees

- (1) A bid specification committee must compile the specifications for the procurement of goods or services by the Dawid Kruiper Municipality.
- (2) Specifications -
 - (a) must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services;

- (b) must take account of any accepted standards such as those issued by Standards South Africa, the International Standards Organisation, or an authority accredited or recognised by the South African National Accreditation System with which the equipment or material or workmanship should comply;
 - (c) 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 form of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labeling of conformity certification;
 - (e) may not make reference to any particular trade mark, name, patent, design, type, specific origin or producer unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the word “equivalent”;
 - (f) must indicate each specific goal for which points may be awarded in terms of the points system set out in the Preferential Procurement Regulations 2017 and as set out in Appendix A of this Policy; and
 - (g) must be approved by the accounting officer prior to publication of the invitation for bids in terms of paragraph 22 of this Policy.
- (3) A bid specification committee must be composed of one or more officials of the Dawid Kruiper Municipality preferably the manager responsible for the function involved, and may, when appropriate, include external specialist advisors.
- (4) No person, advisor or corporate entity involved with the bid specification committee, or director of such a corporate entity, may bid for any resulting contracts.

28. Bid evaluation committees

- (1) A bid evaluation committee must -
- (a) evaluate bids in accordance with -
 - (i) the specifications for a specific procurement; and
 - (ii) the points system set out in terms of paragraph 27(2)(f);
 - (b) evaluate each bidder’s ability to execute the contract;
 - (c) check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not in arrears, and;
 - (d) submit to the adjudication committee a report and recommendations regarding the award of the bid or any other related matter.
- (2) A bid evaluation committee must as far as possible be composed of-
- (a) officials from departments requiring the goods or services; and
 - (b) at least one supply chain management practitioner of the Dawid Kruiper Municipality.

29. Bid adjudication committees

- (1) A bid adjudication committee must -
 - (a) consider the report and recommendations of the bid evaluation committee; 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 how to proceed with the relevant procurement.
- (2) A bid adjudication committee must consist of at least four senior managers (directors of Dawid Kruiper Municipality) of the Dawid Kruiper 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 Dawid Kruiper Municipality; and
 - (c) a technical expert in the relevant field who is an official, if such an expert exists. Outside technical experts can also be co-opted; they must leave the meeting after advice has been given. Only standing committee members can be involved in final deliberation and recommendations or final approval.
- (3) The accounting officer must appoint the chairperson of the committee. If the chairperson is absent from a meeting, the members of the committee who are present must elect one of them to preside at the meeting.
- (4) Neither a member of a bid evaluation committee, nor an advisor or person assisting the evaluation committee, may be a member of a bid adjudication committee.
- (5)
 - (a) If the bid adjudication committee decides to award a bid other than the one recommended by the bid evaluation committee, the bid adjudication committee must prior to awarding the bid -
 - (i) check in respect of the preferred bidder whether that bidder's municipal rates and taxes and municipal service charges are not in arrears, and;
 - (ii) notify the accounting officer in writing.
 - (b) The accounting officer may -
 - (i) after due consideration of the reasons for the deviation, ratify or reject the decision of the bid adjudication committee referred to in paragraph (a); and
 - (ii) if the decision of the bid adjudication committee is rejected, refer the decision of the adjudication committee back to that committee for reconsideration.

- (6) The accounting officer may at any stage of a bidding process, refer any recommendation made by the evaluation committee or the adjudication committee back to that committee for reconsideration of the recommendation.
- (7) The accounting officer must comply with section 114 of the Act within 10 working days.
- (8) For the purposes of continuity and not to delay meetings the Accounting Officer may also appoint any official to temporarily replace members that are absent from meetings due to illness, leave, etc. The Accounting Officer may also decide whether or not such an official will have the same powers as committee members.

30. Procurement of banking services

- (1) A contract for banking services -
 - (a) must be procured through competitive bids;
 - (b) must be consistent with section 7 or 85 of the Act; and
 - (c) may not be for a period of more than five years at a time.
- (2) The process for procuring a contract for banking services must commence at least 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 22(1). 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 R 50 million (VAT included); or
 - (b) the transaction value of a contract to be procured whether for one or more years exceeds R 50 million (VAT included).
- (4) If SITA comments on the submission and the Dawid Kruiper Municipality disagree with such comments, the comments and the reasons for rejecting or not following such comments must be submitted to the Dawid Kruiper Municipal Council, the National Treasury, the relevant provincial treasury 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 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 and 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 where ever possible.
- (2) Where the storage of goods in bulk is justified, such justification must be based on sound reasons, including the total cost of ownership, cost advantages and environmental impact and must be approved by the accounting officer.

34. Proudly SA Campaign

The Dawid Kruiper Municipality supports the Proudly SA Campaign to the extent that, all things being equal, preference is given to procuring local goods and services from:

- (a) Firstly - suppliers and businesses within the municipality or district;
- (b) Secondly - suppliers and businesses within the relevant province;
- (c) Thirdly - suppliers and businesses within the Republic.

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 R 200,000 (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 Dawid Kruiper Municipality.

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

- (1) The accounting officer may -
- (a) dispense with the official procurement processes established by this Policy and to procure any required goods or services through any convenient process, which may include direct negotiations, but only -
 - (i) in an emergency;
 - (i)(a) the possibility of human injury or death,
 - (i)(b) the prevalence of human suffering or deprivation of rights,
 - (i)(c) the possibility of damage to property, or suffering and death of livestock and animals,
 - (i)(d) the interruption of essential services, including transportation and communication facilities or support services critical to the effective functioning of the municipality as a whole,
 - (i)(e) the possibility of serious damage occurring to the natural environment,
 - (i)(f) the possibility that failure to take necessary action may result in the municipality not being able to render an essential community service,
 - (i)(g) the possibility that the security of the state could be compromised.
 - (ii) if such goods or services are produced or available from a single provider only;
 - (iii) for the acquisition of special works of art or historical objects where specifications are difficult to compile;
 - (iv) acquisition of animals for zoos 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) and (b) of this policy and report them to the next meeting of the Dawid Kruiper Municipal Council and include it as a note to the annual financial statements.
- (3) Subparagraph (2) does not apply to the procurement of goods and services contemplated in paragraph 11(2) of this policy.

37. **Management of expansion or variation of orders against the original contract**

- (1) Contracts may be expanded or varied by not more than 20% for construction related goods, services and /or infrastructure projects and 15% for all other goods and/or services of the original value of the contract. Furthermore, anything beyond the above mentioned thresholds must be reported to council. Any expansion or variation in excess of these thresholds must be dealt with in terms of the provisions of Section 116 (3) of the MFMA which will be regarded as an amendment of the contract.
- (2) The contents of this paragraph are not applicable to transversal contracts, facilitated by the relevant treasuries on behalf of municipalities and specific term contracts. The latter refers to orders placed as and when commodities are required and at the time of awarding contracts, the required quantities were unknown.

38. **Local Content**

- (1) The Preferential Procurement Regulations, 2017 pertaining to the Preferential Procurement Policy Framework Act, Act No 5 OF 2000 which came into effect on 7 December 2017 make provision for the dti to designate sectors in line with national development and industrial policies for local production. To this end the dti has designated and determined the stipulated minimum thresholds for the following sectors:

-	Bus Sector	70 - 80 %
-	Pylons	100 %
-	Rolling Stock	55 – 80 %
-	Textiles	100%
-	Processed Vegetables	80 %
-	Set Top Boxes	30 %
-	Furniture Products from	65 to 100%

Note: Other designated sectors may be added by dti in future.

When inviting bids/quotations where local content is applicable, municipalities must indicate this in the bid advertisement. The MBD 6.2, SABS Specification SATS 1286:2017, and dti Guidance on the calculations of local content [available on dti's official website <http://www.thedti.gov.za>] should also be included in the bid documents/quotations.

The supplier has to proof that the product he offers does indeed comply with the stipulated thresholds. In order to do this there are three annexures which the supplier has to fill in and submit together with the bid document/quotation. These forms are also available on the dti Guidance on the calculations of Local content. It is advisable that municipalities attach the Guidance document to the bid documents/quotations in order to assist the suppliers to fill in the bid documents.

A two stage evaluation process may be followed

- First stage: calculate if the bidder adheres to the local content percentage requirement
- Second stage: Only the bidders who comply with the local content percentage requirement will be evaluated further.

- (2) The Department of Trade and Industry may, in consultation with the National Treasury-
 - (a) designate a sector, sub-sector or industry or product in accordance with 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
 - (b) stipulate a minimum threshold for local production and content.
- (3) An organ of state must, in the case of a designated sector, advertise the invitation to tender with a specific condition that only locally produced goods or locally manufactured goods, meeting the stipulated minimum threshold for local production and content, will be considered.
- (4) The National Treasury must inform organs of state of any designation made in terms of regulation 8(1) through a circular.
- (5)
 - (a) If there is no designated sector, an organ of state may include, as a specific condition of the tender, that only locally produced services or goods or locally manufactured goods with a stipulated minimum threshold for local production and content, will be considered.
 - (b) The threshold referred to in paragraph (a) must be in accordance with the standards determined by the Department of Trade and Industry in consultation with the National Treasury.
- (6) A tender that fails to meet the minimum stipulated threshold for local production and content is an unacceptable tender.

39. Unsolicited bids

- (1) In accordance with section 113 of the Act there is no obligation to consider unsolicited bids received outside a normal bidding process.
- (2) The accounting officer may decide in terms of section 113(2) of the Act to consider an unsolicited bid, only if -
 - (a) the product or service offered in terms of the bid is a demonstrably or proven unique innovative concept;
 - (b) the product or service will be exceptionally beneficial to, or have exceptional cost advantages;
 - (c) the person who made the bid is the sole provider of the product or service; and
 - (d) the reasons for not going through the normal bidding processes are found to be sound by the accounting officer.
- (3) If the accounting officer decides to consider an unsolicited bid that complies with subparagraph (2) of this policy, the decision must be made public in accordance with section 21A of the Municipal Systems Act, together with -

- (a) reasons as to why the bid should not be open to other competitors;
 - (b) an explanation of the potential benefits if the unsolicited bid were accepted; and
 - (c) an invitation to the public or other potential suppliers to submit their comments within 30 days of the notice.
- (4) The accounting officer must submit all written comments received pursuant to subparagraph (3), including any responses from the unsolicited bidder, to the National Treasury and the relevant provincial treasury for comment.
 - (5) The adjudication committee must consider the unsolicited bid and may award the bid or make a recommendation to the accounting officer, depending on its delegations.
 - (6) A meeting of the adjudication committee to consider an unsolicited bid must be open to the public.
 - (7) When considering the matter, the adjudication committee must take into account -
 - (a) any comments submitted by the public; and
 - (b) any written comments and recommendations of the National Treasury or the relevant provincial treasury.
 - (8) If any recommendations of the National Treasury or provincial treasury are rejected or not followed, the accounting officer must submit to the Auditor General, the relevant provincial treasury and the National Treasury the reasons for rejecting or not following those recommendations.
 - (9) Such submission must be made within seven days after the decision on the award of the unsolicited bid is taken, but no contract committing the Dawid Kruiper Municipality to the bid may be entered into or signed within 30 days of the submission.

40. Combating of abuse of supply chain management system

- (1) The accounting officer must-
 - (a) take all reasonable steps to prevent abuse of the supply chain management system;
 - (b) investigate any allegations against an official or other role player of fraud, corruption, favouritism, unfair or irregular practices or failure to comply with this Policy, and 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 Dawid Kruiper 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 Dawid Kruiper Municipality or any other organ of state after written notice was given to that bidder that performance was unsatisfactory;
 - (e) reject a recommendation for the award of a contract if the recommended bidder, or any of its directors, has committed a corrupt or fraudulent act in competing for the particular contract;
 - (f) cancel a contract awarded to a person if -
 - (i) the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract; or
 - (ii) an official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of the contract that benefited that person; and
 - (g) reject the bid of any bidder if that bidder or any of its directors -
 - (i) has abused the supply chain management system of the Dawid Kruiper 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 wilfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
 - (iv) has been listed in the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004).
- (2) The accounting officer must inform the National Treasury and relevant provincial treasury in writing of any actions taken in terms of subparagraphs (1)(b)(ii), (e) or (f) of this policy.
- (3) The accounting officer [who may delegate the task to the CFO] must, as part of complying with section 62[1][d] of the MFMA set up and maintain a register of Unauthorised, Irregular, Fruitless and Wasteful Expenditures. The aim with the register is also to serve as a tool for recording all unauthorised, irregular, fruitless and wasteful expenditures and for tracking progress in dealing with the consequences flowing from such expenditures until all the issues that gave rise to the expenditures are properly resolved in accordance with the legal framework. Please also consult National Treasury MFMA Circular 68 dated 10 May 2013 in this regard.

Part 3: Logistics, Disposal, Risk and Performance Management

41. Logistics management

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;
- (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.

42. Disposal management

- (1) The accounting officer must establish an effective system of disposal management for the disposal or letting of assets, including unserviceable, redundant or obsolete assets, subject to sections 14 and 90 of the Act.
- (2) The disposal of assets must -
 - (a) be by one of the following methods -
 - (i) transferring the asset to another organ of state in terms of a provision of the Act enabling the transfer of assets;
 - (ii) transferring the asset to another organ of state at market related value or, when appropriate, free of charge;
 - (iii) selling the asset; or
 - (iv) destroying the asset;
 - (b) provided that -
 - (i) immovable property may be sold only at market related prices except when the public interest or the plight of the poor demands otherwise;
 - (ii) movable assets may be sold either by way of written price quotations, a competitive bidding process, auction or at market related prices, whichever is the most advantageous;

- (iii) in the case of the 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; and
 - (iv) 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;
- (c) furthermore ensure that -
- (i) immovable property is let at market related rates except when the public interest or the plight of the poor demands otherwise;
 - (ii) all fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property are annually reviewed; and
- (d) ensure that where assets are traded in for other assets, the highest possible trade-in price is negotiated.

43. Risk management

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

44. 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 authorised supply chain management processes were followed and whether the objectives of this Policy were achieved.

Part 4: Other matters

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

- (1) No award above R 15,000 may be made in terms of this Policy to a person whose tax matters have not been declared by the South African Revenue Service to be in order.
- (2) Before making an award to a person the accounting officer must first check with SARS whether that person's tax matters are in order.

- (3) If SARS does not respond within 7 days such person's tax matters may for purposes of subparagraph (1) be presumed to be in order.

46. 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) a person who is an advisor or consultant contracted with the Dawid Kruiper Municipality.

47. 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 R 2,000 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.

48. Ethical standards

- (1) A code of ethical standards as set out in Appendix B to this Policy is hereby established for officials and other role players in the supply chain management system of the Dawid Kruiper 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 code of ethics must be dealt with as follows -

- (a) in the case of an employee, in terms of the disciplinary procedures of the Dawid Kruiper 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 in recognition of the severity of the breach.
- (c) In all cases, financial misconduct must be dealt with in terms of chapter 15 of the Act.

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

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

- (a) any inducement or reward to the Dawid Kruiper Municipality for or in connection with the award of a contract; or
 - (b) any reward, gift, favour or hospitality to -
 - (i) any official; or
 - (ii) any other role player involved in the implementation of this Policy.
- (2) The accounting officer must promptly report any alleged contravention of subparagraph (1) to the National Treasury for considering whether the offending person, and any representative or intermediary through which such person is alleged to have acted, should be listed in the National Treasury's database of persons prohibited from doing business with the public sector.
- (3) Subparagraph (1) does not apply to gifts less than R 350 in value.

50. Sponsorships

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

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

51. Objections and complaints

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

52. Resolution of disputes, objections, complaints and queries

- (1) The accounting officer must appoint an independent and impartial person, not directly involved in the supply chain management processes -
- (a) to assist in the resolution of disputes between the Dawid Kruiper Municipality and other persons regarding -
 - (i) any decisions or actions taken in the implementation of the supply chain management system; or
 - (ii) any matter arising from a contract awarded in the course of the supply chain management system; or
 - (b) to deal with objections, complaints or queries regarding any such decisions or actions or any matters arising from such contract.
- (2) The accounting officer, or another official designated by the accounting officer, is responsible for assisting the appointed person to perform his or her functions effectively.

- (3) The person appointed must -
 - (a) strive to resolve promptly all disputes, objections, complaints or queries received; and
 - (b) submit monthly reports to the accounting officer on all disputes, objections, complaints or queries received, attended to or resolved.
- (4) A dispute, objection, complaint or query may be referred to the relevant provincial treasury if -
 - (a) the dispute, objection, complaint or query is not resolved within 60 days; or
 - (b) no response is forthcoming within 60 days.
- (5) If the provincial treasury does not or cannot resolve the matter, the dispute, objection, complaint or query may be referred to the National Treasury for resolution.
- (6) This paragraph must not be read as affecting a person's rights to approach a court at any time.

53. Contracts providing for compensation based on turnover

If a service provider acts on behalf of the Dawid Kruiper Municipality to provide any service or act as a collector of fees, service charges or taxes and the compensation payable to the service provider is fixed as an agreed percentage of turnover for the service or the amount collected, the contract between the service provider and the Dawid Kruiper Municipality must stipulate -

- (a) a cap on the compensation payable to the service provider; and
- (b) that such compensation must be performance based.

54. Application

- (1) These regulations apply to organs of state as contemplated in section 1(iii) of the Act and all public entities listed in schedules 2, 3A, 3B, 3C and 3D to the Public Finance Management Act, 1999, Act No. 1 of 1999, (as amended by Act 29 of 1999) and municipal entities.
- (2) An organ of state contemplated in sub-regulation (1) must, unless the Minister of Finance has directed otherwise, only apply a preferential procurement system which is in accordance with the Act and these regulations.

55. Planning and stipulation of preference point system to be utilized

An organ of state must, prior to making an invitation for tenders-

- (a) properly plan for, and, as far as possible, accurately estimate the costs of the provision of services, works or goods for which an invitation for tenders is to be made;
- (b) determine and stipulate the appropriate preference point system to be utilized in the evaluation and adjudication of the tenders; and

- (c) determine whether the services, works or goods for which an invitation for tenders is to be made has been designated for local production and content In terms of regulation 9.

56. Evaluation of tenders on functionality

- (1) An organ of state must indicate in the invitation to submit a tender if that tender will be evaluated on functionality.
- (2) The evaluation criteria for measuring functionality must be objective.
- (3) When evaluating tenders on functionality, the-
 - (a) evaluation criteria for measuring functionality;
 - (b) weight of each criterion;
 - (c) applicable values; and
 - (d) minimum qualifying score for functionality, must be clearly specified in the invitation to submit a tender.
- (4) No tender must be regarded as an acceptable tender if it fails to achieve the minimum qualifying score for functionality as indicated in the tender invitation.
- (5) Tenders that have achieved the minimum qualification score for functionality must be evaluated further in terms of the preference point systems prescribed in regulations 5.

57. Procedure for handling extension of tender

- (1) A contract or agreement procured through the supply chain management policy of the municipality or municipal entity may be amended by the parties, but only after—
 - (a) the reasons for the proposed amendment have been tabled in the council of the
 - (i) municipality or, in the case of a municipal entity, in the council of its parent municipality; and
 - (b) the local community—
 - (i) has been given reasonable notice of the intention to amend the contract or agreement; and
 - (ii) has been invited to submit representations to the municipality or municipal entity.

58. Commencement

This Policy should take effect from the 07 December 2017

REPEAL

That all previous resolutions/policies regarding this matter be repealed.

PREFERENTIAL PROCUREMENT POINTS SCORING SYSTEM

The purpose of the preferential procurement points scoring system is to give effect to section 217(2) and (3) of the Constitution and section 2 of the Preferential Procurement Policy Framework Act, 2000 by providing a framework for the implementation of section 18(f) and 27(2)(f) of the Supply Chain Management Policy of the Dawid Kruiper Municipality.

1. General principles
 - 1.1 Points will be awarded on a price and preferential basis when goods or services to be procured can be quantified in a monetary value.
 - 1.2 Points will be awarded on a price, functionality and preferential basis when the services to be procured and the contracts to be entered into are to be evaluated on a qualitative basis as well.
 - 1.3 Quotations and bids between a monetary value of R 30,000 and R 50,000,000 will be evaluated on the 80% / 20% basis. A maximum of eighty (80) points will be awarded for price / functionality and a maximum of twenty (20) points for preferential purposes.
 - 1.4 Bids with a monetary value of more than R 50,000,000 will be evaluated on the 90% / 10% basis. A maximum of ninety (90) points will be awarded for price / functionality and a maximum of ten (10) points for preferential purposes.
 - 1.5 Long term contracts will also be evaluated on the 80% / 20% or 90% / 10% basis depending on the monetary value of the contract over the lifespan of the contract.

2. Price point's basis

- 2.1 Quotations and bids received with a monetary value between R 30,000 and R50,000,000 price points earned will be calculated as follows:

$$P_s = 80 \times [1 - ((P_t - P_{\min}) / P_{\min})]$$

Where:

P_s = Points scored for price of bid under consideration

P_t = Rand value of bid under consideration

P_{\min} = Rand value of lowest acceptable bid

The maximum price points that can be earned are eighty (80) points.

- 2.2 Bids received with a monetary value above R 50,000,000 price points earned will be calculated as follows:

$$P_s = 90 \times [1 - ((P_t - P_{\min}) / P_{\min})]$$

Where:

P_s = Points scored for price of bid under consideration

P_t = Rand value of bid under consideration

P_{\min} = Rand value of lowest acceptable bid

The maximum price points that can be earned are ninety (90) points.

3. Preferential point's basis

4. Functionality point's basis

4.1 The calculation of the functionality percentage score to be earned is set out in Table 4 below.

	(W)	(V)	(W x V)
Criteria	Weight	Value	Score
Compliance to Terms of Reference	25		
Previous experience and proof of similar work successfully concluded	15		
Extensive knowledge of legislation and regulations	10		
Format and quality of previous services rendered to Council	15		
Level of expertise and qualifications of personnel	10		
Total Weight	75	375	So

Values: 1 = Poor; 2 = Average; 3 = Good; 4 = Very good; 5 = Excellent

$Fp = \frac{So}{375} \times 100\%$

4.2 Quotations or bids that scored less than a 45% functionality percentage (Fp) in Table 4 above where $Fp = \frac{So}{375} \times 100$, will be disqualified.

4.3 Functionality will only be applicable to consultants or to long term contracts where the monetary value of the contract cannot be determined exactly.

5. Preference points claim forms

5.1 The preference points claim forms in terms of the Preferential Procurement Regulations, 2001 which are to be used for the preferential procurement points scoring system are as follows –

MBD 1 : Invitation to the Bid

MBD 2 : Tax Clearance Requirements

MBD 4 : Declaration of Interest

MBD 6.1: Preference points claim form

MBD 8 : Declaration of bidder's past supply chain management practices

MBD 9 : Certificate of independent bid determination

5.2 These MBD forms are attached as annexures to Appendix A.

APPENDIX B

DOCUMENTS



INVITATION TO BID

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE DAWID KRUIJER MUNICIPALITY

BID NUMBER: CLOSING DATE: CLOSING TIME: 14:00
DESCRIPTION:

The successful bidder will be required to fill in and sign a written Contract Form (MBD 7).

BID DOCUMENTS MAY BE POSTED TO:

Private bag X3003

UPINGTON
OR

DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)

Mutual Street

UPINGTON

Bidders should ensure that bids are delivered timeously to the correct address. If the bid is late, it will not be accepted for consideration.

The bid box is generally open 24 hours a day, 7 days a week.
ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS – (NOT TO BE RE-TYPED)

THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT

NB: NO BIDS WILL BE CONSIDERED FROM PERSONS IN THE SERVICE OF THE STATE (as defined in Regulation 1 of the Local Government: Municipal Supply Chain Management Regulations)

THE FOLLOWING PARTICULARS MUST BE FURNISHED
(FAILURE TO DO SO MAY RESULT IN YOUR BID BEING DISQUALIFIED)

- NAME OF BIDDER
- POSTAL ADDRESS.....
- STREET ADDRESS.....
- TELEPHONE NUMBER CODE.....NUMBER.....
- CELLPHONE NUMBER
- FACSIMILE NUMBER CODE NUMBER.....
- E-MAIL ADDRESS.....
- VAT REGISTRATION NUMBER.....

HAS AN ORIGINAL AND VALID TAX CLEARANCE CERTIFICATE BEEN ATTACHED? (MBD 2) YES/NO
HAS A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE BEEN SUBMITTED? (MBD 6.1) YES/NO
IF YES, WHO WAS THE CERTIFICATE ISSUED BY?

AN ACCOUNTING OFFICER AS CONTEMPLATED IN THE CLOSE CORPORATION ACT (CCA)
A VERIFICATION AGENCY ACCREDITED BY THE SOUTH AFRICAN NATIONAL ACCREDITATION SYSTEM (SANAS)
A REGISTERED AUDITOR

(Tick applicable box)

(A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE)

ARE YOU THE ACCREDITED REPRESENTATIVE
IN SOUTH AFRICA FOR THE GOODS/SERVICES/WORKS OFFERED ? YES/NO
(IF YES ENCLOSE PROOF)

SIGNATURE OF BIDDER

DATE.....

CAPACITY UNDER WHICH THIS BID SIGNED

TOTAL BID PRICE..... TOTAL NUMBER OF ITEMS OFFERED.....

ANY ENQUIRIES REGARDING THE BIDDING PROCEDURE MAY BE DIRECTED TO:

// Khara Hais Municipality

Financial Department

Contact Person: Mr E Esau - Me M van Rooi

Tel: 054 – 338 7431 - 054 – 338 7432

Fax: 054 338 7350

ANY ENQUIRIES REGARDING TECHNICAL INFORMATION MAY BE DIRECTED TO:

Contact Person:

Tel:

Fax:



TAX CLEARANCE CERTIFICATE REQUIREMENTS

It is a condition of bid that the taxes of the successful bidder must be in order, or that satisfactory arrangements have been made with South African Revenue Service (SARS) to meet the bidder's tax obligations.

- 1 In order to meet this requirement bidders are required to complete in full the attached form TCC 001 "*Application for a Tax Clearance Certificate*" and submit it to any SARS branch office nationally. The Tax Clearance Certificate Requirements are also applicable to foreign bidders / individuals who wish to submit bids.
- 2 SARS will then furnish the bidder with a Tax Clearance Certificate that will be valid for a period of 1 (one) year from the date of approval.
- 3 The original Tax Clearance Certificate must be submitted together with the bid. Failure to submit the original and valid Tax Clearance Certificate will result in the invalidation of the bid. Certified copies of the Tax Clearance Certificate will not be acceptable.
- 4 In bids where Consortia/Joint Ventures/Sub-contractors are involved, each party must submit a separate Tax Clearance Certificate.
- 5 Copies of the TCC 001 "*Application for a Tax Clearance Certificate*" form are available from any SARS branch office nationally or on the website www.sars.gov.za.
- 6 Applications for the Tax Clearance Certificates may also be made via eFiling. In order to use this provision, taxpayers will need to register with SARS as eFilers through the website www.sars.gov.za.



DECLARATION OF INTEREST

- 1. No bid will be accepted from persons in the service of the state¹.
- 2. Any person, having a kinship with persons in the service of the state, including a blood relationship, may make an offer or offers in terms of this invitation to bid. In view of possible allegations of favouritism, should the resulting bid, or part thereof, be awarded to persons connected with or related to persons in service of the state, it is required that the bidder or their authorised representative declare their position in relation to the evaluating/adjudicating authority.
- 3 In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.
 - 3.1 Full Name of bidder or his or her representative:
.....
 - 3.2 Identity Number:
 - 3.3 Position occupied in the Company (director, trustee, hareholder²):.....
 - 3.4 Company Registration Number:
 - 3.5 Tax Reference number:.....
 - 3.6 VAT Registration Number:
 - 3.7 The names of all directors / trustees / shareholders members, their individual identity numbers and state employee numbers must be indicated in paragraph 4 below.
 - 3.8 Are you presently in the service of the state? **YES / NO**
 - 3.8.1 If yes, furnish particulars.
.....

¹MSCM Regulations: “in the service of the state” means to be –

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

² Shareholder” means a person who owns shares in the company and is actively involved in the management of the company or business and exercises control over the company.

- 3.9 Have you been in the service of the state for the past twelve months? **YES / NO**
- 3.9.1 If yes, furnish particulars.....
- 3.10 Do you have any relationship (family, friend, other) with persons in the service of the state and who may be involved with the evaluation and or adjudication of this bid? **YES / NO**
- 3.10.1 If yes, furnish particulars.
.....
.....
- 3.11 Are you, aware of any relationship (family, friend, other) between any other bidder and any persons in the service of the state who may be involved with the evaluation and or adjudication of this bid? **YES / NO**
- 3.11.1 If yes, furnish particulars
.....
.....
- 3.12 Are any of the company's directors, trustees, managers, principle shareholders or stakeholders in service of the state? **YES / NO**
- 3.12.1 If yes, furnish particulars.
.....
.....
- 3.13 Are any spouse, child or parent of the company's directors trustees, managers, principle shareholders or stakeholders in service of the state? **YES / NO**
- 3.13.1 If yes, furnish particulars.
.....
.....
- 3.14 Do you or any of the directors, trustees, managers, principle shareholders, or stakeholders of this company have any interest in any other related companies or business whether or not they are bidding for this contract. **YES / NO**
- 3.14.1 If yes, furnish particulars:
.....
.....

4. Full details of directors / trustees / members / shareholders.

Full Name	Identity Number	State Employee Number

.....
Signature

.....
Date

.....
Capacity

.....
Name of Bidder



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

This preference form must form part of all bids invited. It contains general information and serves as a claim form for preference points for Broad-Based Black Economic Empowerment (B-BBEE) Status Level of Contribution

NB: BEFORE COMPLETING THIS FORM, BIDDERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF B-BBEE, AS PRESCRIBED IN THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017.

1. GENERAL CONDITIONS

1.1 The following preference point systems are applicable to all bids:

- the 80/20 system for requirements with a Rand value of up to R1 000 000 (all applicable taxes included); and
- the 90/10 system for requirements with a Rand value above R1 000 000 (all applicable taxes included).

1.2 The value of this bid is estimated to exceed R1 000 000 (all applicable taxes included) and therefore the 90/10 system shall be applicable.

1.3 Preference points for this bid shall be awarded for:

- (a) Price; and
- (b) B-BBEE Status Level of Contribution.

1.3.1 The maximum points for this bid are allocated as follows:

	POINTS
1.3.1.1 PRICE80 / 90.....
1.3.1.2 B-BBEE STATUS LEVEL OF CONTRIBUTION20 / 10.....
Total points for Price and B-BBEE must not exceed	100

1.4 Failure on the part of a bidder to fill in and/or to sign this form and submit a B-BBEE Sworn Affidavit and or Verification Certificate from a Verification Agency accredited by the South African Accreditation System (SANAS) or a Registered Auditor approved by the Independent Regulatory Board of Auditors (IRBA) or an Accounting Officer as contemplated in the Close Corporation Act (CCA) together with the bid, will be interpreted to mean that preference points for B-BBEE status level of contribution are not claimed.

1.5. The purchaser reserves the right to require of a bidder, either before a bid is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the purchaser.

2. DEFINITIONS

- 2.1 **“all applicable taxes”** includes value-added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies;
- 2.2 **“B-BBEE”** means broad-based black economic empowerment as defined in section 1 of the Broad -Based Black Economic Empowerment Act;
- 2.3 **“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, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;
- 2.4 **“bid”** means a written offer in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of services, works or goods, through price quotations, advertised competitive bidding processes or proposals;
- 2.5 **“Broad-Based Black Economic Empowerment Act”** means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- 2.6 **“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;
- 2.7 **“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;
- 2.8 **“contract”** means the agreement that results from the acceptance of a bid by an organ of state;
- 2.9 **“EME”** means any enterprise with an annual total revenue of R5 million or less.
- 2.10 **“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 the law or regulation, is binding on the contractor and demonstrably has an influence on the price of any supplies, or the rendering costs of any service, for the execution of the contract;
- 2.11 **“functionality”** means the measurement according to predetermined norms, as set out in the bid documents, of a service or commodity that is designed to be practical and useful, working or operating, taking into account, among other factors, the quality, reliability, viability and durability of a service and the technical capacity and ability of a bidder;
- 2.12 **“non-firm prices”** means all prices other than **“firm”** prices;
- 2.13 **“person”** includes a juristic person;
- 2.14 **“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;

- 2.15 “**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 the contract;
- 2.16 “**total revenue**” bears the same meaning assigned to this expression in 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 promulgated in the *Government Gazette* on 9 February 2007;
- 2.17 “**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; and
- 2.18 “**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.

3. ADJUDICATION USING A POINT SYSTEM

- 3.1 The bidder obtaining the highest number of total points will be awarded the contract.
- 3.2 Preference points shall be calculated after prices have been brought to a comparative basis taking into account all factors of non-firm prices and all unconditional discounts;
- 3.3 Points scored must be rounded off to the nearest 2 decimal places.
- 3.4 In the event that two or more bids have scored equal total points, the successful bid must be the one scoring the highest number of preference points for B-BBEE.
- 3.5 However, when functionality is part of the evaluation process and two or more bids have scored equal points including equal preference points for B-BBEE, the successful bid must be the one scoring the highest score for functionality.
- 3.6 Should two or more bids be equal in all respects, the award shall be decided by the drawing of lots.

4. POINTS AWARDED FOR PRICE

4.1 THE 80/20 OR 90/10 PREFERENCE POINT SYSTEMS

A maximum of 80 or 90 points is allocated for price on the following basis:

80/20 or 90/10

$$P_s = 80 \left(1 - \frac{P_t - P_{\min}}{P_{\min}} \right) \quad \text{or} \quad P_s = 90 \left(1 - \frac{P_t - P_{\min}}{P_{\min}} \right)$$

Where

- P_s = Points scored for comparative price of bid under consideration
- P_t = Comparative price of bid under consideration
- P_{min} = Comparative price of lowest acceptable bid

5. Points awarded for B-BBEE Status Level of Contribution

5.1 In terms of Regulation 5 (2) and 6 (2) of the Preferential Procurement Regulations, preference points must be awarded to a bidder for attaining the B-BBEE status level of contribution in accordance with the table below:

B-BBEE Status Level of Contributor	Number of points (90/10 system)	Number of points (80/20 system)
1	10	20
2	9	18
3	8	16
4	5	12
5	4	8
6	3	6
7	2	4
8	1	2
Non-compliant contributor	0	0

5.2 According to the amended codes, an Exempted Miro Enterprise (EME) is only to obtain a sworn affidavit or a Certified issue by Companies and Intellectual Property Commission (CIPC) confirming annual turnover of 10 million or less and level of black ownership to claim points, whereas in terms of the Preferential Procurement regulations, a certificate from a registered auditor, accounting officer as contemplated in the Close Corporations Act, or an accredited verification agency.

5.3 Bidders other than EMEs must submit their original and valid B-BBEE status level verification certificate or a certified copy thereof, substantiating their B-BBEE rating issued by a Registered Auditor approved by IRBA or a Verification Agency accredited by SANAS.

5.4 A trust, consortium or joint venture, will qualify for points for their B-BBEE status level as a legal entity, provided that the entity submits their B-BBEE status level certificate.

5.5 A trust, consortium or joint venture will qualify for points for their B-BBEE status level as an unincorporated entity, provided that the entity submits their consolidated B-BBEE scorecard as if they were a group structure and that such a consolidated B-BBEE scorecard is prepared for every separate bid.

5.6 Tertiary institutions and public entities will be required to submit their B-BBEE status level certificates in terms of the specialized scorecard contained in the B-BBEE Codes of Good Practice.

5.7 A person will not be awarded points for B-BBEE status level if it is indicated in the bid documents that such a bidder intends sub-contracting more than 25% of the value of the contract to any other enterprise that does not qualify for at least the points that such a bidder qualifies for, unless the intended sub-contractor is an EME that has the capability and ability to execute the sub-contract.

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

6. BID DECLARATION

6.1 Bidders who claim points in respect of B-BBEE Status Level of Contribution must complete the following:

7. B-BBEE STATUS LEVEL OF CONTRIBUTION CLAIMED IN TERMS OF PARAGRAPHS 1.3.1.2 AND 5.1

7.1 B-BBEE Status Level of Contribution: = ...(maximum of 10 or 20 points)
(Points claimed in respect of paragraph 7.1 must be in accordance with the table reflected in paragraph 5.1 and must be substantiated by means of a sworn affidavit or B-BBEE certificate issued by a Verification Agency accredited by SANAS or a Registered Auditor approved by IRBA or an Accounting Officer as contemplated in the CCA).

8 SUB-CONTRACTING

8.1 Will any portion of the contract be sub-contracted? YES / NO
(delete which is not applicable)

8.1.1 If yes, indicate:

- (i) what percentage of the contract will be subcontracted?%
- (ii) the name of the sub-contractor?.....
- (iii) the B-BBEE status level of the sub-contractor?
- (iv) whether the sub-contractor is an EME? YES / NO
(delete which is not applicable)

9 DECLARATION WITH REGARD TO COMPANY/FIRM

9.1 Name of firm :.....
9.2 VAT registration number :.....
9.3 Company registration number

9.4 TYPE OF COMPANY/ FIRM

- Partnership/Joint Venture / Consortium
- One person business/sole propriety
- Close corporation
- Company
- (Pty) Limited

[TICK APPLICABLE BOX]

9.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

.....
.....
.....
.....

9.6 COMPANY CLASSIFICATION

- Manufacturer
- Supplier
- Professional service provider
- Other service providers, e.g. transporter, etc.
[TICK APPLICABLE BOX]

9.7 MUNICIPAL INFORMATION

Municipality where business is situated

Registered Account Number

Stand Number

9.8 TOTAL NUMBER OF YEARS THE COMPANY/FIRM HAS BEEN IN BUSINESS?

9.9 I/we, the undersigned, who is / are duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the B-BBE status level of contribution indicated in paragraph 7 of the foregoing certificate, qualifies the company/ firm for the preference(s) shown and I / we acknowledge that:

- (i) The information furnished is true and correct;
- (ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form.
- (iii) In the event of a contract being awarded as a result of points claimed as shown in paragraph 7, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct;
- (iv) If the B-BBEE status level of contribution has been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the purchaser may, in addition to any other remedy it may have –
 - (a) disqualify the person from the bidding process;
 - (b) recover costs, losses or damages it has incurred or suffered as a result of that person’s conduct;
 - (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
 - (d) restrict the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, from obtaining business from any organ of state for a period not exceeding 10 years, after the audi alteram partem (hear the other side) rule has been applied; and
 - (e) forward the matter for criminal prosecution

WITNESSES:

1.

2.

..... SIGNATURE(S) OF BIDDER(S)

DATE:.....

ADDRESS:.....

.....



DECLARATION OF BIDDER’S PAST SUPPLY CHAIN MANAGEMENT PRACTICES

- 1 This Municipal Bidding Document must form part of all bids invited.
- 2 It serves as a declaration to be used by municipalities and municipal entities in ensuring that when goods and services are being procured, all reasonable steps are taken to combat the abuse of the supply chain management system.
- 3 The bid of any bidder may be rejected if that bidder, or any of its directors have:
 - a. abused the municipality’s / municipal entity’s supply chain management system or committed any improper conduct in relation to such system;
 - b. been convicted for fraud or corruption during the past five years;
 - c. willfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
 - d. 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).
- 4 In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.

Item	Question	Yes	No
4.1	<p><i>Is the bidder or any of its directors listed on the National Treasury’s Database of Restricted Suppliers as companies or persons prohibited from doing business with the public sector?</i></p> <p>(Companies or persons who are listed on this Database were informed in writing of this restriction by the Accounting Officer/Authority of the institution that imposed the restriction after the <i>audi alteram partem</i> rule was applied).</p> <p>The Database of Restricted Suppliers now resides on the National Treasury’s website(www.treasury.gov.za) and can be accessed by clicking on its link at the bottom of the home page.</p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.1.1	If so, furnish particulars:		
4.2	<p>Is the bidder or any of its directors listed on the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004)?</p> <p>The Register for Tender Defaulters can be accessed on the National Treasury’s website (www.treasury.gov.za) by clicking on its link at the bottom of the home page.</p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>

4.2.1	If so, furnish particulars:		
4.3	Was the bidder or any of its directors convicted by a court of law (including a court of law outside the Republic of South Africa) for fraud or corruption during the past five years?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.3.1	If so, furnish particulars:		
Item	Question	Yes	No
4.4	Does the bidder or any of its directors owe any municipal rates and taxes or municipal charges to the municipality / municipal entity, or to any other municipality / municipal entity, that is in arrears for more than three months?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.4.1	If so, furnish particulars:		
4.5	Was any contract between the bidder and the municipality / municipal entity or any other organ of state terminated during the past five years on account of failure to perform on or comply with the contract?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.7.1	If so, furnish particulars:		

CERTIFICATION

I, THE UNDERSIGNED (FULL NAME) CERTIFY THAT THE INFORMATION FURNISHED ON THIS DECLARATION FORM TRUE AND CORRECT.

I ACCEPT THAT, IN ADDITION TO CANCELLATION OF A CONTRACT, ACTION MAY BE TAKEN AGAINST ME SHOULD THIS DECLARATION PROVE TO BE FALSE.

.....
Signature Date

.....
Position Name of Bidder



CERTIFICATE OF INDEPENDENT BID DETERMINATION

- 1 This Municipal Bidding Document (MBD) must form part of all bids¹ invited.
- 2 Section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, prohibits an agreement between, or concerted practice by, firms, or a decision by an association of firms, if it is between parties in a horizontal relationship and if it involves collusive bidding (or bid rigging).² Collusive bidding is a *pe se* prohibition meaning that it cannot be justified under any grounds.
- 3 Municipal Supply Regulation 38 (1) prescribes that a supply chain management policy must provide measures for the combating of abuse of the supply chain management system, and must enable the accounting officer, among others, to:
 - a. take all reasonable steps to prevent such abuse;
 - b. reject the bid of any bidder if that bidder or any of its directors has abused the supply chain management system of the municipality or municipal entity or has committed any improper conduct in relation to such system; and
 - c. cancel a contract awarded to a person if the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract.
- 4 This MBD serves as a certificate of declaration that would be used by institutions to ensure that, when bids are considered, reasonable steps are taken to prevent any form of bid-rigging.
- 5 In order to give effect to the above, the attached Certificate of Bid Determination (MBD 9) must be completed and submitted with the bid:

¹ Includes price quotations, advertised competitive bids, limited bids and proposals.

² Bid rigging (or collusive bidding) occurs when businesses, that would otherwise be expected to compete, secretly conspire to raise prices or lower the quality of goods and / or services for purchasers who wish to acquire goods and / or services through a bidding process. Bid rigging is, therefore, an agreement between competitors not to compete.

CERTIFICATE OF INDEPENDENT BID DETERMINATION

I, the undersigned, in submitting the accompanying bid:

(Bid Number and Description)

in response to the invitation for the bid made by:

(Name of Municipality / Municipal Entity)

do hereby make the following statements that I certify to be true and complete in every respect:

I certify, on behalf of: _____ that:
 (Name of Bidder)

1. I have read and I understand the contents of this Certificate;
2. I understand that the accompanying bid will be disqualified if this Certificate is found not to be true and complete in every respect;
3. I am authorized by the bidder to sign this Certificate, and to submit the accompanying bid, on behalf of the bidder;
4. Each person whose signature appears on the accompanying bid has been authorized by the bidder to determine the terms of, and to sign, the bid, on behalf of the bidder;
5. For the purposes of this Certificate and the accompanying bid, I understand that the word "competitor" shall include any individual or organization, other than the bidder, whether or not affiliated with the bidder, who:
 - (a) has been requested to submit a bid in response to this bid invitation;
 - (b) could potentially submit a bid in response to this bid invitation, based on their qualifications, abilities or experience; and
 - (c) provides the same goods and services as the bidder and/or is in the same line of business as the bidder
6. The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However communication between partners in a joint venture or consortium³ will not be construed as collusive bidding.
7. In particular, without limiting the generality of paragraphs 6 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
 - (a) prices;
 - (b) geographical area where product or service will be rendered (market allocation)
 - (c) methods, factors or formulas used to calculate prices;
 - (d) the intention or decision to submit or not to submit, a bid;
 - (e) the submission of a bid which does not meet the specifications and conditions of the bid; or
 - (f) bidding with the intention not to win the bid.
8. In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the products or services to which this bid invitation relates.
9. The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.

³ Joint venture or Consortium 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.

10. I am aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

.....
Signature

.....
Date

.....
Position

.....
Name of Bidder

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 fair and reasonable manner.

1. General principles

1.1 The Dawid Kruiper 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, implying 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 of gratuities from any person, or provider/contractor for themselves, their family or their friends.

1.2 Officials and other role players involved in SCM should ensure that they perform their duties efficiently, effectively and with integrity, in accordance with the relevant legislation, policies, and guidelines. They should ensure that public resources are administered responsibly.

1.3 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. They should not abuse the power and authority vested in them.

2. Conflict of interest

2.1 An official or other role player involved with SCM -

- (a) must treat all providers and potential providers equitably;
- (b) may not use his or 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 R 350;
- (d) must declare to the accounting officer (in the case of the accounting officer to Council) 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 (in the case of the accounting officer to Council) details of any private 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 reward of a contract by the Dawid Kruiper 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 interest or activities undertaken for financial gain that may raise a possible conflict of interest;
- (h) should not place him/herself under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their officials duties; and

- (i) should not take improper advantage of their previous office after leaving their official position.

3. Accountability

3.1 Practitioners are accountable for their decisions and actions to the public.

3.2 Practitioners should use public property scrupulously.

3.3 Only the accounting officer or his/her delegates have the authority to commit the Dawid Kruiper Municipality to any transaction for the procurement of goods and/or services.

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 into such a system for any reason whatsoever.

3.5 Practitioners must assist the accounting officer in combating fraud, corruption, favouritism and unfair and irregular practices in the supply chain management system.

3.6 Practitioners must report to the accounting officer (in the case of the accounting officer to Council) any irregular conduct in the supply chain management system which that person may become aware of, including -

- (i) any alleged fraud, corruption, favouritism or unfair conduct;
- (ii) any alleged contravention of the policy on inducements, rewards, gifts and favours to municipalities, officials or other role players;
- (iii) any alleged breach of the code of conduct.

3.7 Any declarations made must be recorded in a register which the accounting officer must keep for this purpose. Any declaration made by the accounting officer must be made to the mayor who must ensure that such declaration is recorded in the register.

4. Openness

4.1 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 information only if it is in the public interest to do so.

5. Confidentiality

5.1 Any information that is the property of the Dawid Kruiper Municipality or its providers should be protected at all times. No information regarding any bid / contract / contractor may be revealed if such an action will infringe on the relevant bidder / contractor 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 separation from service.

6. Bid specification, evaluation and adjudication committees
 - 6.1 Bid specification, evaluation and adjudication committees should implement supply chain management on behalf of the Dawid Kruiper Municipality in an honest, fair, impartial, transparent, cost-effective and accountable manner.
 - 6.2 Bid evaluation and 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 –
 - (i) interfere with the supply chain management system of the Dawid Kruiper Municipality; or
 - (ii) amend or tamper with any price quotation / bid after its submission.
7. Combative practices
 - 7.1 Combative practices are unethical and illegal and should be avoided at all cost. They include but are not limited to -
 - (i) suggestions to fictitious quotations;
 - (ii) reference to non-existent competition;
 - (iv) exploiting errors in price quotations / bids; and
 - (v) soliciting price quotations/bids from bidders/contractors whose names appear on the Register of Tender Defaulters.

Annex C

Local Content Declaration - Summary Schedule

(C1)	Tender No.		
(C2)	Tender description:		
(C3)	Designated product(s)		
(C4)	Tender Authority:		
(C5)	Tendering Entity name:		
(C6)	Tender Exchange Rate:	Pula	EU
(C7)	Specified local content %		

Note: VAT to be excluded from all calculations

GBP

Calculation of local content							
Tender item no's	List of items	Tender price - each (excl VAT)	Exempted imported value	Tender value net of exempted imported content	Imported value	Local value	Local content % (per item)
(C8)	(C9)	(C10)	(C11)	(C12)	(C13)	(C14)	(C15)

Tender summary			
Tender Qty	Total tender value	Total exempted imported content	Total Imported content
(C16)	(C17)	(C18)	(C19)

Signature of tenderer from Annex B

Date: _____

(C20) Total tender value	<input style="width: 100%;" type="text"/>
(C21) Total Exempt imported content	<input style="width: 100%;" type="text"/>
(C22) Total Tender value net of exempt imported content	<input style="width: 100%;" type="text"/>
(C23) Total Imported content	<input style="width: 100%;" type="text"/>
(C24) Total local content	<input style="width: 100%;" type="text"/>
(C25) Average local content % of tender	<input style="width: 100%;" type="text"/>

Annex D

Imported Content Declaration - Supporting Schedule to Annex C

(D1) Tender No. _____
 (D2) Tender description: _____
 (D3) Designated Products: _____
 (D4) Tender Authority: _____
 (D5) Tendering Entity name: _____
 (D6) Tender Exchange Rate: Pula _____

Note: VAT to be excluded from all calculations

EU R 9.00 GBP R 12.00

A. Exempted imported content

Tender item no's	Description of imported content	Local supplier	Overseas Supplier	Calculation of imported content						Summary	
				Foreign currency value as per Commercial Invoice	Tender Exchange Rate	Local value of imports	Freight costs to port of entry	All locally incurred landing costs & duties	Total landed cost excl VAT	Tender Qty	Exempted imported value
(D7)	(D8)	(D9)	(D10)	(D11)	(D12)	(D13)	(D14)	(D15)	(D16)	(D17)	(D18)

(D19) Total exempt imported value

This total must correspond with Annex C - C 21

B. Imported directly by the Tenderer

Tender item no's	Description of imported content	Unit of measure	Overseas Supplier	Calculation of imported content						Summary	
				Foreign currency value as per Commercial Invoice	Tender Rate of Exchange	Local value of imports	Freight costs to port of entry	All locally incurred landing costs & duties	Total landed cost excl VAT	Tender Qty	Total imported value
(D20)	(D21)	(D22)	(D23)	(D24)	(D25)	(D26)	(D27)	(D28)	(D29)	(D30)	(D31)

(D32) Total imported value by tenderer

C. Imported by a 3rd party and supplied to the Tenderer

Description of imported content	Unit of measure	Local supplier	Overseas Supplier	Calculation of imported content						Summary	
				Foreign currency value as per Commercial Invoice	Tender Rate of Exchange	Local value of imports	Freight costs to port of entry	All locally incurred landing costs & duties	Total landed cost excl VAT	Quantity imported	Total imported value
(D33)	(D34)	(D35)	(D36)	(D37)	(D38)	(D39)	(D40)	(D41)	(D42)	(D43)	(D44)

(D45) Total imported value by 3rd party

D. Other foreign currency payments

Type of payment	Local supplier making the payment	Overseas beneficiary	Calculation of foreign currency payments		Summary of payments	
			Foreign currency value paid	Tender Rate of Exchange	Local value of payments	
(D46)	(D47)	(D48)	(D49)	(D50)	(D51)	

(D52) Total of foreign currency payments declared by tenderer and/or 3rd party

(D53) Total of imported content & foreign currency payments - (D32), (D45) & (D52) above

This total must correspond with Annex C - C 23

Signature of tenderer from Annex B

Date: _____

Annex E

Local Content Declaration - Supporting Schedule to Annex C

(E1)	Tender No.	<input style="width: 95%;" type="text"/>
(E2)	Tender description:	<input style="width: 95%;" type="text"/>
(E3)	Designated products:	<input style="width: 95%;" type="text"/>
(E4)	Tender Authority:	<input style="width: 95%;" type="text"/>
(E5)	Tendering Entity name:	<input style="width: 95%;" type="text"/>

Note: VAT to be excluded from all calculations

Local Products (Goods, Services and Works)	Description of Items purchased	Local suppliers	Value
	(E6)	(E7)	(E8)
(E9) Total local products (Goods, Services and Works)			<input style="width: 95%;" type="text"/>

(E10)	Manpower costs	(Tenderer's manpower cost)	<input style="width: 95%;" type="text"/>
(E11)	Factory overheads	(Rental, depreciation & amortisation, utility costs, consumables etc.)	<input style="width: 95%;" type="text"/>
(E12)	Administration overheads and mark-up	(Marketing, insurance, financing, interest etc.)	<input style="width: 95%;" type="text"/>
(E13) Total local content			<input style="width: 95%;" type="text"/>

This total must correspond with Annex C - C24

Signature of tenderer from Annex B

Date: _____