



# Supply Chain Management Policy

**This Policy consists of two sections:**

**Section 1** is the **Supply Chain Management Policy**, adopted in terms of section 111 of the Local Government: Municipal Finance Management Act, No. 56 of 2003 and the Municipal Supply Chain Management Regulations, Notice 868 of 30 May 2005;

and

**Section 2** is the **Preferential Procurement Policy**, adopted in terms of section 2 of the Preferential Procurement Policy Framework Act, No. 5 of 2000 and the Preferential Procurement Regulations of 2011.

### ***Annexures***

ANNEXURE A - General Principles Governing the Municipality in its Interaction with Bidders

ANNEXURE B - Criteria to Evaluate Technical and Financial Ability

ANNEXURE C - The Code of Conduct for suppliers

## 1. PREAMBLE

**WHEREAS** Section 217 of the Constitution of the Republic of South Africa, 1996 requires the organ of state in the national, provincial or local sphere of government, or any other institution identified in national legislation, when contracting for goods or services, to do that in accordance with a system which is fair, equitable, transparent, competitive and cost effective.

**WHEREAS** Section 111 of the Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003) requires that the Municipality adopt, maintain and implement a Supply Chain Management Policy;

And **WHEREAS** Municipal Supply Chain Management Regulations made in terms of Section 168 of the Local Government: Municipal Finance Management Act prescribes what such Supply Chain Management Policy must provide for;

Now **THEREFORE**, the Council of the Langeberg Municipality adopts the Supply Chain Management Policy as set out in this document.

# **SECTION 1**

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## 1. DEFINITIONS

In this Supply Chain Management Policy, unless the context otherwise indicates, a word or expression to which a meaning has assigned in the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003), has the meaning so assigned, and:

**“Black people”** is a generic term, which means Africans, Coloureds and Indians who are South African citizens.

**“Broad-Based Black Economic Empowerment”** means the economic empowerment of all black people through diverse but integrated socio-economic strategies that include, but not limited to:

- (i) Increasing the number of black people that manage, own and control enterprises and productive assets;
- (ii) Facilitating ownership and management of enterprises and productive assets by communities, workers, co-operatives and other collective enterprises;
- (iii) Human resources and skills development;
- (iv) Achieving equitable representation in all occupational categories and levels in the workforce;
- (v) Preferential procurement; and
- (vi) Investment in enterprises that are owned or managed by black people.

**“Closing time”** means the date and hour specified in the bid documents for the receipt of tenders.

**“Contract”** refers to legally binding agreement between Breede River / Winelands Municipality and the service provider.

**“Contractor”** means any natural or legal person whose bid has been accepted by the Council.

**“Competitive bid”** means a written offer submitted in a prescribed or stipulated form, in response to an invitation by the Municipality for the provision of goods and services;

**“Competitive bidding process”** means a competitive bidding process referred to in paragraph 12 (1) (d) of this Policy

**“Corrected Bid Sum”** means the Bid sum, corrected in terms of the bid documentation, where applicable.

**“Council”** refers to Langeberg Municipality;

**“Equity Ownership”** refers to the percentage ownership and control, exercised by individuals within an enterprise.

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

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

- (1) A member of –
  - (i) Any municipal Council;
  - (ii) Any provincial legislature; or

- (iii) The National Assembly or National Council of Provinces
- (2) A member of the board of directors of any municipal entity;
- (3) An official of any municipality or municipal entity;
- (4) 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);
- (5) A member of the accounting authority of any national or provincial public entity; or
- (6) An employee of Parliament or a provincial legislature;

**“List of accredited prospective providers”** means the list of accredited prospective providers, which the Municipality entity must keep in terms of regulation 14 of the Local Government: Municipal Finance Management Act (56/2003): Municipal Supply Chain Finance Management Regulations;

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

**“Order”** means an official written order issued for the supply of goods or the rendering of a service in accordance of the accepted bid or price quotation.

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

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

**“Regulation”** means the Local Government: Municipal Supply Chain Management Regulations issued in terms of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);

**“Service provider”** means a current or potential supplier, manufacturer, contractor, vendor, agent, or professional service provider.

**“SMMEs”** refers to separate and distinct business entities, including co- operative enterprises and NGOs, managed by one owner or more, as defined as micro enterprises in the National Small Business (Act 102 of 1996).

**“Structures Act”** means the Local Government: Municipal Structures Act, 1998(Act No. 117 of 1998)

**“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 accounting officer”** means the Municipal Manager of a Municipality

**“Written” or “in writing,”** means hand written in ink or any form of mechanical writing in printed form.

## 2. INTRODUCTION

Procurement reforms in government started in 1995 and were directed at two broad focus areas, namely, the promotion of principles of sound financial governance and the introduction of a preference system to address certain socio-economic objectives.

The procurement reform processes were supported by the introduction of number of legislative measures, including the adoption of the Preferential Procurement Policy framework Act, 2000 (Act No. 5 of 2000), Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) and the Broad-based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003).

The purpose of this Policy is to ensure that Langeberg Municipality obtains goods and services in support of its activities at a lowest possible cost having regard to quality and service, while acting in a socially responsible manner in developing and supporting small, micro and medium enterprises owned by the Historically Disadvantaged Individuals.

The Municipal Finance Management Act has set up the Supply Chain Management as a point of departure and improvement from the current processes of procurement. The implementation of the Supply Chain Management System occupies centre stage in the context of the ongoing financial management reform process in the public sector.

Supply Chain Management is an interconnected process of buying, storing, utilizing and disposal. As such, it closes the gaps and addresses the whole cycle of procurement from demand management, acquisition management, logistics management, disposal management, and risk management and regular assessment of performance. Each link in the Supply Chain Management is given equal status, and value is added at each stage of the process.

## CHAPTER 1

### OBJECTIVES, PRINCIPLES AND ROLES

#### 3. Objective of Supply Chain Management Policy

- (1) The objective of the supply chain management policy is –
  - (a) To give effect to the provisions of section 217 of the Constitution of the Republic of South Africa, 1996;
  - (b) To give effect to the provisions of the Local Government: Municipal Finance Management Act, (Act No. 56 of 2003)
  - (c) To give effect to the Municipal Supply Chain Management Regulations
  
- (2) The municipality may not act otherwise than in accordance with this supply chain management policy when –
  - (a) procuring goods or services;
  - (b) disposing of goods no longer needed;
  - (c) selecting contractors to provide assistance in the provision of municipal services otherwise than in circumstances where Chapter 8 of the Municipal Systems Act applies; or
  - (d) in the case of a municipality, selecting external mechanisms referred to in section 80 (1) (b) of the Municipal Systems Act for the provision of municipal services in circumstances contemplated in section 83 of that Act.
  
- (3) Subparagraphs (1) and (2) of this policy do not apply in the circumstances described in section 110 (2) of the Act except where specifically provided otherwise in this policy.

#### 4. Principles

Principles of supply chain management policy are –

- (a) **Accountability:** Effective supply chain management system must be maintained in order to enable the Accounting Officer to discharge his/her responsibilities.
- (b) **Efficiency:** Procurement process must be carried out as cost-effective as possible.
- (c) **Effectiveness:** The Municipality must meet the socio-economic goals of the National Government and sound financial governance appropriate to procurement requirements.
- (d) **Fairness:** The service providers must be treated fairly. The Municipality must not impose unnecessary burdens or constraints on the service providers or potential service providers.

- (e) **Legality:** The Municipality must conform to all legislative requirements in terms of the procurement.
- (d) **Transparency:** The Municipality must ensure that there is openness and clarity on Supply Chain Management Policy and its deliverables.
- (e) **Responsiveness:** The Municipality must endeavour to meet the aspirations, expectations and needs of the community served by the procurement.
- (f) **Informed decision-making:** The Municipality needs to base decisions on accurate information and monitor requirements to ensure that they are being met.
- (g) **Integrity:** There must be no corruption or collusion with the service providers.
- (h) **Consistency:** The service providers must be able to expect the same general Supply Chain Management Policy across the Municipality.
- (i) **Competitiveness:** Procurement must be carried out by competition unless there are convincing reasons to the contrary.

## 5. Oversight role of the Council

The Council must maintain oversight over the implementation of the supply chain management policy. For the purpose of such oversight, the accounting officer must –

- (a) Within 10 days of the end of each quarter, submit a report on the implementation of the supply chain management policy to the Executive Mayor
- (b) Within thirty (30) days of the end of the financial year submit a report on the implementation of the supply chain management policy of the Municipality.
- (c) Whenever there are serious and material problems in the implementation of the Supply Chain Management Policy, immediately submit a report to the Council.
- (d) The reports of supply chain management policy must be made public in accordance with section 21A of the Municipal Systems Act.

## 6. Role of the Accounting Officer

Accounting officer should –

- (a) At least annually review the implementation of the policy and when considers it necessary, submit proposals for the amendment of the policy to council.
- (b) Implement a Supply Chain Management Policy.
- (c) Take account of the need for the uniformity in supply chain practices, particularly to promote accessibility of supply chain management systems for small businesses.
- (d) Ensure strict adherence to the guidelines provided by the National Treasury.
- (e) Develop the internal procedures and processes.
- (f) Report to Council regarding implementation of the Supply Chain Management.

- (g) Comply with the highest ethical standards.
- (h) Ensure training of supply chain practitioners.

## **7. Delegation of supply chain management powers and duties**

- (1) The Council hereby delegate to the Accounting Officer all powers and duties to enable the Accounting Officer –
  - (a) To discharge the supply chain management responsibilities conferred on the Accounting Officer in terms of –
    - (i) Chapter 8 or 10 of the Act; and
    - (ii) The supply chain management policy
  - (b) To maximize administrative and operational efficiency in the implementation of the supply chain management policy
  - (c) To enforce reasonable cost-effective measures for the prevention of fraud, corruption, favouritism and unfair and irregular practices in the implementation of the supply chain management policy
  - (d) To comply with his or her responsibilities in terms of section 115 and other applicable provisions of the Act.
- (2) The Accounting officer may not delegate or sub delegate any supply chain management powers or duties –
  - (i) To a person who is not an official of the municipality or
  - (ii) To a committee which is not exclusively composed of officials of the municipality
- (3) The delegation to the accounting officer in terms of 7(1) above is subject to the following conditions:
  - (a) That a competitive bidding process will be followed for any specific procurement of a transaction value above R200 000.00 (Vat included) and the procurement of long term contracts.
  - (b) That on recommendation from the bid adjudication committee, the Accounting Officer makes final awards on procurement of a transaction value above R200 000.00.
  - (c) That the final award in a competitive bidding process should be made through the committee system provided for in section 4 of this policy.
  - (d) No decision-making in terms of any supply chain management powers and duties may be delegated to an advisor or consultant.
  - (e) That no requirement for goods or services above an estimated transaction value of R200 000.00 (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.

## 8. Sub-delegations

- 1) The accounting officer may in terms of section 79 of the Act sub-delegate any supply chain management powers and duties, including those delegated to the accounting officer in terms of this Policy, but any such sub-delegation must be consistent with subparagraph (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 R75 000 (VAT included), but not exceeding R200 000 (VAT included), may be sub-delegated but only to a bid adjudication committee of which the chief financial officer or a senior manager is a member.
  - c) transaction value up to R75 000 (VAT included) and below may be subdelegated to the official as per accounting officer delegation, pertaining the purchase of goods and services.
- 3) This paragraph may not be interpreted as permitting an official to whom the power to make final awards has been sub-delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in paragraph 11, 12 , 13 of this Policy.
- 4) No supply chain management decision-making powers may be delegated to an advisor or consultant. Also refer to paragraph 7 (3)(d) of this Policy.

## 9. A committee system for competitive bids should consist of at least –

- (i) A bid specification committee
- (ii) A bid evaluation committee
- (iii) A bid adjudication committee

## 10. Composition of Committees

The Accounting Officer should appoint members of each committee based on the following guideline:

### **(a) Bid Specification Committee**

A bid specification committee must be composed of one or more officials of the municipality, preferably manager responsible for the function involved, and may, when appropriate, include external specialist advisors.

No person, advisor involved with the bid specification committee, or director of such, may bid for any resulting contracts.

### **(b) Bid Evaluation Committees**

A bid evaluation committee must be composed of officials from departments requiring the goods or services and at least one supply chain management practitioner of the municipality.

### **(c) Bid Adjudication Committee**

Bid adjudication committee must consist of at least four senior managers of the municipality or municipal entity, which must include;

- (i) The Chief Financial Officer or, if the Chief Financial Officer is not available, another manager in the office of the Chief Financial Officer reporting directly to the Chief Financial Officer and designated by the Chief Financial Officer;
- (ii) At least one senior supply chain management practitioner who is an official of the municipality;
- (iii) A technical expert in the relevant field who is an official of the municipality or municipal entity, if the municipality has such an expert.

## 11. Functions and Purpose of Committees

Following are functions and purposes of the different committees

### (1) ***Bid Specification committees***

- (a) A bid specification committee must compile the specifications for each procurement of goods or services by the municipality:
- (b) Specifications –
  - (i) Must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services
  - (ii) Must take account of any accepted standards such as those issued by Standards South Africa, the international Standards Organization, or an authority accredited or recognized by the South African National Accreditation System with which the equipment or material or workmanship should comply.
  - (iii) Where possible, be described in terms of performance required rather than in terms of descriptive characteristics for design.
  - (iv) May not create trade barriers in contract requirements in the forms of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labeling of conformity certification
  - (v) May not make reference to any particular trade mark, name, patent, design, type, specific origin or producer unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the words “equivalent”.
  - (vi) Must indicate each specific goal for which points may be awarded in terms of the points system set out in the supply chain management policy of the municipality.
  - (vii) Must be approved by the Accounting Officer prior to publication of the invitation for bids.
- (d) The bid specification committee must ensure that the system of awarding points are determined to promote the identified RDP goals of Council

### (2) ***Bid Evaluation Committees***

- (a) A bid evaluation committee must –
  - (i) Evaluate bids in accordance with –
    - \* The specifications for a specific procurement; and
    - \* The points system as must be set out in the supply chain management policy of the municipality in terms of regulation 27(2)(f) and as prescribed in terms of the Preferential Procurement Policy Framework Act;
  - (ii) Evaluate each bidder’s ability to execute the contract;

- (iii) Check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not in arrear; and
- (iv) Submit to the adjudication committee a report and recommendations regarding the award of the bid or any other related matter.

(3) ***Bid Adjudication committees***

- (a) A bid adjudication committee must –
  - (i) Consider the report and recommendations of the bid evaluation committee; and
  - (ii) Either –
    - \* Depending on its delegation, make a final award or a recommendation to the Accounting Officer to make the final award; or
    - \* Make another recommendation to the Accounting Officer how to proceed with the relevant procurement.

## CHAPTER 2

### SUPPLY CHAIN MANAGEMENT SYSTEM

#### 12. 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) Contract Management

#### *Part 1: Demand Management*

#### 13. System of demand management

- (1) The Accounting Officer must establish and implement an appropriate demand management system in order to ensure that the resources required by the Municipality support its operational commitments and its strategic goals outlined in 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 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 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 maximized.

#### (3) Benefits of Demand Management

Demand management should provide benefits such as:

- Best value for money;
- Better risk management;
- More efficient procurement;
- Improvements in procurement outcomes;
- More opportunities for innovating bidding and contract management;

- More opportunities for implementing and achieving National Government's broader policy objectives;
- Effective partnership between supply chain management practitioners and end-users.

## **Part 2: Acquisition management**

### **14. 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 will be procured by the Municipality in accordance with authorized processes only;
  - (b) That expenditure on goods and services will be incurred in term of the approved budget in terms of section 15 of the Act;
  - (c) That the threshold values for different procurement processes will be complied with;
  - (d) That bid documentation, evaluation and adjudication criteria, and general conditions of contract, are in accordance with any applicable legislation;
  - (e) That any Treasury guidelines on acquisition management will be properly taken into account; and
  - (f) Unless the Municipality otherwise directs:
    - (i) Bids are invited in the Republic only, and
    - (ii) The laws of the Republic should govern contracts arising from the acceptance of bids.
  
- (2) The Supply Chain Management will not apply if a municipality contracts with another organ of state for –
  - (a) The provision of goods or service to the municipality;
  - (b) The provision of a municipal service or assistance in the provision of a municipal service
  - (c) The procurement of goods and services under a contract secured by that other organ of state, provided that the relevant supplier has agreed to such procurement
  
- (3) If a municipality procure goods or services contemplated in 2 above, it must make public the fact that it procures such goods or services otherwise than through its supply chain management system including –
  - (a) The kind of goods or services; and
  - (b) The name of the supplier
  
- (4) The supply chain management system, except where provided otherwise in the regulation, will also not apply in the following:
  - (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.

### **15. Range of Procurement processes**

- (1) The procurement of goods and services will be procured through the following:

- (a) Petty cash purchases, up to a transaction value of R50.00 (Vat included). The Chief Financial Officer can approve petty cash purchases up to a amount of R200,00 per transaction, in exceptional cases.
  - (b) an verbal quotation for purchases below R 1000.
  - (c) Three formal written quotations for procurement of a transaction value from R1000 up to R200 000 (Vat included);
  - (d) A competitive bidding process for –
    - (i) Procurements above a transaction value of R200 000 (Vat included); and
    - (ii) The procurement of long-term contracts
- (2) The Accounting Officer may lower and not increase in writing the threshold values specified in 1 above
  - (3) Goods or services may not deliberately be split into parts or items of a lesser value merely to avoid complying with the requirement of this policy
  - (4) 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.

## **16. General preconditions for consideration of written quotations or bids**

A written quotation or bid should not be considered unless the provider who submitted the quotation or bid –

### **(a) Has furnished that provider's –**

- (i) Full name;
  - (ii) Identification number or company or other registration number; and
  - (iii) Tax reference number and VAT registration number; if any
- (b) Has authorized the Municipality to obtain a tax clearance from the South African Revenue Services that the provider's tax matters are in order; and
  - (c) Has indicated –
    - (i) Whether he or she is in the service of the State, or has been in the service of the State in the previous twelve months;
    - (ii) If the provider is not a natural person, whether any of its directors, managers, principal shareholders or stakeholder is in the service of the State, or has been in the service of the State in the previous twelve months; or
    - (iii) Whether a spouse, child or parent of the provider or of a director, manager, shareholder or stakeholder referred to in subparagraph (ii) is in the service of the State, or as been in the service of the State in the previous twelve months.

## **17. 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 quotation; 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

## 18. Petty Cash Purchases

The conditions for the procurement of goods by means of petty cash purchases referred to in paragraph 14 (1) (a) of this policy are as follows –

- (a) Petty cash transactions must be approved by the relevant Manager.
- (b) Petty cash purchases are limited up to R50.00 (VAT included) per transaction. The Chief Financial Officer can approve petty cash purchases up to a amount of R 200,00 per transaction, in exceptional cases.
- (c) The petty cash fund cannot be used to –
  - (i) Purchase goods currently covered by annual contracts;
  - (ii) Reimburse expenditure greater than R50.00 (Vat Included).
  - (iii) Depending on the item purchased, one of the following should be used for those expenditures exceeding R50.00 (Vat Included) per transaction:
    - (i) Direct Payment Voucher;
    - (ii) Requisition book; and
    - (iii) Official Purchase Order
- (d) The Accountant: Expenditure is responsible for the reconciliation of petty cash and the reconciliation should be prepared and provided to the Chief Financial Officer, including –
  - (i) The total amount of petty cash purchases for that month; and
  - (ii) Receipts and appropriate documents for each purchase.

## 19. Formal written price quotations

The following are conditions for procurement of goods or services through formal written price quotation:

- (a) Quotation must be obtained in writing from the different providers whose names appear on the list of accredited prospective providers of the municipality
- (b) In the case of specialized plant, machinery and vehicles, quotations can be obtained from providers who are not listed, provided that such providers meet the listing criteria in the supply chain management policy in paragraph 16.
- (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(s) designated by the Chief Financial Officer. Documentary proof must be provided that quotations have been requested.

- (d) A designated official(s) referred in (c) above 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.
- (e) The names of the potential providers and their written quotations must be recorded.

## **20. Procedures for procuring goods or services through formal written quotations**

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

- (a) All acquisitions in excess of R30 000 that are made by means of price quotations, must be advertised for at least 7 (seven) calendar days on the website and official notice board, and 80/20 preference point system is applicable.
- (b) Where the quotations have been invited via the notice board and website of the Municipality, no additional quotations need to be obtained should the number of responses be less than three quotations.
- (c) When using the list of accredited prospective providers, the Municipality must: -
  - (i) Promote ongoing competition amongst the providers, including by inviting providers to submit quotations on a rotational basis;
  - (ii) Promote the objectives of the Broad-Based Black Economic Empowerment Act; and
  - (iii) Apply the Preferential Procurement Policy Framework and any applicable regulations
  - (iv) promote the goals as identified by Council
- (d) Accounting Officer must take all reasonable steps to ensure that the procurement of goods and services through formal written price quotations is not abused.
- (e) The Accounting Officer must on a monthly basis be notified in writing of all formal written quotations accepted by an official acting in terms of a sub delegation
- (f) Offers below R30 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;
- (g) Acceptable offers, which are subject to the preference points system (PPPFA and associated regulations), must be awarded to the bidder who scored the highest points;
- (h) A proper record keeping of the received written quotations must be maintained.
- (i) The goals of Council must be taken into account before offers/quotations are awarded.
- (j) In the case of construction works, a fully explanatory site inspection must be conducted before the close of the quotation due-date to ensure that providers understand the scope of the project and that they can comply with the conditions and requirements.

## **21. Process for competitive bidding**

Following are procedures for a competitive bidding process for each of the following stages:

(1) **Compilation of bidding documentation**

The bid documentation must –

- (a) Take into account –
  - The general conditions of contract and any special conditions of contract, if specified;
  - Any Treasury guidelines on bid documentation; and
  - The requirement of the Construction Industry Development Board, in the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure.
- (b) Include evaluation and adjudication criteria, including any criteria required by other applicable legislation.
- (c) Compel bidders to declare any conflict of interest they may have in the transaction for which the bid is submitted.
- (d) Require the bidders to furnish the following if the value of the transaction is expected to exceed R10 million (VAT included):
  - If the bidder is required by law to prepare annual financial statements for auditing, their audited annual financial statement –
    - \* For the past three years; or
    - \* Since their establishment if establishment during the past three years
  - 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 payments is overdue for more than 30 days
  - 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
  - A statement indicating whether any portion of the goods or services are expected to be sourced from outside the Republic, and, if so, what portion and whether any portion of payment from the municipality is expected to be transferred out of the Republic
- (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.
- (f) Indicate that the bidder with the lowest tender amount would not necessarily be awarded the tender.

(2) **Issuing of bid documents**

On the date that the advertisement appears in the media, prospective bidders may request copies of the tender documentation.

If a fee is payable, an official receipt must be issued before the bid document is handed to the bidder.

No bid responses from any tenderer should be accepted if sent via the Internet, e-mail or fax.

Only the Supply Chain Management Unit will have direct communication between the potential bidders and will facilitate all communication between potential bidders and the Municipality with regard to any advertised bid. No line function staff should be allowed to communicate with potential bidders without the approval by the Manager: Supply Chain Management Unit.

**(3) Payment of bid documents**

- (a) To ensure that only bona fide bidders collect documentation, and to recover printing costs, bid documents will be issued only after payment of the following amounts to the cashier.

Small Projects R100.00 (Contract value R 200 001 - R 500 000)  
Medium Projects R150.00 (Contract value R 500 001 - R 2 Million)  
Large Projects R250.00 (Contract value above R 2 million)

Tariffs will be revised by the Chief Financial Officer, as needed, and the amounts will be included in the tender-documents.

- (b) No fees will be payable if tender documents are provided electronically.

**(4) Public Invitation for competitive bids**

The following are procedures for the invitation of competitive bids:

- (i) Invitation to prospective providers to submit bids must be by means of a public advertisement in newspapers commonly circulating locally, the website of the municipality or any other appropriate ways (which may include an advertisement in the Government Tender Bulletin) and
- (ii) Public advertisement must contain the following:
  - The closure date for the submission of bids, which may not be less than 30 days in the case of transactions over R10 million (Vat included), or which are of a long term nature, or 14 days in any other case, from the date on which the advertisement is placed in a newspaper; subject to (iii) below; and
- (iii) 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.
- (iv) Bids submitted must be sealed;
- (v) Advertisements must be placed in English, Afrikaans as well as Xhosa.
- (vi) The following information must appear in any advertisement:
  - \* Bid number;
  - \* Description of the requirements;
  - \* The place where the bid documents can be obtained;
  - \* The date, time and venue where site inspection/briefing session will be (if applicable);
  - \* Closing date and time;
  - \* The fee applicable that must be paid before the bid documents will be issued; and

- \* The name and telephone numbers of the contact person for any enquiries as well as who will be helpful in completion of the bid documents.
- Indicate that the bidder with the lowest tender amount would not necessarily be awarded the tender;

(5) **Site meetings of briefing sessions**

A fully explanatory site inspection **may** be conducted before the close of the bids to ensure that the bidders understand the scope of the project and that they can comply with the conditions and requirements.

It should be a condition that prospective bidders attend a site inspection and non-attendance should invalidate a bid, where a site inspection/briefing session is applicable.

(6) **Handling of bids submitted in response to public invitation**

(a) **Closing of bids**

All bids will close on 12H00 on a date as stipulated on the advertisement, which must be reflected in the bid document.

Bids are late if they are received at the address indicated in the tender documents after the closing date and time.

A late bid should not be admitted for consideration and where practical should be returned unopened to the bidder accompanied by and explanation.

(b) **Opening of bids**

Bids are opened in public as soon as possible after the closure in the presence of the Manager: Supply Chain Management or his/her delegate.

The official opening the bids should in each case read out the name of the bidder and the amount of the bid, if practical possible.

The bid should be stamped with the official stamp of the Municipality and endorsed with the signatures of the person opening it and of the person in whose presence it was opened.

Bids should be recorded in a register kept for that purpose.

(7) **Validity of the bids**

The validity periods should not exceed 90 (ninety) days and is calculated from the date of bid closure endorsed on the front cover of the bid document.

Should the validity period expires on a Saturday, Sunday or Public holiday, the bid must remain valid and open for acceptance until the closure on the following working date.

(8) **Consideration of bids**

- The Municipality takes all bids duly admitted into consideration.
- The Municipality reserves the right to accept the lowest or any bid received
- The decision by the Municipality regarding the awarding of a contract must be final and binding

**(9) Evaluation of bids**

The following are criteria against which all bids responses will be evaluated:

- (i) Compliance with bid conditions;
  - \* Bid submitted on time
  - \* Bid forms signed and each page initialed
  - \* All essential information provided
  - \* Submission of an Original Tax Clearance Certificate
  - \* Submission of a Joint Venture Agreement, which has been properly signed by all parties
  - \* Payment of the municipal fees
- (ii) Meeting technical specifications and comply with bid conditions;
- (iii) Financial ability to execute the contract; and
- (iv) The number of points scored for achieving Government's Broad-Based Black Economic Empowerment objectives, points scored for price and /or points scored for functionality if applicable.

**(10) Evaluation of bids on functionality and price**

- (i) Langeberg Municipality must in the bid documents indicate in respect of a particular bid invitation that bids will be evaluated on functionality and price.
- (ii) The total points allowed for price may, in respect of bids/offers with an estimated Rand value equal to, or below R1 million, not exceed 80 points.
- (iii) The total points allowed for price may, in respect of bids with an estimated Rand value above R1 million, not exceed 90 points.
- (iv) When evaluating bids contemplated in this item, the points for functionality must be calculated for each individual bidder.
- (v) The conditions of bid may stipulate that a bidder must score a specified minimum number of points for functionality to qualify for further adjudication.
- (vi) The points for price, in respect of a bid which has scored the specified minimum number of points contemplated in sub-regulation (v) above, must, subject to the application of the evaluation system for functionality and price contemplated in this regulation, be established separately and be calculated in accordance with the provisions of regulations c and d.
- (vii) The number of points scored for achieving Government's Broad-Based Black Economic Empowerment objectives must be calculated separately and must be added to the points scored for functionality and price.
- (viii) Only bid with the highest number of points be selected.

**(11) Acceptance of bids**

Successful bidders must be notified in writing of the acceptance of their bids, but that acceptance however, will only take effect after completion of the prescribed contract form.

Unsuccessful bids should not be returned to bidders, but should be placed on record for audit purposes.

A register or records should be kept of all bids accepted.

**(12) Publication of bid information**

The particulars of the successful bidders should be published on the Municipality's website.

**(13) Cancellation and re-invitation of bids**

(i) In the event that in the application of the 80/20 preference point system as stipulated in the bid documents, all bids received exceed the estimated Rand Value of R1 million, the bid invitation must be cancelled.

(ii) In the event that, in the application of the 90/10 preference point system as stipulated in the bid documents, all bids received are equal to or below R1 million,

(iii) In the event that the Municipality has cancelled a bid invitation as contemplated in sub regulations (i) and (ii) must re-invite bids and, must, in the bid documents stipulate the correct preference point system to be applied.

(d) A bid may be cancelled before award if:

- \* Due to changed circumstances, there is no longer a need for the goods, works or services offered, or
- \* Funds are no longer available to cover the total envisaged expenditure, or
- \* No acceptable bids were received

**(14) Negotiations with preferred bidders**

(i) It is allowed under this Policy that the Accounting Officer should negotiate the final terms of a contract with bidders identified through a competitive bidding process as preferred bidders, provided that such negotiation –

- \* Does not allow any preferred bidder a second or unfair opportunity;
- \* Is not to the detriment of any other bidder; and
- \* Does not lead to a higher price than the bid as submitted.

(ii) Minutes of such negotiations must be kept for record purposes

**(15) Two-stage bidding process**

(i) A two-stage bidding process may be allowed for –

- \* Large complex projects;

- \* Projects where it may be undesirable to prepare complete detailed technical specifications; or
  - \* Long-term projects with a duration period exceeding three years.
- (ii) 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.
  - (iii) In second stage final technical proposals and priced bids should be invited.

## **22. Procurement of banking services**

### **(1) A contract for banking services**

- (a) Must be procured through competitive bids.
- (b) Should not be procured abroad.
- (c) Should not be procured from institutions not registered as a bank in terms of the Banks Act, 1990 (Act No. 94 of 1990).
- (d) Must not be for a period of more than five years at a time.
- (e) The process for procuring a contract for banking services must commence at least nine months before the end of an existing contract.
- (f) The closure date of the submission of bids must not be less than 60 days from the date on which the advertisement is placed in a newspaper.

## **23. Procurement of IT related goods and 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–
  - (i) The transaction value of IT related goods or services required in any financial year will exceed R50 million (VAT included); or
  - (ii) The transaction value of a contract to be procured whether for one or more years exceeds R50 million (VAT included).
- (4) If SITA comments on the submission and the Municipality disagree with such comments, the comments and the reasons for rejecting or not following such comments must be submitted to the Council, the National Treasury, the Provincial Treasury and the Auditor General.

## **24. Procurement of goods and services under contract secured by other organs of state**

- (1) The Accounting Officer may procure goods and 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 has consented to such procurement in writing.
- (2) Subparagraph (1)(c) and (d) do not apply if –
  - (a) A municipality procures goods and services through a contract secured by a Municipal entity of which it is the parent municipality

## **25. Procurement of goods necessitating special safety arrangements**

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

## **26. Proudly SA Campaign**

- (1) The Municipality supports the Proudly SA Campaign to the extent that, all things being equal, preference is given to procuring local goods and services from;
  - (i) Firstly – supplier and businesses within the municipality or district;
  - (ii) Secondly – suppliers and businesses within the relevant province;
  - (iii) Thirdly – suppliers and businesses within the Republic.

## **27. Appointment of Consultants**

- (1) When procuring for consulting services, the Accounting Officer should take into account any Treasury guidelines.
- (2) Consultancy services must be procured through competitive bids if –
  - (a) The value of the contract exceeds R200 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;
  - (b) Any similar consultancy services provided to an organ of State in the last five years.
- (4) The Accounting Officer must ensure that copyright in any document produced, and the patent rights or ownership in any plant, machinery, thing, system or process designed or devised, by a consultant in the course of the consultancy service is vested in the Municipality.

## 28. 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 procure any required goods or services through any convenient process, which may include direct negotiations, but only –
    - (i) In the event of an **emergency**, one written quotation is to be obtained;
    - (ii) If the required goods or services are available from a **sole provider** only, one written quotation is to be obtained. Documentary proof must be provided that the service provider is actually a sole provider;
    - (iii) In respect of repairs to motor vehicles, machinery and equipment that need to be **stripped to quote**, only one written quotation is to be obtained;
    - (iv) For the acquisition of **special works of art** or historical objects where specifications are difficult to compile; or
    - (v) Acquisition of **animals** for game reserves.
    - (vi) in any other exceptional case where it is **impractical or impossible** to follow the official procurement processes.
  - (b) Ratify any minor breaches of the procurement processes by 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 subparagraph 1(a) and 1(b) of this Policy and report them to the next meeting of the Council and include as a note to the annual financial statements.
- (3) Subparagraph (b) above does not apply to the procurement of goods and services contemplated in paragraph 13(4).

## 29. Unsolicited bids

- (1) The Municipality is not obliged to consider unsolicited bid received outside the normal competitive bidding process in terms of section 113 of the Act.

- (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;
  - (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 (b) of this Policy, the decision must be made public in accordance with section 21A of the Municipal Systems Act, together with –
  - (a) Reasons as to why the bid should not be open to other competitors;
  - (b) An explanation of the potential benefits if the unsolicited bid were accepted; and
  - (c) An invitation to the public or other potential suppliers to submit their comments within 30 days of the notice.
- (4) All written comments received pursuant to subparagraph (c), including any responses from the unsolicited bidder, must be submitted to the National Treasury and Provincial Treasury for comment.
- (5) The adjudication committee must consider the unsolicited bid and may award the bid or make 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 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 Provincial Treasury and the National Treasury the reasons for rejecting or not following those recommendations.
- (9) Such submission must be made within seven days after the decision on the award of the unsolicited bid is taken, but no contract committing the Municipality to the bid may be entered into or signed within 30 days of the submission.

### **30. Combating of abuse of supply chain management system**

- (1) The Accounting Officer must provide measures for the combating of abuse of the Supply chain management system by providing the following:

- (a) To take all reasonable steps to prevent such abuse.
  - (b) To investigate any allegations against an official or other role player of fraud, corruption, favouritism, unfair or irregular practices or failure to comply with supply chain management policy and when justified –
    - (i) Take appropriate steps against such official or other role player or
    - (ii) Report any alleged criminal conduct to the South African Police Service
  - (c) To 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) To reject any bid from a bidder –
    - (i) If any municipal rates and taxes or municipal service charges owed by that bidder or any of its directors to the municipality or municipal entity, or to any other municipality or municipal entity, are in arrears for more than three months; or
    - (ii) Who during the last five years has failed to perform satisfactorily on a previous contract with the municipality or any other organ of state after written notice was given to that bidder that performance was unsatisfactory
  - (e) To 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) To 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) To reject the bid of any bidder if that bidder or any of its directors –
    - (i) Has abused the supply chain management systems of the municipality or has omitted any improper conduct in relation to such system
    - (ii) Has been convicted for fraud or corruption during the past five years
    - (iii) Has willfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years
    - (iv) Has been listed in the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No.12 of 2004).
- (2) The Accounting Officer must inform the National Treasury and relevant provincial treasury in writing of any actions taken in terms of subparagraphs (1)(b)(ii), (e) or (f) of this policy.

## Part 3: Logistics, Disposal, Risk, Performance and Contract Management

### 31. Logistics Management

- (1) The Accounting Officer must establish and implement an effective system of logistics management, which must include the following –

(a) **Stock-holding**

Central stores is only to hold stock complying with the following criteria:

- (i) **Essential Goods** – Only items that are not immediately available is considered essential to maintain a municipal service.
- (ii) **Bulk Purchased supplies** – Items of sufficient demand in common use which offer a reduction in cost over direct supply taking into account stock-holding costs.

(b) **Internal Requisitions**

Where stocks are held in a central store, items must be requisitioned internally as the sole source of supply.

(c) **Stores Procedures**

To be operated for the regulation of stock levels and movement to provide adequate management information, notes which must be issued by the Chief Financial Officer, or a person designated by the Chief Financial Officer.

(d) **Warehouse Management**

(i) **Receiving of stock items**

Stock items received should be verified with the purchase order and inspected for proper quantities to ensure receipt of what was ordered. The delivery note is then signed indicating acceptance of goods received.

(ii) **Issuing of stock items**

Stock items should be issued only on the authority of a properly approved, pre-numbered requisition, signed by a designated person, which should give the following information:

- Source and date of the requisition;
- Account(s) to be charged;
- On each item: Quantity, Unit stock number, description, unit price, and total rand value.

Stock items that are issued, must immediately be recorded.

(iii) **Shelving**

Stores personnel should categorize and organize storage areas for efficient, logical, and safe storage of all supplies.

(iv) **Purchase requisitions for stock items**

All purchase requisitions for stock items must have the signature of the Chief Financial Officer, or a person designated by the Chief Financial Officer, prior to acquisitions.

(v) **Expediting of orders**

If the delivery conditions reflected on the purchase order form are not complied with, it should be followed up with the supplier immediately.

(vi) **Access**

Central Stores should be operated as a closed store, whereby; customers are excluded from the Stores area except on a specially approved or escorted basis.

(vii) **Damaged Goods**

Damaged goods from suppliers must be returned to the supplier for credit or replacement.

(e) **Stock Reviews**

In order to manage the stores operations effectively, the Manager in charge should continually review their stock holding based on information such as number of issues, levels of service achieved, total value of stock held and stock turnover.

Redundant and obsolete stock should be identified and cleared regularly by the relevant Manager.

(f) **Stock Levels**

The following should be determined to maintain the optimum stock levels:

- Minimum, maximum and re-order levels;
- Slow moving or obsolete stock.

(g) **Annual Stock taking Procedures**

- (i) The stocktaking must take place close to year end. (30 June)
- (ii) The stocktaking must take place in the presence of the person who is in charge of the store.
- (iii) The person conducting the inventory counts all items and makes appropriate notations on the inventory sheet. At the conclusion of each section, the person who conducts the inventory count as well as the person in charge of the store, dates and signs the inventory sheet.
- (iv) At the conclusion of all inventory sections, all discrepancies will be double-checked. The Chief Financial Officer, or a person designated by the Chief Financial Officer, and he will make appropriate adjustments

and will approve all such adjustments to correct inventory records to actual count.

- (v) All printouts, original documents, work papers, adjustments, and corrected inventory printouts are placed on file and must be kept for audit purposes.

(j) **Reporting**

Stores should provide a monthly report, which must include information relating to:

- (a) Total value of monthly issues;
- (b) Total value of stock purchases
- (c) Stock on hand;
- (d) Value of stock on hand

A report of the stock taking at year-end must be provided to Council.

### **32. Disposal Management**

- (1) The Municipal Council will dispose assets using the following ways –
  - (a) Transferring the asset to another organ of state in terms of a provision of the Act enabling the transfer of assets;
  - (b) Transferring the asset to another organ of state at market related value or, when appropriate, free of charge
  - (c) Selling the asset at market related price or auction
  - (d) Destroying the asset if obsolete
- (2) A municipality may not transfer ownership as a result of a sale or other transaction or otherwise permanently dispose of a capital asset needed to provide the minimum level of basic municipal service
- (3) A municipality may transfer ownership or otherwise dispose of a capital asset other than one contemplated in subsection 31.2 but only after the municipal council, in a meeting open to the public
  - (a) Has decided on reasonable grounds that the asset is not needed to provide the minimum level of basic municipal services
- (4) A decision by a municipal council that a specific capital asset is not needed to provide the minimum level of basic municipal service, may not be reversed by the municipality after that asset has been sold, transferred or otherwise disposed of.
- (5) Any transfer of ownership of a capital asset in terms of subsection 31.3 must be fair, equitable, transparent, and competitive.

- (6) Section 31.1 to 31.4 above does not apply to the transfer of a capital asset to another municipality or to a municipal entity or to a national or provincial organ of state in circumstances and in respect of categories of assets approved by the National Treasury, provided that such transfers are in accordance with the prescribed framework.
- (7) Following are conditions under which the capital assets may be sold
  - (a) Immovable property may be sold only at market related prices except when the public interest or the plight of the poor demands otherwise.
  - (b) 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 to the municipality. The disposal of moveable assets will be handled in terms of the approved policy of Council.
  - (c) In the case of the free disposal of computer equipment, the provincial department of education must first be approached to indicate within 30 days whether any of the local schools are interested in the equipment; and
  - (d) 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.
- (8) Immovable property will be let under the following conditions:
  - (a) Market related rates should be used except when the public interest or the plight of the poor demands otherwise
  - (b) All fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property must be annually reviewed
- (9) Where assets are traded in for other assets, the highest possible trade-in price should be negotiated.
- (10) The 80/20 or 90/10 point system will apply to competitive bidding, which relate to the sale or letting of assets respectively, depending on the value of the asset

### 33. Risk Management

- (1) Accounting officer should in the implementation of this policy develop a risk Management plan in order to address the following factors:
  - (i) **Risk Identification:** Identify risks associated with the project on a case-by-case basis
  - (ii) **Risk Assessment:** The likelihood and magnitude of the risks.
  - (iii) **Risk Mitigation:** Strategies for pre-empting and treating the occurrence of risk.
  - (iv) **Risk Allocation:** detailing responsibility for managing a risk to the party best suited to manage such risks.

- (v) **Acceptance of the cost of the risk:** Acceptance of the cost of the risk where the cost of transferring the risk is greater than that of retaining it
  - (vi) **Management of risks:** In a pro-active manner and the provision of adequate cover for residual risks
  - (vii) **Monitor and Control:** Identify new risks as they emerge
- (2) In order to reduce the risk on contract, the accounting officer must include the provision of sureties for the due performance on a contract and retention of a portion of moneys due to a contract.
  - (3) The sureties, guarantees, insurance, retention and penalties will be determined by the nature of the contract, which must be specified in the tender document.
  - (4) Service providers should be subject to disqualification if there is sufficient evidence of consistent failure to meet the standards specified by the Municipality.
  - (5) Service providers should be evaluated based on contract adherence and performance. Upon reasonable notice in writing to the service provider involved, and after a reasonable opportunity for response, a service provider should be disqualified for a period not exceeding five years from participation in a solicitation for goods and services. Service provider should be disqualified if:
    - (i) Serious breach of contract indicating unwillingness to perform a contract in accordance with the terms and conditions.
    - (ii) An indication of lack of business integrity or honesty which directly and serious effects the responsibility of the contractor.

#### **34. Performance Management**

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

#### **35. Contract Management**

##### **(1) Service Level Agreements**

Contracts concluded for the procurement of goods and services should be made subject to the conclusion of a Service Level Agreements.

##### **(2) Extension/Expansion of Contracts**

Accounting Officer must as far as possible refrain from extending/expanding contracts and /or allowing variation orders as it increases the risks, reflects possible flaws in the planning process and it creates an uncompetitive environment, possible unfairly prejudicing other possible vendors.

Accounting Officer may only extend contracts for up to a maximum period equal to the original contract period and in the case of expansions only up to a maximum amount equal to the original value of the contract. This power should only be executed if it makes economic sense and provided that such extension/expansion can be justified in terms of fairness, equitableness, transparency, competitiveness and cost-effectiveness.

(3) **Orders**

Supplies should be delivered and services rendered only upon a written official order from the Municipality, and accounts should be rendered as indicated on the official order or in the contract, as the case may be.

(4) **Sureties, Guarantees, Retention and Penalties**

The sureties, guarantees, insurance, retention and penalties will be determined by the nature of the contract, which must be specified in the tender document.

(5) **Payment for Supplies and Services**

- (1) Subject to any instructions issued with a contract or order, a contractor should be paid for supplies delivered and services rendered in accordance with the under-mentioned provisions:
  - (a) On the basis of delivery into store or to another nominated destination, only after receipt of a detailed account and after delivery has been effected.
  - (b) On the basis of receipt of a detailed account supported which have been certified that that goods, services etc has been provided satisfactorily.
  - (c) Payment will be done in terms of Council's Cash Management and Investment Policy on receipt of all the required documentation, which should be correct in every respect. Should a contractor indicate a special discount on his/her account provided payment is made within a certain time, every effort should be made to take advantage of such discount.
  - (d) As a rule, payment is made to the contractor only. When payment is claimed by another party will payment only be done if such payment has been approved by the Chief Financial Officer in writing.

(6) **Remedies in case of death, sequestration, liquidation or judicial management**

- (a) In the event of the death of a contractor or the provision or final sequestration of his/her estate or of his/her cession or transfer of a contract without the approval of the Council or of the surrender of his/her estate or of his/her reaching a compromise with his/her creditors or of the provisional or final liquidation of a contractor's company or the placing of its affairs under judicial management, the Council must, without prejudice to any other rights it may have, exercise any of the following:
  - (i) Cancel the contract and accept any of the bids, which were submitted originally with that of the contractor or any offer subsequently received to complete the contract. In such a case the estate of the contractor shall not be relieved from liability for any claim which has risen or may arise against the contractor in respect of supplies not delivered or work not carried out by him/her under the contract, and the Council shall have the right to hold and retain all or any of the securities and retention moneys held by it at the date of the aforesaid occurrences until such claim has been satisfied; or
  - (ii) Allow the executor, trustee, liquidator or judicial manager, as the case may be, for and on behalf of and at the cost and expenses of the estate of the contractor to carry on with and complete the contract.

(7) **Contractor's Liability**

- (a) In the event of the contract being cancelled by the Council in the exercise of its rights in terms of these conditions, the contractor should be liable to pay to

Council any losses sustained and/or additional costs or expenditure incurred as a result of such cancellation and Council should have the right to recover such losses, damages or additional costs by means of set-off from moneys due or which may become due in terms of the contract or any other contract, or from a guarantee provided for the due fulfillment of the contract and, until such time as the amount of such losses, damages or additional costs have been determined, to retain such moneys or guarantee or any deposit as security for any loss which the Council may suffer or have suffered.

The contractor must be held responsible for any consequential damages and loss sustained which may be caused by any defect, latent or otherwise, in the supply or service rendered or if the supply or service as a result of such defect, latent, otherwise, does not conform to any condition or requirement of the contract.

**(8) Contractor's not performing**

In the case where contractors are not performing in terms of the tender conditions or are delivering a poor service, must the relevant Manager provide the Accounting Officer with a written report, together with a letter to inform the contractor as well as the response of the contractor. The Municipal Manager will consider whether the supplier should be used again or whether the supplier will be removed from the municipalities suppliers database. The supplier should be informed in writing of the outcome of the decision as taken by the Municipal Manager.

**(9) Management of projects**

Projects should be managed properly by the relevant Manager, especially where projects are subdivided between contractors for material, labour etc.

***Part 4: Other Matters***

**36. Declarations**

- (1) a bidder must, in the stipulated manner, declare that
  - (a) The information regarding any claim from preference points provided is true and correct;
  - (b) The signatory to the bid document is duly authorized; and
  - (c) Documentary proof regarding any bidding issue will, when required, be submitted to the satisfaction of the Municipality.

**37 Measures to promote local suppliers and SMME's**

- (1) As far as possible, must quotations/tenders be awarded to local SMME's for the following services:
  - (i) Advertisement, media, communications
  - (ii) Internal and external cleaning services and the provision of cleaning products

- (iii) Clothes and textiles
  - (iv) Catering services
  - (v) Internal and external furniture and décor
  - (vi) Coordination and management of opportunities
  - (vii) Maintenance, repairs, construction and office space
  - (viii) Travel coordination and commuting services
  - (ix) Perishable food and the provision thereof
  - (x) Stationary stock and printing
- (2) An advertisement must be placed in the local newspapers to inform existing and any prospective local SMME's of the services whereby they can benefit.
  - (3) The following criteria, as determined in the National Small Business Act (Act 102 of 1996), will be used to determine if a person/enterprise/business qualify as a SMME:
    - (i) Total full-time equivalent of paid employees: Less than 5 and
    - (ii) Total annual turnover: Less than R 200 000 and
    - (iii) Total gross asset value (fixed assets excluded): Less than R 100 000
  - (4) That assistance be given to local SMME's who was the successful bidder, to execute projects.
  - (5) That in cases of purchases up to R 50 000, a minimum acceptable bid/quotation amount be determined to ensure that local bidders can execute the project successfully, taken into account legal aspects and financial viability.
  - (6) That it be made a tender condition that local SMME's and/or local businesses be utilized in executing the tender, where possible.

### **38 Measures for utilizing local labour**

- (1) Projects must, as far as possible, be divided between materials, labour, etc.
- (2) In cases where tenders/quotations are invited for labour, it be made a condition that only labour in that specific area/town will be utilized.
- (3) In cases where it is not in the interest of Council to divide the project, it be made a condition that the contractor/tenderer must use people for labour from that specific area/town where the project will be executed.
- (4) The Accounting Officer can approve if it is not in the interest of Council to utilize labour, in terms of paragraph (2) and (3) above.

### **39. Penalties**

- (1) Where a contract has been awarded on the strength of preference information furnished

by the contractor, which, after the conclusion of the relevant contract, is proved to have been incorrect, the Municipality may, in addition to any other legal remedy it may have to –

- (a) Recover from the contractor all costs, losses or damages incurred or sustained by the Municipality as a result of the award of the contract; and/or
- (b) Cancel the contract and claim damages which the Municipality may suffer as a result of having to make less favourable arrangements; and/or
- (c) Impose on the contractor a penalty not exceeding five per cent of the value of the contract.

#### **40. Prohibition on awards to persons whose tax matters are not in order**

- (1) The Municipality should not award a contract above R30 000.00 (Vat Included) to a person whose tax matters has not been declared by the South African Revenue Services to be in order.
- (2) No contract should be awarded to a person who failed to submit an original tax clearance certificate from the South African Revenue Services (SARS) certifying that the taxes of that person is in order or that suitable arrangements have been made with SARS.

#### **41. Prohibition on awards to persons in the service of the State**

- (1) No award must be given to a person irrespective of the procurement process followed in terms of this Policy-
  - (a) Who is in the service of the state; or
  - (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 Municipality

#### **42. Awards to close family members of persons in the service of the State**

The notes to the annual financial statements must disclose particulars of any award of more than R2000.00 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

#### **43. Ethical Standards**

- (1) A code of ethical standards is hereby established, in accordance with subparagraph for officials and other role players in the supply chain management system 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) An official or other role player involved in the implementation of the supply chain management policy –
- (a) Must treat all providers and potential providers equitably;
  - (b) Must not use his/her position for private gain or to improperly benefit another person;
  - (c) May not accept any reward, gift, favour, hospitality or other benefit directly or indirectly, including to any close family member, partner or associate of that person, of a value more than R350.00;
  - (d) Notwithstanding subparagraph (2)(c), must declare to the Accounting Officer details of any reward, gift, favour, hospitality or other benefit promised, offered or granted to that person or any close family member, partner or associate of that person;
  - (e) Must declare to the Accounting Officer details of any private or business interest which that person, or any close family member, partner or associate, may have in any proposed procurement or disposal process of, or any award of a contract by the Municipality;
  - (f) Must immediately withdraw from participating in any manner whatsoever in a procurement or disposal process or in the award of a contract in which that person, or any close family member, partner or associate, has any private or business interest;
  - (g) Must be scrupulous in his or her use of property belonging to the Municipality;
  - (h) Must assist the Accounting Officer in combating fraud, corruption, favouritism and unfair and irregular practices in the supply chain management system;
    - (i) Must report to the Accounting Officer any alleged 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 paragraph (5)(1) of this policy; or
      - (iii) Any alleged breach of this code of ethical standards.
- (3) Declarations in terms of subparagraph (2)(d) and (e) –
- (a) Must be recorded in a register, which the Accounting Officer must keep for this purpose;
  - (b) By the Accounting Officer must be made to the Executive Mayor of the Municipality who must ensure that such declarations are recorded in the register.

- (4) The National Treasury's code of conduct must be adopted and also be taken into account by supply chain management practitioners and other role players involved in supply chain management.
- (5) 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 municipality envisaged in section 67 (1) (h) of the Municipal Systems Act;
  - (b) In the case 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.

#### **44. Inducements, rewards, gifts and favours to municipality, officials and other role players**

- (1) No person who is a provider or prospective provider of goods or services, or a recipient of goods disposed or to be disposed of must either directly or through a representative or intermediary promise, offer or grant –
  - (a) Any inducement or reward to the Municipality for or in connection with the award of a contract; or.
  - (b) Any reward, gift, favour or hospitality to –
    - (i) Any official; or
    - (ii) Any other role player involved in the implementation of the supply chain management policy.
- (2) The Accounting Officer must promptly report any alleged contravention of subparagraph (1) to the National Treasury for consideration whether the offending person, and any representative or intermediary through which such person is alleged to have acted, should be listed in the National Treasury's database of persons prohibited from doing business with the public sector.
- (3) Subparagraph (1) does not apply to gifts less than R350.00 in value.

#### **45. Sponsorships**

The Accounting Officer must promptly disclose to the National Treasury and the 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 and services; or
- (b) A recipient or prospective recipient of goods disposed or to be disposed.

#### **46. 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.

#### **47. Resolution of disputes, objection, complaints and queries**

- (1) The accounting officer must appoint an independent and impartial person, not directly involved in the supply chain management processes-
  - (a) To assist in the resolution of disputes between the municipality and other Persons regarding –
    - (i) Any decisions or actions taken in the implementation of the supply chain management systems; 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.

#### **48. Contracts providing for compensation based on turnover**

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

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

#### **49. Short title**

This Policy is called the Langeberg Municipality: Supply Chain Management Policy – Section 1.

## **SECTION 2**

**PREFERENTIAL PROCUREMENT POLICY** adopted in terms of section 2 of the Preferential Procurement Policy Framework Act, No. 5 of 2000 and the Preferential Procurement Regulations, 2011.

### **PREAMBLE**

**WHEREAS** the Langeberg Municipality aims to improve the quality of life of the local community and to free the potential of each person within a framework of facilitating service delivery, through effective governance and the Council takes into account the need for transparent procedures that give the effect to the principle of preferential procurement;

**AND WHEREAS** local economic development plays a crucial role in creating a prosperous, equitable, stable and democratic society and the overall national vision of economic development is one of decent work and living standards for all in the context of qualitative improved equality in ownership, skills and access to opportunities;

**NOW THEREFORE** the Council of the Langeberg Municipality resolves in terms of section 2 of the Preferential Procurement Policy Framework Act, No. 5 of 2000 that the principles embodied in the Preferential Procurement Regulations, 2011 are herewith integrated into the Langeberg Municipality's Supply Chain Management Policy to form the basis of the evaluation criteria for quotations and competitive bids.

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## DEFINITIONS AND APPLICATION

### Definitions

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

- (a) "**Act**" means the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000);
- (b) "**all applicable taxes**" includes Value-Added Tax, Pay-as-you-Earn, Income Tax, Unemployment Insurance Fund Contributions and Skills Development Levies;
- (c) "**B-BBEE**" means Broad-Based Black Economic Empowerment as defined in Section 1 of the Broad-Based Black Economic Empowerment Act;
- (d) "**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;
- (e) "**Broad-Based Black Economic Empowerment Act**" (**B-BBEEA**) means the Broad-Based Black Economic Empowerment Act, 2003 (Act No.53 of 2003);
- (f) "**Comparative price**" means the price after the factors of a non-firm price and all unconditional discounts that can be utilised have been taken into consideration;
- (g) "**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;
- (h) "**Contract**" means the agreement that results from the acceptance of a bid by the Langeberg Municipality;
- (i) "**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
- (j) "**Firm price**" is the price that is only subject to adjustments in accordance with the actual increase or decrease resulting from the change, imposition, or abolition of customs or excise duty and any other duty, levy, or tax, which, in terms of a law or regulation, is binding on the contractor and demonstrably has an influence on the price of any supplies, or the rendering costs of any service, for the execution of the contract;
- (k) "**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;

(l) "**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 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;

(m) "**local content**" means that portion of the tender price which is not included in the imported content, provided that local manufacture does take place;

(n) "**Micro-Enterprise**" means a very small business, often involving only the owner, some family members and at the most one or two paid employees. They usually lack `formality` in terms of business licences, value-added tax (VAT) registration, formal business premises, operating permits, operating permits and accounting procedures. Most of them have a limited capital base and only rudimentary technical or business skills among their operators. However, many micro-enterprises advance into viable small businesses. Earning levels of micro-enterprises differ widely, depending on the particular sector, the growth phase of the business and access to relevant support.

(o) "**Non-firm prices**" means all prices other than "firm" prices;

(p) "**Person**" includes reference to a juristic person;

(q) "**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;

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

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

(t) "**Survivalist Enterprise**" means a business set up by people unable to find a paid job or get into an economic sector of their choice. Income generated from these activities usually falls far short of even a minimum income standard, with little capital invested, virtually no skills training in the particular field and only limited opportunities for growth into a viable business. This category is characterized by poverty and the attempt to survive.

(u) "**Tender**" means a written offer in a prescribed or stipulated form in response to an invitation by the Langeberg Municipality for the provision of services, works or goods, through price quotations, advertised competitive bidding processes or proposals;

(v) "**Total revenue**" bears the same meaning assigned to this expression as 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, 2003 and promulgated in the **Government Gazette** on 9 February 2007;

(w) "**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

(x) "**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.

## 2 Application, Objectives & General Requirements

## **2.1 Application**

The Langeberg Municipality must, unless the Minister of Finance has directed otherwise, only apply a preferential procurement system which is in accordance with the Regulations.

## **2.2 Objectives**

The objectives of Councils' policy are to:

- (1) Provide clarity on the municipality's approach to procurement, particularly with regards to requirements of preferential procurement;
- (2) Provide access to contracts for historical disadvantaged individuals;
- (3) Promote participation by SMMEs as defined in Annexure D and as amended from time to time;
- (4) Promote capacity development and skills transfer;
- (5) Promote Local Economic Development.

## **2.3 General requirements**

- (1) Any specific goal required for consideration in the bidding process must be clearly determined by the Bid Specification Committee and be defined in the bid documentation, taking into account prescriptions of the Construction Industry Development Board [CIDB] in respect of construction related contracts.
- (2) Outputs required will be quantified and will form part of the contractual arrangement upon awarding of the contract.

## **PART TWO**

### **PREFERENCE POINT SYSTEM AND BROAD-BASED BLACK ECONOMIC EMPOWERMENT STATUS, EVALUATION OF BIDS ON FUNCTIONALITY, AWARD OF CONTRACTS TO BIDDERS NOT SCORING THE HIGHEST NUMBER OF POINTS AND THE CANCELLATION AND RE-INVITATION OF BIDS**

#### **3. Planning and stipulation of preference point system to be utilized**

The Langeberg Municipality must, prior to making an invitation for bids-

- (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 bids is to be made; and
- (b)** determine and stipulate the appropriate preference point system to be utilized in the evaluation and adjudication of the bids.
- (c)** determine whether the services, works or goods for which an invitation is to be made has been designated for local production and content in terms of Paragraph 9.

#### **4. Evaluation of bids based on functionality**

- (1) The Langeberg Municipality must in the bid documents indicate if, in respect of a particular bid invitation, bids will also be evaluated on functionality;
- (2) The evaluation criteria for measuring functionality must be objective.
- (3) When evaluating bids on functionality, the-
  - (a)* evaluation criteria for measuring functionality,
  - (b)* the weight of each criterion,
  - (c)* the applicable values; as well as
  - (d)* the minimum qualifying score for functionality, must be clearly indicated in the bid documents.

(4) A bid must be disqualified if it fails to achieve the minimum qualifying score for functionality as indicated in the bid documents; and

(5) Bids that have achieved the minimum qualification score for functionality must be evaluated further in terms of the preference point systems prescribed in Paragraph 5 and 6.

**5. The 80/20 preference point system for acquisition of goods, works and / or services up to a Rand value of R1,0 million**

(1)(a) The following formula must be used to calculate the points for price in respect of competitive bids / price quotations with a Rand value equal to, or above R 30 000 and up to a Rand value of R1 000 000 (all applicable taxes included):

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

Where

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

$P_t$  = Comparative price of bid / offer under consideration

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

(1)(b) The Langeberg Municipality may, however, apply this formula for price quotations with a value less than R 30 000, if and when appropriate.

(2) A maximum of 20 points must be awarded to a bidder for attaining the B-BBEE status level contemplated in the B-BBEE Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act, 2003 and promulgated in the **Government Gazette** on 9 February 2007.

(3) Points must be awarded to a bidder on the following basis:

<b>B-BBEE Status Level of Contributor</b>	<b>Number of points (80/20 system)</b>
1	20
2	18
3	16
4	12
5	8
6	6
7	4

8	2
Non-compliant contributor	0

(4) The points scored by a bidder in respect of B-BBEE contribution contemplated in sub-regulation (3) must be added to the points scored for price.

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

**6. The 90/10 preference point system for acquisition of goods, works and / or services with a Rand value above R1,0 million**

(1) The following formula must be used to calculate the points for price in respect of bids

with a Rand value above R1 000 000 (all applicable taxes included):

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

Where

$P_s$  = Points scored for comparative price of tender or offer under consideration;

$P_t$  = Comparative price of tender or offer under consideration; and

$P_{min}$  = Comparative price of lowest acceptable tender or offer.

(2) Subject to sub-paragraph (3), points must be awarded to a tenderer for attaining their B-BBEE status level of contributor in accordance with the table below:

<b>B-BBEE Status Level of Contributor</b>	<b>Number of points (90/10 system)</b>
1	10
2	9
3	8
4	5
5	4
6	3
7	2
8	1
Non-compliant contributor	0

(3) A maximum of 10 points be allocated in accordance with sub-paragraph (2).

(4) The points scored by a tenderer in respect of the level of B-BBEE contribution contemplated in sub-paragraph (2) must be added to the points scored for price as calculated in accordance with sub-paragraph (1).

(5) Subject to regulation 7, the contract must be awarded to the tenderer who scores the highest total number of points.

## **7. Award of contract to bids not scoring the highest number of points**

A contract may be awarded to a tenderer that did not score the highest total number of points if objective criteria in addition to specific goals justify the award to another tenderer.

## **8. Cancellation and re-invitation of bids**

(1) (a) In the event that, in the application of the 80/20 preference point system as stipulated in the tender documents, **all** tenders received exceed the estimated Rand value of R1 000 000, the tender invitation must be cancelled.

(b) If one or more of the acceptable tenders received are within the prescribed threshold of R1 000 000, all tenders received must be evaluated on the 80/20 preference point system.

(2) (a) In the event that, in the application of the 90/10 preference point system as stipulated in the tender documents, **all** tenders received are equal to, or below R1 000 000, the tender must be cancelled.

(b) If one or more of the acceptable tenders received are above the prescribed threshold of R1 000 000, all tenders received must be evaluated on the 90/10 preference point system.

(3) In the event that the Langeberg Municipality has cancelled a tender invitation as contemplated in sub-paragraph (1)(a) and 2(a), tenders must be re-invited and the tender documents must stipulate the correct preference point system to be applied.

(4) The Langeberg Municipality may, prior to the award of a tender, cancel a tender if:

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

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

(c) no acceptable tenders are received.

(5) The decision to cancel a tender in terms of sub-paragraph (4) must be published in the media in which the original tender invitation was advertised.

## **PART THREE**

### **LOCAL PRODUCTION AND CONTENT, B-BBEE STATUS LEVEL CERTIFICATES, CONDITIONS, DECLARATIONS, REMEDIES AND TAX CLEARANCE**

#### **9. Local Production and Content**

(1) The Langeberg Municipality must, in the case of designated sectors, where in the award of tenders local production and content is of critical importance, advertise such tenders with a specific tendering condition

that only locally produced goods, services or works or locally manufactured goods, with a stipulated minimum threshold for local production and content will be considered.

(2) The National Treasury will issue instructions, circulars and guidelines to all organs of state, with specific report mechanisms to ensure compliance with sub-paragraph (1).

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

(4) Every tender issued in terms of Paragraph 9 must be measurable and audited.

(5) Where necessary, tenders referred to in sub-paragraph (1) and (3), a two-stage tendering process may be followed, where the first stage involves functionality and minimum threshold for local production and content and the second price and BBEE with the possibility of price negotiations only with the short listed tenderer/s.

## **10. Broad –Based Black Economic Empowerment Status Level Certificates**

(1) Tenders with annual total revenue of R5 million or less qualify as Exempted Micro Enterprises (EMEs) in terms of the Broad-Based Black Economic Empowerment Act, and must submit a certificate issued by a registered auditor, accounting officer (as contemplated in section 60(4) of the Close Corporation Act, 1984 (Act No.69 of 1984) or an accredited verification agency.

(2) Tenders other than exempted Micro-Enterprises (EMEs) must submit their original and valid B-BBEE status level verification certificate or a certified copy thereof, substantiating their B-BBEE rating.

(3) The Submission of such certificates must comply with the requirements of instructions and guidelines issued by the National Treasury and be in accordance with notices published by the Department of Trade and Industry in the *Government Gazette*.

(4) The B-BBEE status level attained by the tenderer must be used to determine the number of points contemplated in regulations 5(2) and 6(2).

## **11. Conditions**

(1) Only a tenderer who has completed and signed the declaration part of the tender documentation may be considered.

(2) The Langeberg Municipality must, when calculating comparative prices, take into account any discounts which have been offered unconditionally.

(3) A discount which has been offered conditionally must, despite not being taken into account for evaluation purposes, be implemented when payment is processed.

(4) Points scored must be rounded off to the nearest 2 decimal places.

(5) (a) In the event that two or more tenders have scored equal total points, the successful tender must be the one scoring the highest number of preference points for B-BBEE.

(b) However, when functionality is part of the evaluation process and two or more tenders have scored equal points including equal preference points for B-BBEE, the successful tender must be the one scoring the highest score for functionality.

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

(6) 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.

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

(8) A person must not be awarded points for B-BBEE status level if it is indicated in the tender documents that such a tenderer intends sub-contracting more than 25% of the value of the contract to any other enterprise that does not qualify for at least the points that such a tenderer qualifies for, unless the intended sub-contractor is an exempted micro enterprise that has the capability and ability to execute the sub-contact.

(9) 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 exempted micro enterprise that has the capability and ability to execute the sub-contract.

(10) A person awarded a contract in relation to a designated sector, may not sub-contract 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.

(11) When the Langeberg Municipality is in need of a service provided by only tertiary institutions, such services must be procured through a tendering process from the identified tertiary institutions.

(12) Tertiary institutions referred to in sub-paragraph (11) will be required to submit their B-BBEE status in terms of the specialized scorecard contained in the B-BBEE Codes of Good practice.

(13) (a) Should the Langeberg Municipality require a service that can be provided by one or more tertiary institutions or public sector, the appointment of a contractor must be done by means of a tendering process;

(b) Public entities will be required to submit their B-BBEE status in terms of the specialized scorecard contained in the B-BBEE Codes of Good Practice.

## 12. Declarations

(1) A tender must, in the manner stipulated in the document, declare that-

- (a) the information provided is true and correct;
- (b) the signatory to the tender document is duly authorised; and
- (c) documentary proof regarding any tendering issue will, when required, be submitted to the satisfaction of the Langeberg Municipality.

## 13. Remedies

(1) The Langeberg Municipality must, upon detecting that **LANGEBERG**

- (a) The B-BBEE status level of contribution has been claimed or obtained on a fraudulent basis; or
- (b) any of the conditions of the contract have not been fulfilled, act against the tenderer or person awarded the contract.

(2) The Langeberg Municipality may, in addition to any other remedy it may have against the person contemplated in sub-paragraph (1)-

- (a) Disqualify the person from the tendering process;
- (b) Recover all 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 it has suffered as a result of having to make less favourable arrangements due to such cancellation;
- (d) Restrict the tenderer 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.

#### **14. Mechanisms to support preferential procurement**

##### **(1) Determination of bid requirements in relation to bid value**

The municipality will set targets for the supply of goods and services, and link specific requirements relating to enterprise with HDI ownership and/or SMME status.

##### **(2) Establishment/maintain a database of SMME service providers**

The municipality will establish a database of HDI, SMME and other service providers in order to track their records of services to the municipality.

##### **(3) Identification of Business Opportunities.**

- (a) Joint venture opportunities between HDI owned enterprises and SMMEs, and other business entities, will be identified and be described in the bid requirements.
- (b) Sub-contracting opportunities for HDI owned enterprises will be supported.

##### **(4) Creation of an enabling environment**

The municipality will create an enabling environment to enable SMMEs to become part of the supply chain management process. Steps to be taken include, but are not limited to:

###### **(a) Surety Requirements**

See the SCM Policy, paragraph 21(1)(f) regarding the lesser extent that sureties are called for.

###### **(b) Access to Bidding Information**

Bidding and related information will, where possible and practical, be made available in a simplified and uncomplicated format to assist new and emerging enterprises and any business or organisation bidding for municipal business.

###### **(c) Bidding Advice Centre**

Assistance will, where practically possible, be provided by the SCM Unit to increase SMME awareness and share in the supply chain and procurement process. Assistance will be provided for new and emerging SMMEs in any of the three languages of the Western Cape.

###### **(d) Sub-Contracting**

The procurement of goods and services for any project or other requirement of the municipality should cater for the engagement of sub-contractors. This will provide opportunities for smaller businesses to increase their share in public sector procurement.

###### **(e) Proposed Process**

- i) Bids shall be packaged into suitably sized segments of subcontractors to target SMMEs wherever possible.
- ii) A review of all term (period) contracts shall be undertaken to assess the viability of packaging these into smaller sub-contracts. These bids should be issued in smaller manageable sub-contracts so that preference can be given to local SMMEs.
- iii) Appropriate standards, specifications, delivery dates and related contractual obligations shall be employed to help smaller businesses to cope and compete.

(f) Standard payment terms

- i) All money owed by the municipality must be paid within 30 days of receiving the relevant invoice or statement, unless prescribed otherwise for certain categories of expenditure.
- ii) Payment Cycles for the first 12 months of business with the Langeberg Municipality to Survivalist enterprises / Micro-enterprises
  - A. Survivalist enterprises / Micro-enterprises are entitled to a weekly payment cycle by the municipality.
  - B. In order to qualify for a weekly payment, a supplier must be classified as a Survivalist enterprises / Micro-enterprises on the Municipality's supplier database.
  - C. A weekly payment to Survivalist enterprises / Micro-enterprises is not a right in terms of this policy. Survivalist enterprises / Microenterprises may request such payments which may be made at the discretion of the Municipality.

(g) Simplification of Tender Documentation

- (i) Bid submission documents will be rationalised and simplified to make it easier for small businesses to deal with the paperwork involved in tendering.
- (ii) All bid submission forms shall be regularly reviewed and the various bid/contractual documents shall be standardised as far as possible.
- (iii) Essential information shall be consolidated and bid forms reformatted in line with the aims of this policy.

(h) Retention

- (i) Retention on Major contracts should be limited to 5% of the tender sum. Where the value of the surety required has been reduced, or even waived, the usual 10% retention shall apply. The value of retention deducted will therefore be as follows:
  - A. **Micro and Minor:** 10% of the value of work carried out with no limit, reducing to 5% for the duration of the maintenance period.
  - B. **Major:** 10% of the value of the work carried out, up to a limit of 5% of the tender sum, with no reduction for the duration of the maintenance period.
- (ii) Retention in respect of the procurement of goods and services will not generally be called for, but where required, will be in accordance with the limits described above.
- (iii) For turnkey/design and construction projects, the above retention limits may be reviewed by the Municipal Manager.

(2) Bid Advertising

- (a) In order to reach the largest number of HDI owned and SMME service providers possible, the Municipality will advertise invitations to bid through a range of media. An executive summary of the bid will be published in the official languages of the Western Cape.
- (b) The Municipality will provide an appropriate time period within which bidders can request additional clarification and will be sensitive to the issues of language in this regard.

## **15. SHORT TITLE**

This part of the policy is called the Preferential Procurement Policy of the Langeberg Municipality – Section 2.

## **ANNEXURE A**

### **GENERAL PRINCIPLES GOVERNING THE MUNICIPALITY IN ITS INTERACTION WITH BIDDERS**

In dealing with bidders bidding for municipal work, the municipality will adhere to the basic principles of:

#### **1 Efficiency**

- a) The municipal officials must administer the procurement process in the most efficient manner possible, avoiding time delays and duplication of activities.
- b) Where such delays are unavoidable, the municipal officials must inform all bidders of the nature of the delay and the revised time frames.

#### **2 Courtesy**

All staff members of the Municipality will deal with bidders in a courteous and respectful manner.

#### **3 Transparency**

- a) All bid processes will be open to the legal scrutiny of the public and interested parties.
- b) The Municipality will take all reasonable steps to ensure that the processes are clearly defined and understandable to all interested parties.

#### **4 Access to information**

The Municipality will take reasonable steps to ensure that all bidders have equal access to information on the goods or services to be bid for, as well as the bid process itself.

#### **5 Fair distribution of work**

The Municipality will take reasonable steps to make sure that the procurement of goods or services is fairly distributed amongst the service providers in the event of equality of bids. This will be done to avoid the excessive procurement of goods or services from one provider/supplier only.

#### **6 Competition**

The municipality will encourage fair competition between suppliers that provide goods and services to it.

## **ANNEXURE B**

### **CRITERIA TO EVALUATE TECHNICAL AND FINANCIAL ABILITY**

Regardless of the scope and value of the contracts involved, all contracts will be judged on grounds of:

#### **1 Compliance with bid conditions:**

- a) Bids submitted on time.
- b) Bid forms signed.
- c) All essential information provided

#### **2 Meeting technical specifications and compliance with bid conditions**

- a) Where requested in bid documentation, bidders must describe how they will produce the required outputs outlined in the bid documentation in terms of either goods or services.
- b) The ability to produce the required goods or services within the stated time frame may be included as criteria for compliance.

#### **3 Infrastructure and resources available.**

Bidders must indicate their capacity i.e. the extent of infrastructure under their control and resources available to enable them to execute the contract.

#### **4 Quality/ Durability**

- a) Where requested, bidders must provide evidence that they will be able to adhere to generally accepted levels of quality in the provision of the product or services under consideration.
- b) Where bidders are so requested, they must clearly explain their mechanisms for quality assurance and review.

#### **5 Size of enterprise and current workload**

- a) Bidders must give an indication of the resources available for the contract they are bidding on.

b) Bidders must give an indication of the number and value of other contracts being undertaken by them at the date of bid, as to enable the Municipality to ascertain their ability to execute the contract.

## **6 Staffing profile**

a) Bidders must indicate the number of full-time employees employed by the company in Langeberg at the time of bidding. Such information must include a breakdown in terms of race and gender at top and middle management levels.

b) Bidders must also indicate the experience of top and middle management staff, especially where the experience of the company as a whole is limited.

c) Bidders must indicate the number of disabled persons employed.

## **7 Previous experience**

a) Bidders must indicate the number of years that they have been operating their business.

b) Bidders must provide evidence of previous experience in providing the goods or services under consideration, by providing a minimum of three contactable and relevant references.

## **8 Financial ability to execute the contract**

a) Bidders must indicate the revenue generated by their company in the previous financial year.

b) Bidders must provide an indication of their financial ability to execute the contract.

## ANNEXURE C

### CODE OF CONDUCT FOR SUPPLIERS

Langeberg Municipality is strongly committed in observing the highest ethical standards in all its procurement activities. As such, this Code of Conduct for Suppliers has been prepared to provide clear summary of Langeberg Municipality expectation from the suppliers in all procurement dealings, ensuring that internationally recognized procurement ethics are followed. Transparency and accountability should be strictly adhered to in all procurement activities.

Langeberg Municipality procurement ethics focuses on **zero tolerance on corruption, avoiding any form of interest and honest representation of supplier's capabilities.**

Suppliers are strongly urged to familiarize themselves with this Code of Conduct to ensure successful working relations with Langeberg Municipality.

#### **Policy on Corruption and Position on Conflict of Interest**

Langeberg Municipality expects all contracted suppliers and companies seeking to sell goods and services to conduct their business in accordance with the highest ethical standards. Suppliers or potential suppliers must strictly comply with all rules and regulations on bribery, corruption and avoid unacceptable business practices. Hence suppliers are expected to observe the following:

- Shall not, directly or indirectly, offer, give or agree or promise to give to any Langeberg Municipality staff any gratuity for the benefit of/or at the direction or request of any Staff or Langeberg Municipality;
- To immediately inform the Langeberg Municipality in the event that any Staff or Langeberg Municipality solicits or obtained or has made an attempt to obtain gratification for himself/herself or for any other persons.
- To immediately declare if any of the Company's staff and/or officers had or have any relative employed with Langeberg Municipality. Failure to make such declaration shall be construed as a conflict of interest and might result in the exclusion of the supplier from present and future procurement activities and/or other legal action as deemed fit by the Organization.

#### **Representation from Suppliers**

Langeberg Municipality expects all its suppliers to honestly declare and warrant that:

- It will comply with all rules, regulations and statutory requirements relating to the provision of the products/services to Langeberg Municipality;
- It will not act in concert with other suppliers or agents when participating in a bid;
- It is a duly authorized/certified provider of the supplied products/services and shall not, expressly or impliedly hold itself out to be an agent/representative of a third party provider of the same products/services;
- It will only supply products that are certified to be of merchantable and satisfactory quality;
- The supplier possesses the necessary capabilities, equipment and suitable place of business to perform its obligations;
- It shall not contract out or subcontract or outsource any portion of the products/services unless prior written consent from Langeberg Municipality has been obtained; and
- It shall maintain the highest standards of integrity and quality of work at all times.

### **Applicability of the Code of Conduct**

This Code of Conduct shall apply to all Suppliers, sub-contractors and to other entities acting behalf of them (approval of Langeberg Municipality).

### **Monitoring compliance to the Code of Conduct**

To facilitate the monitoring of suppliers' compliance with this Code of Conduct, Langeberg Municipality expects suppliers to:

- Develop and maintain all necessary documentation to support compliance with the described standards; such documentation must be accurate and complete;
- Provide Langeberg Municipality representatives with access to relevant records, upon Langeberg Municipality request;
- Allow Langeberg Municipality representatives to conduct interviews with the supplier's employees and with management separately;
- Allow Langeberg Municipality representatives to conduct announced and unannounced site visits of supplier locations; and
- Respond promptly to reasonable inquiries from Langeberg Municipality representatives in relation to the implementation of the Code of Conduct.

### **Secure Communication Channels**

Langeberg Municipality has established a secure communication channel to enable the suppliers to raise their concerns confidentially and responsibly. If the supplier has questions about the Code of Conduct or wishes to report a questionable

behaviour or possible violation of the Code of Conduct, the Supplier is encouraged and should contact Langeberg Municipality at:  
28 Main Road  
Ashton  
6715

Langeberg Municipality will not tolerate any retribution or retaliation by anyone against a concerned Supplier who has, in good faith, sought out advice or has reported questionable behaviour and/or a possible violation. Langeberg Municipality will take disciplinary action up to and including termination of contract for anyone who threatens or engages in retaliation, retribution or harassment of the concerned individual. Identities and contents of all information or complaints will be rated strictly confidential.

## **SANCTIONS**

Breach of the Code of Conduct may result in actions being invoked against that suppliers, in addition to any contractual or legal remedies. The actions applied will depend on the nature and seriousness of the breach and on the degree of commitment shown by the supplier in breach to its obligations under the Code of Conduct. The range of actions to be imposed on the supplier includes but is not restricted to the following:

- Formal warnings – that the continued non-compliance will lead to more severe actions;
- Disclosure of nature of breach to all Langeberg Municipality subsidiaries and associate companies;
- Immediate termination of contract , without resource; and/or

### **Acknowledgement and Acceptance, to be submitted together with application for listing as provider of goods and services**

This is to certify that I have fully read the Supplier's Code of Conduct attached. Having fully read and understood the completed requirement of this Supplier's Code of Conduct, I hereby commit myself and my company to serve this Code of Conduct and to fully comply with all of its principles. I also certify that I am authorized by my company to sign and accept this document in its behalf.

Supplier: \_\_\_\_\_  
Address: \_\_\_\_\_  
Representative: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Date: \_\_\_\_\_