# SUPPLY CHAIN MANAGEMENT POLICY

# JOHANNESBURG DEVELOPMENT AGENCY (JDA)

**Date of adoption:**

The JDA Board of Directors resolves in terms of section 111 of the Local Government: Municipal Finance Management Act 56 of 2003, as amended, to adopt the following as the Supply Chain Management Policy of the JDA.

**APPROVED:**

JDA Exco — 13 November 2025
Date

**APPROVED:**

JDA Board — 24 July 2026
Date

## 1. PREAMBLE

Section 111 of the Municipal Finance Management Act, 56 of 2003 ("**MFMA**") requires each Municipality and Municipal Entity to adopt and implement a Supply Chain

Management Policy, which gives effect to the requirements of the MFMA. In addition, the Preferential Procurement Policy Framework Act, 5 of 2000 ("**PPPFA**") requires an Organ of State to determine its Preferential Procurement Policy and to implement it within the framework prescribed.

In accordance with the legislation, the Johannesburg Development Agency ("**the JDA**") is committed to combating fraud, corruption, favouritism and irregular practices in Supply Chain Management by blacklisting persons who have been found to have engaged in such practices.

## 2. PURPOSE

The purpose of this document is to set forth the policy of the Johannesburg Development Agency with respect to supply chain management processes and procedures, as well as related contractual agreements entered into by all business units, and ensure the efficient and uniform acquisition of works, goods, services, and other products with natural and/or legal entities; and to provide for the documentation to support such decisions.

## 3. POLICY STATEMENT

It is the Johannesburg Development Agency's policy to seek out and procure suitable quality products and services in a competitive, fair, transparent, equitable and cost effective manner, and to select service providers consistent with applicable legislation, including but not limited to the following:

(i) Constitution of the Republic of South Africa;
(ii) Preferential Procurement Policy Framework Act (PPPFA);
(iii) Municipal Finance Management Act (MFMA);
(iv) Construction Industry Development Board Act (CIDBA);
(v) Broad-based Black Economic Empowerment Act (BBBEE);

## 4. POLICY OBJECTIVES

The main objectives of this policy are to:
(i) Comply with the provisions of the MFMA and other applicable legislation;
(ii) Ensure goods and services are acquired competitively, fairly, transparently; equitably and cost effectively;
(iii) Promote the empowerment of previously disadvantaged enterprises, including SMMEs;
(iv) Minimize fraud and corruption and encourage accountability;
(v) Ensure it is consistent with the enterprise development programmes as approved by the City which are not limited to Expanded Public Works Programme (EPWP), Enterprise Development Programme and Corporate Social Investment job pathway and other policies and programmes that seeks to aggressively advance the empowerment of the SMMEs and previously disadvantaged communities;
(vi) Ensure it is consistent with the Preferential Procurement Regulations 2022.

## 5. PRINCIPLES FOR MEASURING SUCCESS

The guiding principles for measuring the success of the supply chain management objectives are the:
(i) preservation of the highest standard of ethical behaviour;
(ii) selection of suppliers through a process that is competitive, fair, transparent and cost effective;
(iii) Empowerment of SMMEs and enterprises that comply with the provisions of Broad-Based Black Economic Empowerment and codes of good practice;
(iv) Creation of employment and skills development opportunities; and
(v) Improvement of stakeholder value.
(vi) Ensure that goods and services are acquired competitively, fairly, transparently; equitably and cost effectively;

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## Part 1 – Definitions and Background

### *1. Definitions*

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

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| **Accounting Officer** | The Chief Executive Officer of the JDA |
| **Accredited Prospective Providers** | A supplier of goods or services who has been successfully screened and prequalified following a competitive process to provide specific goods or services to the JDA on an as and when basis |
| **BBBEE** | Broad Based Black Economic Empowerment as defined in the Broad Based Black Economic Empowerment Act, 53 of 2003, as amended read with Preferential Procurement Framework Act, 5 of 2000, as amended |
| **Bid** | A signed written offer that is made for the supply of goods and/or provision of services in response to an invitation to bid |
| **Bidder** | Any person submitting a bid |
| **Bid Adjudication Committee** | A committee constituted by JDA senior officials appointed by the Accounting Officer to consider reports and recommendations from bid the evaluation committee and other matters relating to contracts procured through a competitive bidding process as provided in this policy |
| **Bid Evaluation Committee** | A committee constituted by JDA officials appointed by the Accounting Officer to evaluate and consider bids in accordance with the provisions of paragraph 22 of this policy |
| **Bid Specification Committee** | A committee constituted by at least one JDA official from the department that requires the services or goods in accordance with the provisions of paragraph 21of this policy |
| **Board** | The JDA Board of Directors |
| **CFO** | The Chief Financial Officer of the JDA |
| **CIDB Act** | The Construction Industry Development Board Act 38 of 2000, as amended |
| **Competitive bidding process** | A competitive bidding process referred to in Section D of Part 2 of this policy |
| **Competitive bid** | A bid in terms of a competitive bidding process |
| **Contract** | An agreement that results from the acceptance of a signed written offer by the JDA |
| **Contractor** | An independent entity or person appointed to supply goods or services that meets the requirements or specification at an agreed price and within a specified timeframe |
| **Database** | A list of prospective suppliers categorized per commodity and type of service |

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| **Design competition** | A process of procuring design services in which design professionals are invited to submit detailed design proposals to the JDA. The 'winner' is selected based on the ability of their proposal to meet the requirements of the project |
| **Deviation** | A departure approved by the Accounting Officer from the official procurement policies as set out in this policy and the Regulations |
| **Emergency** | An unexpected situation or event that arises which require immediate response or action in order to prevent injury to persons, loss of life, damage to property, damage to the environment and/or interference with a normal activities of a firm or person where adherence to normal procurement processes will not be appropriate; bad planning does not constitute an emergency |
| **Final bid award** | A final decision on which a bid or written quotation is communicated to the bidder |
| **Formal written price quotation** | A written offer to the JDA in response to the invitation to bid |
| **Functionality** | The measurement according to predetermined requirements, as set out in the tender document, for goods and services designed to be practical and useful taking into account, among other factors, the quality, reliability, viability, durability of the goods or services and the technical capacity and ability of a tenderer |
| **Fruitless and wasteful expenditure** | Expenditure that was made in vain and<br>Expenditure that would have been avoided had reasonable care been exercised; |
| **In the service of the state** | Means to be –<br>(a) a member of –<br>(i) any municipal council;<br>(ii) any provincial legislature; or<br>(iii) the National Assembly or the National Council of Provinces;<br>(b) a member of the board of directors of any municipal entity;<br>(c) an official of any municipality or municipal entity;<br>(d) an employee of any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No.1 of 1999);<br>(e) a member of the accounting authority of any national or provincial public entity; or<br>(f) An employee of Parliament or a provincial legislature; |
| **Invitation to bid** | A formal request by the JDA for the provision of goods and/or services through written price quotations and/or competitive bidding process. |
| **Long-term contract** | A contract with a duration period exceeding one year |
| **MSA** | Municipal Systems Act |

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| **MSCMR** | The Municipal Supply Chain Management Regulations of 2005 |
| **Non-responsive bid** | A bid that does not meet the minimum criteria as set out in the specifications, including but not limited to, provision of a valid tax clearance certificate, signed offer, municipal accounts, valid registration with applicable regulatory bodies and other statutory requirements of the applicable industry and will include qualified bids where the bidder has refused to withdraw the conditions |
| **Organ of state** | An organ of the state as defined in section 239 of the Constitution of the Republic of South Africa |
| **Other applicable legislation** | Any other legislation applicable to municipal supply chain management, including –<br>(a) The Preferential Procurement Policy Framework Act 5 of 2000;<br>(b) The Broad-Based Black Economic Empowerment Act 53 of 2003;<br>(c) The Construction Industry Development Board Act 38 of 2000;<br>(d) Prevention and Combating of Corrupt Activities Act 12 of 2004, and<br>(e) Protected Disclosure Act 26 of 2000.<br>(f) The Preferential Procurement Regulation, 2022 |
| **Pre-qualification** | The process of screening of potential suppliers of goods and services based on functionality for the purpose of developing a closed list of qualified bidders for further assessment on price and preference |
| **Ratification** | A process of ratifying minor technical deviations in-line with paragraph 39 of this policy. |
| **Responsive bid** | A bid that does not contain material deviation from the terms and conditions set out in the bid specifications |
| **Restricted bidder** | A bidder restricted in terms of the court of law and listed in the register of restricted bidders by National Treasury. (“Database of restricted suppliers” as per National Treasury website) |
| **Single or sole provider** | The only provider of goods or services due to its specialized and unique characteristics or performance capabilities |
| **Supply Chain Management** | A systems approach to manage the entire flow of goods and services that will create and optimize value for customers in the form of products and services which satisfy customer demands. |
| **National Treasury Circulars / Guidelines** | Any guidelines on supply chain management issued by the Minister in terms of section 168 of the Act |
| **The Act** | The Local Government: Municipal Finance Management Act, 56 of 2003, as amended |
| **This policy** | The JDA Supply Chain Management Policy, read in conjunction with the JDA SCM procedural manual. |

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| **Unsolicited bid** | A proposal submitted by a person or entity at its own initiative without having been invited by the JDA to do so |
| **Urgency** | Where in the best interest of the company immediate action is deemed necessary to deviate from this policy in order to complete a project |

## *2. Regulatory Framework*

This policy is guided by the following legislative framework:

- The Constitution of the Republic of South Africa, Number 108 of 1996
- The Local Government: Municipal Finance Management Act, Number 56 of 2003
- The Municipal Supply Chain Management Regulations (in terms of Section 168 of the MFMA) by Notice 868 of 30 May 2005 (MSCMR)
- The Preferential Procurement Policy Framework Act No 5 of 2000 (PPPFA)
- Preferential Procurement Regulations, 2022 , Broad-Based Black Economic Empowerment Act No 53 of 2003
- The Promotion of Administrative Justice Act, Number 3 of 2000 (PAJA)
- The Promotion of Access to Information Act No. 2 of 2000
- The Construction Industry Development Board Act No. 38 of 2000
- The Prevention and Combating of Corrupt Activities Act No. 12 of 2004
- Municipal Systems Act, Act 32 of 2000
- Companies Act, Act 71 of 2008
- Any and all SCM circulars issued by National Treasury from time to time.
- The JDA Code of Ethics Policy

## *3. Applicability of the Supply Chain Management Policy*

This policy applies to all eligible procurement undertaken by JDA including the disposal of
immovable and movable assets. All officials and other role players in the supply chain
management system of the JDA must implement this policy in a fair, equitable, transparent,
competitive and cost effective manner as contemplated in section 217 of the Constitution.
However, this policy does not apply in the following instances, except where provided otherwise
in this policy:

3.1.1 If JDA contracts with another organ of state as contemplated in section 110(2) of the MFMA for:

3.1.1.1 The provision of goods or services to the JDA;

3.1.1.2 The provision of a municipal service or assistance in the provision of a municipal service; or

3.1.1.3 The procurement of goods and services under a contract by that other organ of state, provided that the other organ of state has secured the contract by means of a competitive bidding process and the relevant supplier has agreed to such procurement. The other organ of state must confirm in writing that the contract was secured through a competitive bidding process.

3.1.2 The procurement of goods and services contemplated in Regulation 11(2) of the Regulations -

3.1.2.1 Water from the Department of Water affairs or a public entity, another municipality or a municipal entity

3.1.2.2 Electricity from Eskom or a public entity, another municipality or a municipal entity

Goods and services procured in terms of clause 3.1.2. above shall be published in the Mid-year Report and the Annual Report of the JDA as provided in Regulation 11(3) of the Regulations.

## *4. Adoption and Amendment of this Policy*

The Accounting Officer must-

4.1.1 Review the implementation of this policy annually; and

4.1.2 Annually submit the policy to the JDA Board of Directors for approval.

## *5. Oversight Role of the Board of Directors*

5.1.1 The Board shall review and approve this policy for adoption. The Board will thereafter annually review and approve the policy.

5.1.2 The Board shall maintain oversight over the implementation of this policy.

5.1.3 The Board shall consider reports relating to the implementation of this policy, including, but not limited to –

- Awards made by the Accounting Officer or any supply chain management committee in terms of this policy;
- Management of contracts and the performance of contractors;
- Deviations from and ratifications of minor breaches of procurement processes;
- Risk and fraud management processes

5.1.4 The Board shall delegate such additional powers and duties to the Accounting Officer so as to enable the Accounting Officer to discharge the supply chain management responsibilities conferred on the Accounting Officers in terms of –

- Chapter 10 of the Act;
- The Regulations
- This policy;
- CIDB Act;
- MSA;
- BBBEE Act; and
- Any other applicable legislation.

5.1.5 On discovery of any irregular expenditure or any fruitless and wasteful expenditure, JDA's Board of Directors must in terms of Section 102 of the MFMA promptly report, in writing, to the Executive Mayor and Municipal Manager of the CoJ and the Auditor-General:

a) Particulars of the expenditure; and
Any steps that have been taken:
(i) To recover the expenditure
(ii) To prevent the recurrence of the expenditure

b) The Board of Directors must promptly report to the South African Police Service any:
(i) Irregular expenditure that may constitute a criminal offence; and
(ii) Other losses suffered which resulted from suspected criminal conduct

5.1.6 The Board of Directors reserves its right to maintain oversight over the implementation of this policy.

For the purposes of such oversight the Accounting Officer must –

(i) Within 20 days of the end of each financial year, submit a report on the implementation of this policy to the Board of Directors, who must then submit the report to the Accounting Officer of the parent municipality for submission to the council; and

(ii) Whenever there are serious and material problems in the implementation of this policy, immediately submit a report to the Board of Directors, who must then submit the report to the Accounting Officer of the parent municipality for submission to the council.

(iii) Within three months of the beginning of each financial year submit a contracting strategy / procurement plan to the Board for approval or ratification.

## *6. Responsibilities of the Accounting Officer*

6.1 JDA's Accounting Officer:

6.1.1 Is responsible for the management of JDA's expenditure;

6.1.2 Is responsible for implementing JDA's budget,

6.1.3 Must report in writing to the Board of Directors, and to the Accounting Officer of the CoJ/ parent municipality, any financial problems

6.1.4 Must ensure that all revenue received by JDA is reconciled at least on a monthly basis.

6.1.5 Must take all reasonable steps to ensure that proper mechanisms and separation of duties in the Supply Chain Management system are in place to minimize the likelihood of fraud, corruption, favoritism and unfair and irregular practices.

6.1.6 Must implement this policy.

6.1.7 If a bid other than the one recommended in the normal course of implementing this policy is approved, JDA's Accounting Officer must, in terms of Section 114 of the MFMA in writing, notify the Auditor-General, The City of Johannesburg and the Board of Directors, of the reasons for deviating from such recommendation.

6.1.8 Must take all reasonable steps in terms of Section 116(2) of the MFMA to ensure that a contract or agreement procured through this policy is properly enforced;

6.1.9 Monitor on a monthly basis the performance of contractors under the contract or agreement;

6.1.10 The responsibilities of the Accounting Officer are more clearly defined in the JDA SCM procedural Manual

## *7. Responsibilities of JDA Officials*

### 7.1 Roles and responsibilities of User Departments

7.1.1 The user department shall be responsible for ensuring that their demands are timeously communicated to the supply chain management department.

7.1.2 The user department shall be responsible to initiate procurement process and ensure approval of the bid specifications.

7.1.3 The chairing of bid committees shall be in line with the committee terms of reference

7.1.4 The user department shall be responsible for all contract performance and monitoring and ensuring that goods and/or services are properly received.

7.1.5 The user department shall report monthly to the SCM on the general day to day management and performance of the contract.

### 7.2 Roles and responsibilities of Supply Chain Management Unit

7.2.1 to consolidate department procurement requirement and advise on the appropriate procurement strategy.
7.2.2 to ensure that the proper procurement process is followed when a demand is identified by a user department.
7.2.3 To provide SCM related training within the JDA.
7.2.4 to provide procurement advice to user department prior to the finalisation of the bids specification and during the bid evaluation and adjudication process
7.2.5 to monitor the implementation of supply chain policy.

### 7.3 Roles and responsibilities of Probity

7.3.1 Where the bid exceeds a total value in excess of R5 million, the JDA must conduct a probity process.

7.3.2 Probity shall conduct a review process and assess for objectivity and compliance with, amongst others, JDA SCM policy, SCM Regulations, MFMA and PPPFA.

7.3.3 Probity shall verify that the following processes have been properly complied with by the BSC: -

- Develop Project Procurement Strategy, if required;
- Determine detailed specifications; and
- Determine evaluation criteria.

7.3.4 Probity shall verify that the following processes have been properly complied with by the BEC: -

- The National Treasury's Database of Restricted Suppliers and Register for Tender Defaulters has been cross-checked for bidders or directors that are prohibited from doing business with the public sector;
- There has been no abuse of the SCM process;
- No official with adverse findings against them relating to the abuse of the SCM process was part of the specific SCM process;
- The preferred bidder is not on the JDA's database of underperforming, non-performing and terminated bidders;
- The bidder or any of its directors have not been found guilty of abuse of any SCM process or corruption or fraud in the past five years; and
- Whether any bidder(s) are in the service of the state.

- The role of probity is to advise of any irregularities and/or risks identified and provide a report on same.

- The relevant bid committees shall review the probity report prior to making a final determination of the bid. In instances where bid committees accept the risks identified in the probity, risk acceptance reasons must be included in the relevant bid committee report.

7.3.5 Each official of JDA exercising financial management responsibilities must adhere and follow ethical standards as detailed in the code of ethics policy.

## *8. Responsibilities of Bidders*

8.1 Bidders are required to comply with the following requirements:

8.1.1 Eligibility

Submit a bid only if the bidder complies with the criteria stated in the Bid Document.

8.1.2 Cost of bidding

JDA will not compensate the bidder/s for any costs incurred in the preparation and submission of a bid.

8.1.3 Clarification meetings/ briefing sessions

Bidders are required to attend a clarification meeting or briefing session at which bidders may familiarize themselves with the proposed work, services or supply, location and so forth and raise questions, where provided for in the Bid Document. These meetings may be conducted at the location where the project is required or at JDA premises such that prospective bidders are able to view and evaluate the environment where the work is required in order to assist in compiling their response. Failure to attend a clarification meeting / briefing session when compulsory will result in the disqualification of any bids from the tender process.

8.1.4 Site visits

Site visits are actual visits conducted by JDA whereby the bidder's physical place of business is inspected and evaluated to ensure the existence of the business, its facilities, resources and capability.

8.1.5 Fixed Rates

It is preferred that bidders provide rates and prices that are fixed for the duration of the contract and not subject to adjustment except as provided for in the Conditions of Contract, e.g. Consumer Price Index (CPI). The rates and prices should be stated in South African Rand unless instructed otherwise as an additional condition in the Bid Document.

8.1.6 Alterations to documents

Bidders are not required to make alterations or additions to the bid documents except to comply with instructions issued by JDA or if necessary to correct errors made by the bidder such as price/calculations. All such alterations must be initialed or authenticated by the authorized signatory to the bid. Corrections

may not be made using correction fluid, correction tape or the like. Failure to adhere to this requirement will result in the elimination of the bid.

8.1.7 Submitting a bid

All bids must be submitted in the original/official form. Bidders are required to submit a bid for providing the whole works, services or supply identified in the bid advertisement or document unless stated otherwise as an additional condition in the conditions of the bid. Non-adherence to this requirement will result in the elimination of the bid.

8.1.8 Completion of Bid document

Bid documents must be completed using non-erasable ink, preferably black. Bids that are received contrary to this requirement will be eliminated.

8.1.9 JDA R**e**servations

JDA reserves the right to award or not to award contracts and tenders at its discretion.

I. JDA does not bind itself to accept the lowest priced bids.
II. Tender offers will not be accepted by the JDA if a bidder/tenderer failed to perform on any previous JDA contract/s and has been given a written notice to this effect or contract was terminated.
III. The JDA will terminate any contract/s as per the termination clause/s in the form of contract/s concluded due to poor performance e.g. JBCC, GCC, service level agreements etc.

## *9. Delegation of Supply Chain Management Powers and Duties*

9.1 The following applies to delegations and sub-delegations made by the Accounting Officer or Board of JDA, which delegations are detailed in the "Delegation of Authority Framework" of JDA which is approved by the Board:

9.1.1 The Accounting Officer or Board may not sub-delegate any supply chain management powers or duties to a person who is not an official of the municipal entity or to a committee which is not exclusively composed of officials of the municipal entity.

9.1.2 No delegation shall be made permitting an official to whom the power to make final awards has been delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in paragraph 20 of this policy.

## Part 2 – Acquisition Management

## TO INITIATE THE PROCUREMENT PROCESS TO AQUIRE GOODS AND SERVICES, A REQUISITION FORM MUST BE COMPLETED AND APPROVAL OBTAINED FROM THE CEO/CFO (ANNEXURE C)

## Section A: General

### *10. Range of Procurement Goods*

10.1 This policy provides for the procurement of goods and services by way of the following processes:–

(i) Formal written price quotations for procurement of transaction value— R2000 up to R750 000 (VAT included) and
a competitive bidding process for—
(i) procurement above a transaction value of R750 000 (VAT included), in the case of a metropolitan municipality.";

10.1.1 A **competitive bidding process** must be followed for–

(i) Procurements above a transaction value of R750 000 (VAT included); and

(ii) the procurement of long term contracts with a contract period exceeding one year

(iii) Goods or services above a transaction value of R750 000(VAT inclusive) may not deliberately be split into parts or items of a lesser value merely for the sake of procuring the goods or services otherwise than through a competitive bidding process.

(iv) 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.

10.1.2 The Accounting Officer must take all reasonable steps to ensure that the procurement of goods and services through formal written price quotations is not abused;"; and

10.1.3 The accounting officer or chief financial officer must on a monthly basis be notified in writing of all formal written price quotations accepted by an official acting in terms of a sub delegation

### *11. General Conditions*

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

11.1.1 Has furnished the JDA with–

(i) Full name;
(ii) Identification number or company or other registration number; and
(iii) Tax reference number and VAT registration number, if any

11.1.2 Has authorized the JDA to obtain a tax clearance from the South African Revenue Services that the provider's tax matters are in order, or alternatively has furnished the JDA with such tax clearance, the requirement is only applicable to awards in excess of R15, 000.

11.1.3 Has provided the JDA with its Municipal Accounts and no amount is in arrears for more than 90 days.

11.1.4 Is not listed on the National Treasury's database of restricted suppliers.

11.1.5 Has indicated 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;

11.1.6 Is not registered on the National Treasury Supplier database;

(i) 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

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

## *12. Lists of Accredited Prospective Providers*

12.1 The accounting officer must –

12.1.1 keep a list of accredited prospective providers of goods and services that must be used for the procurement requirements of the JDA through formal written price quotations;".

12.1.2 Specify the listing criteria for accredited prospective providers; and

12.1.3 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.

## *13. Panel of Consultants and Contractors*

13.1 The JDA may award contracts to a Panel of service providers for any consultancy services or construction work to be performed through competitive bidding.

13.2 The duration of the contracts with the Panel of service providers may be for a period of 3 years.

13.2.1 Once the Panel of Consultants and contractors has been established,

13.2.2 The service providers on the panel will be arranged in groups depending on the number of service providers on the panel , as and when services are sourced from the panel the Request for Quotations will be issued to the groups on a rotational basis, in line with SOP for the various panels.

13.2.3 The groups will be arranged in numerical order

13.2.4 Selection from the groups will be monitored by the CEO or CFFO as and when RFQ's are issued to ensure transparency and fairness on the rotation process.

13.2.5 Service providers who are terminated or performing poorly may be removed from the panel.

13.2.6 The minimum duration for a request /advert for quotations from a panel will be 7 days

13.2.7 Bidders from the panel are allowed the opportunity to lodge an objection or complaint within 7 days of the decision or action.

13.3 The panel of expert's system is further discussed in the JDA SCM procedure manual

## *14. General Procurement Procedures for Written Quotations*

14.1 All requirements in excess of R30 000 (VAT included) that are to be procured by means of formal written price quotations must be advertised for at least seven days on the website and on an official notice board of the JDA or sourced through the CSD or supplier database and must be awarded based on compliance to specifications and conditions of contract, ability and capability to deliver the goods and services and lowest price;

14.2 Offers received must be evaluated on a comparative basis taking into account unconditional discounts;

14.3 Offers below R30 000 (VAT included) can be sourced through the CSD or supplier database and must be awarded based on compliance to specifications and conditions of contract, ability and capability to deliver the goods and services and lowest price;

14.4 Acceptable offers, which are subject to the preference points system (PPPFA and other regulations), must be awarded to the bidder who scored the highest points; In line with this, awards must be made in accordance with the 80:20 points scoring system.

14.5 The contract document for awards above R30 000 and Purchase orders form awards below R30 000 of the awarded bidder including the documents of the unsuccessful bidders should be kept in a secure place for proper record keeping.

## Section B: Quotation System (R2, 000 – R750, 000)

### *15. Written Quotations*

15.1 Quotations must be obtained from at least three different providers preferably from, but not limited to, providers whose names appear on the list of accredited prospective providers of the JDA, provided that if quotations are obtained from providers who are not listed, such providers must meet the listing criteria as set out by the Accounting Officer in terms of 12 of this policy.

15.2 If it is not possible to obtain at least three quotations, the reasons must be recorded and approved by the chief financial officer or an official designated by the chief financial officer. Such a designated official must within three days of the end of each month report to the chief financial officer on any approvals given during that month by that official in terms of that subparagraph. All approvals signed by the chief financial officer or such delegated official must be submitted to the Accounting officer on a quarterly basis. Refer to the JDA SCM procedural manual for more detailed guidance on deviation approvals.

15.3 The Accounting Officer must record the names of the potential providers requested to provide such quotations with their quoted prices;

15.4 The following applies to quotations obtained for transactions above R30, 000:

15.4.1 Tax matters must be in orderbefore a contract is entered into with a winning supplier

15.5 Awards should be adjudicated on the 80:20 preference points system as detailed in the JDA SCM procedural manual.

## Section C: Competitive bids (>R750, 000)

### *16. Bid Documentation for Competitive Bids*

16.1 The criteria to which bid documentation must comply are summarized in the JDA SCM procedural manual, but must –

16.1.1 Take into account –

(i) The general conditions of contract and any special conditions of contract, if specified;
(ii) Any Treasury guidelines on bid documentation; and
(iii) The requirements of the Construction Industry Development Board, in the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure;

16.1.2 Means specific goals as contemplated in section 2(1)(d) of the PPPFA which may include contracting with persons, or categories of persons historically disadvantaged by unfair discrimination on the basis of race, gender and disability including the implementation of programmes of the Reconstruction and Development Programme. Include the preference points system to be used , and evaluation and adjudication criteria, including any criteria required by other applicable legislation;

16.1.3 Compel bidders to declare any conflict of interest they may have in the transaction for which the bid is submitted;

16.1.4 If the value of the transaction is expected to exceed R10 million (VAT included), require bidders to furnish–

16.1.4.1 Their audited annual financial statements –
- For the past three years; or
- Since their establishment if established during the past three years;

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

16.1.4.3 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;

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

16.1.4.5 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.

16.1.4.6 Must contain at least the information required by the Municipal Bid Documents (MDS's) as updated by National Treasury from time to time.

### *17. Public Invitation for Competitive Bids (Advertisements)*

17.1 Any invitation to prospective providers to submit bids must be by means of a public advertisement in newspapers commonly circulating locally, the website of the JDA or any other appropriate ways.

17.2 The information contained in a public advertisement, must include –

17.2.1 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.

17.2.2 A statement that bids may only be submitted on the bid documentation provided by the JDA; and

17.2.3 Date, time and venue of any proposed site meetings or briefing sessions, if applicable;

17.3 The Accounting Officer may determine a closure date for the submission of bids which is less than the 30 or 14 days requirement, but only if such shorter period can be justified on the grounds of urgency or emergency or any exceptional case where it is impractical or impossible to follow the official procurement process.

17.4 Bids submitted must be sealed.

17.5 Where bids are requested in electronic format, such bids must be supplemented by sealed hard copies.

### *18. Handling, Opening and Recording of Bids*

18.1 Bids–

18.1.1

18.1.2 Must be opened only in public;

18.1.3 Must be opened at the same time and as soon as possible after the period for the submission of bids has expired; and

18.1.4 Bids received after the closing time should not be considered and returned unopened immediately.

18.2 Any bidder or member of the public has the right to request that the names of the bidders who submitted bids in time must be read out and, if practical, also each bidder's total bidding price;

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

18.4 The accounting officer must –

(i) Record in a register all bids received in time;
(ii) Make the register available for public inspection; and
(iii) Publish the entries in the register and the bid results on the website.

### *19. Committee System for Competitive Bids*

19.1 A committee system for competitive bids is hereby established, consisting of the following committees for each procurement or cluster of procurements as the accounting officer may determine:

(i) A bid specification committee;
(ii) A bid evaluation committee; and
(iii) A bid adjudication committee;

19.2 The accounting officer appoints the members of each committee, taking into account section 117 of the Act. In terms of section 117 no councilors/Board Member of any municipality may be a member of any of the bid committees nor attend any such meeting as an observer.

19.3 A neutral or independent observer, appointed by the Accounting Officer, must attend or oversee a committee when this is appropriate for ensuring fairness and promoting transparency.

19.4 All committees must be consistent with regulation 27, 28 and 29 of the regulations; which are covered in detail in the JDA SCM procedural manual.

### *20. Bid Specification Committees*

20.1 A bid specification committee must be composed of at least two officials of the JDA/COJ, which must include an official from the SCM department and the manager

20.2 Responsible for the function involved, and may, when appropriate, include external specialist advisors.

20.3 No person, advisor or corporate entity involved with the bid specification

20.4 committee, or director of such a corporate entity, may bid for any resulting contracts

20.5 Specifications –

20.5.1 Must be drafted in an unbiased manner

20.5.2 Must take account of any accepted standards

20.5.3 Must, where possible, be described in terms of performance required rather than in terms of descriptive characteristics for design;

20.5.4 May not create trade barriers

20.5.5 May not make reference to any particular trade mark, name, patent, design (unless such design was identified by the JDA as the preferred design or is necessary for the completion of a specific project on terms of the projects mission), type, specific origin or producer unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the word “equivalent”;

20.5.6 Must indicate each specific goal for which points may be awarded in terms of the points system as set out in this policy; and

20.5.7 Must be approved by the accounting officer or his/her delegate prior to publication of the invitation for bids. The delegated official may therefore not approve his/her own bid specifications.

The specifications and responsibilities of committee members are more clearly defined in the JDA SCM procedural manual.

## *21. Bid Evaluation Committees*

21.1 A bid evaluation committee must as far as possible be composed of-

21.1.1 Officials from departments requiring the goods or services; an official from another department and

21.1.2 At least one supply chain management practitioner of the JDA.

21.1.3 May include experts in the particular field, e.g. architects for construction contracts. Such experts who are not employees of the JDA may not cast any votes and may not do any functionality scoring on a particular bid.

21.2 A bid evaluation committee must –

21.2.1 Evaluate bids in accordance with –

(i) The specifications for a specific procurement; and

(ii) The points system set out in terms of paragraph 15..

21.2.2 Evaluate each bidder’s ability to execute the contracting terms of the functionality scoring provided for in terms of circular 53 issued by the National Treasury;

21.2.3 Check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not in arrears, and;

21.2.4 Submit to the adjudication committee a report and recommendations regarding the award of the bid or any other related matter.

### *22. Bid Adjudication Committees*

22.1 A bid adjudication committee must consist of at least four senior managers of the JDA which must include –

22.1.1 The chief financial officer or, if the chief financial officer is not available, another manager in the financial office reporting directly to the chief financial officer and designated by the chief financial officer; and

22.1.2 At least one supply chain management practitioner who is an official of the JDA;

22.1.3 Any Senior Managers of the JDA as well as the manager responsible for risk management; and

22.1.4 A technical expert in the relevant field who is an official, if such an expert exists.

22.2 A bid adjudication committee must –

22.2.1 Consider the report and recommendations of the bid evaluation committee; and either –

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

(ii) Make another recommendation to the Accounting Officer how to proceed with the relevant procurement.

22.3 The Accounting Officer must appoint the chairperson of the committee. If the chairperson is absent from a meeting, the members of the committee who are present must elect one of them to preside at the meeting.

22.4 Neither a member of a bid evaluation committee, nor an advisor or person assisting the evaluation committee, may be a member of a bid adjudication committee.

22.5 If the bid adjudication committee decides to award a bid other than the one recommended by the bid evaluation committee, the bid adjudication committee must prior to awarding the bid –

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

(ii) notify the Accounting Officer.

22.6 The accounting officer may –

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

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

22.7 The Accounting Officer must comply with section 114 of the Act within 10 working days by advising the Auditor- General, National Treasury and the Parent Municipality of the reasons for deviating from the recommended tender.

## Section D: Competitive bids – Other matters

### *23. Negotiations with Preferred Bidders*

23.1 The Accounting Officer may negotiate the final terms of a contract with bidders identified through a competitive bidding process as preferred bidders, provided that such negotiation –

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

23.2 Minutes of such negotiations must be kept for record purposes.

### *24. Two-Stage Bidding Process / Pre-Qualification of Bidders*

24.1 A two-stage bidding process is allowed for –

(i) Large complex projects;
(ii) Long term projects with a duration period exceeding three years; or
(iii) Projects where it may be impractical to prepare complete detailed technical specifications;

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

24.3 In the second stage final technical proposals and priced bids should be invited.

### *25. Procurement of Banking Services*

25.1 Procurement of Banking Services are done directly by the parent Municipality.

### *26. Additional Requirements for Procurement of Construction Contracts*

26.1 Procurement for construction contracts must be procured in line with the provisions of the CIDB. Construction procurement is defined as “procurement in the construction industry, including the invitation, award and management of contracts”

26.2 The documents/regulations published that has to be adhered to, as a minimum, in terms of this contract are:

26.2.1 CIDB Code of Conduct for the Parties engaged in Construction Procurement

26.2.2 CIDB Standard for Uniformity in Construction Procurement

26.2.3 CIDB range of tender values for Contractors

26.3 The applicable legislation and the procedural impacts thereof are detailed in the JDA SCM procedure manual.

26.4 Provisional sums for undefined scope

26.4.1 As per the construction industry norms, allocation of provisional sums for undefined scope of works should not exceed 5% and 15% of the overall estimated contract value for professional service providers and contractors respectively

26.4.2 The provisional sum for professionals must be used for the following professional studies and three quotations must be obtained:

- Geotechnical Studies
- Land Surveying
- Road Safety Audits
- Town Planning

In instances where the provisional sum is not sufficient to cover the services the approved contingency can be used to cover the balance through a variation order approved by BAC or Accounting officer in line with the approved thresholds as detailed in paragraph 32.3 of this policy

### *27. Procurement Under Contracts Secured by Other Organs of State*

27.1 The accounting officer may procure goods or services under a contract secured by another organ of state, but only if regulations 32 of the MSCMR is adhered to.

27.2 The provision is disclosed in more detail in the JDA SCM procedure manual.

### *28. Procurement of Goods Necessitating Special Safety Arrangements*

28.1 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.

28.2 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.

### *29. Appointment of Consultants*

29.1 The Accounting Officer may procure consulting services provided that any Treasury guidelines in respect of consulting services are taken into account when such procurements are made.

29.2 Consultancy services must be procured through competitive bids if

29.2.1 The value of the contract exceeds R750 000 (VAT included); or

29.2.2 The duration period of the contract exceeds one year.

29.3 In addition to any requirements prescribed by this policy for competitive bids, bidders must furnish particulars of –

29.3.1 All consultancy services provided to an organ of state in the last five years; and

29.3.2 Any similar consultancy services provided to an organ of state in the last five years.

29.4 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 JDA.

29.5 When the JDA procures consultants it may procure a panel of consultants as defined in paragraph 13 of this policy and as detailed in the JDA SCM procedure manual.

29.6 Services rendered by Tertiary Institutions and Public Entities

(a) JDA may invite written price quotations for services that can only be provided by tertiary institutions from the identified tertiary institutions.

(b) Where the required service can be provided by tertiary institutions, public entities and enterprises from the private sector, JDA must procure the services in line with section 110 of the MFMA.

### *30. Unsolicited Bids*

30.1 In accordance with section 113 of the Act there is no obligation to consider unsolicited bids received outside a normal bidding process.

30.2 The JDA may from time to time enter into agreements with landowners and/or partnerships provided that:

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

30.2.2 The product or service will be exceptionally beneficial to, or have exceptional cost advantages;

30.2.3 The person who made the bid is the sole provider of the product or service; and

30.2.4 The reasons for not going through the normal bidding processes are found to be sound by the accounting officer.

30.3 The provision is disclosed in more detail in the JDA SCM procedure manual.

### *31. Design Competition*

31.1 Where appropriate, the JDA may use a design competition process to contract design professionals as part of the professional team for strategic or iconic projects where design outcomes are important to the project success and impact

31.2 When design competitions are used the following principles should apply:

31.2.1 The advertising of design competitions should be done by inviting proposals from the public;

31.2.2 A two stage adjudication process should be used, with adjudication of concept designs in order to identify a short-list of competitors;

31.2.3 The second phase of adjudication should include clear guidance on the scope and level of detail required in the design competition entries;

31.2.4 A design fee should be paid to all shortlisted competitors who submit compliant designs for the second phase. This is to ensure that smaller design teams are not excluded from the competition because they cannot afford to compete; and

31.2.5 Adjudication criteria must be spelt out clearly in the design competition adverts.

## *32. Extension of Contracts, Variation Orders, Month-to-Month extensions, cessions and penalty waiver*

32.1 Contracts awarded by the JDA may be extended, provided that the Accounting Officer and Bid Adjudication Committee's approval has been obtained.

32.2 Contracts may only be extended in terms of an extension in time or increased in value due to an increase in scope if:

32.2.1 It constitutes a natural continuation of work, that could not have been foreseen when the specification for the contracts were drawn-up; or

32.2.2 It is because of an increase in fees that could not have been foreseen by either the contractor or the JDA;

32.2.3 The accounting Officer can extend a contract on a month to month basis until the next board meeting for noting

32.3 Management of Variations against an original contract

(a) It is recognised that, in exceptional cases, an Accounting Officer of the JDA may deem it necessary to expand or vary orders against the original contract.

(b) The Accounting Officer of the JDA may vary or expand construction related goods, services and/or infrastructure projects by not more than 20% of the original value of the contract. All other goods and/or services may be expanded or varied by not more than 15% of the original value of the contract.

(c) Variation orders of up to R250 000(VAT inclusive) per contract must be approved by Executive Managers

(d) All variations above R250 00 (VAT Inclusive) must be submitted to BAC for approval or recommended to the Accounting Officer for approval.

(i) Variations above up to R10 million (VAT Inclusive) to be approved by BAC

(ii) Variations above R10 million (VAT inclusive) to be approved by Accounting Officer after consideration at BAC

(e) Anything beyond the 20% and 15% thresholds must be reported to the Board of Directors for noting.

(f) Any expansion or variation in excess of the 20% and 15% thresholds must be dealt with in terms of the provisions of section 116(3) of the MFMA which will be regarded as an amendment to the contract. In terms of Section 116(3), the JDA is required to amend the contract only after the following have been addressed:

(i) The reasons for the proposed amendment have been tabled to the board

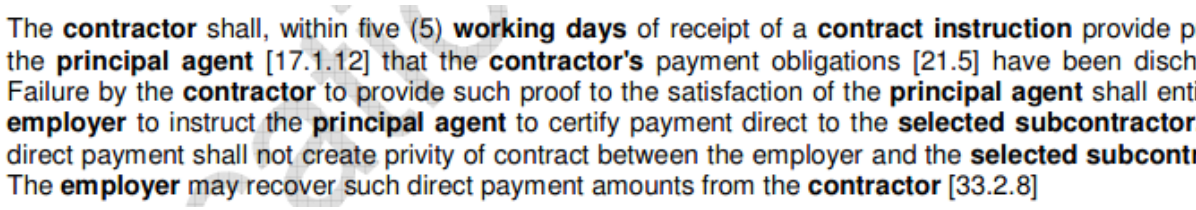
(ii) The local community has been given reasonable notice (Seven days) of the intention to amend the contract or agreement and has been invited to submit representations to the municipal entity.

32.4 The contents of the above paragraph are not applicable to transversal term contracts, facilitated by the Gauteng Provincial Treasury on behalf of the JDA and, specific term contracts. Specific term contracts refer to orders placed as and when commodities are required and at the time of awarding contracts, the required quantities were unknown.

32.5 Cessions

As per the allowance of the construction industry contracts, the JDA may enter into a deed of cession and authority agreement with the main contractor and or consultant, to pay a creditor directly for supply of material and or services provided.

In the event that there is refusal by a Contractor to agree in signing the deed of cession, then the Agent and Employer shall proceed with the deed of cession conclusion as highlighted in the tender document and in line with the form of contract GCC or JBCC. The work by SMME's must be certified by employers agent prior to payment and all supporting documents must be attached.


The **contractor** shall, within five (5) **working days** of receipt of a **contract instruction** provide p
the **principal agent** [17.1.12] that the **contractor's** payment obligations [21.5] have been disch
Failure by the **contractor** to provide such proof to the satisfaction of the **principal agent** shall enti
**employer** to instruct the **principal agent** to certify payment direct to the **selected subcontractor**
direct payment shall not create privity of contract between the employer and the **selected subcontr**
The **employer** may recover such direct payment amounts from the **contractor** [33.2.8]

Above this, it is the condition of this contract that should the contractor fail to pay the QSE/EME's with no valid reason/s, the JDA reserves the right to pay the QSE/EME's directly and deduct same form any amount paid to the contractor.

Cession agreements must be approved/signed by the Chief Executive Officer or his delegated Executive Managers.

The JDA reserve the right to directly pay affected local and nominated subcontractors in instances whereby the main contractor fails to effect payment as per the conditions of the contract between the JDA and the main contractor and recover from the contractor. Payment must be approved by the Chief Executive Officer or his delegated Executive Managers..

In the instance that a contractor fails to pay affected local and nominated subcontractors, and the contractor is in breach of meeting his obligations, the monies paid over by the JDA to affected local and nominated subcontractors, shall be recouped from the contractor's work done payment certificate.

The **contractor** shall, within five (5) **working days** of receipt of a **contract instruction** provide proof to the **principal agent** [17.1.12] that the **contractor's** payment obligations [21.5] have been discharged. Failure by the **contractor** to provide such proof to the satisfaction of the **principal agent** shall entitle the **employer** to instruct the **principal agent** to certify payment direct to the **selected subcontractor.** Such direct payment shall not create privity of contract between the employer and the **selected subcontractor**. The **employer** may recover such direct payment amounts from the **contractor** [33.2.8]

Above this, it is the condition of this contract that should the contractor fail to pay the QSE/EME's with no valid reason/s, the JDA reserves the right to pay the QSE/EME's directly and deduct same form any amount paid to the contractor.

32.6 Penalty Waiver

Penalties deducted due to delayed completion of the project may be waived in instances where the contractor has demonstrated that the cause of the delays were beyond his or her control.

32.7 Extension of Time Claims

The extension of time claims procedures shall be dealt with in accordance with the applicable contractual requirements. And these are

| JBCC | SAICE GCC |
|---|---|
| **Clauses 23.0 and 24.0** | **Clause 10.1** and subsequent clauses and remedies. |
| **Clause 30.0** Dispute does not invalidate the contract | **Clause 10.3**: Dispute does not invalidate the contract |

Where an extension of time claim with or without cost is applicable to a contractor the JDA project Manager must submit the EOT report for approval by the Accounting Officer.

The approval by the Accounting Officer will amend the practical completion date as per the recommendation.

**The waiver of the penalties must be approved by the Accounting Officer.**

## Part 3 – Other Stages of Procurement Process

### *33. System of Demand Management*

33.1 The Accounting Officer must establish and implement an effective system of demand management system in order to ensure that the resources required by the JDA support its operational commitments and its strategic goals outlined in the Strategic/Business Plan.

33.2 The JDA demand management system is detailed in the JDA SCM procedure manual as approved by the Accounting Officer.

### *34. Logistics Management*

34.1 The Accounting Officer must establish and implement an effective system of logistics management that sets procedures for inventory management, asset management, vendor performance management and contract management.

34.2 The JDA logistics management system is detailed in the JDA SCM procedure manual as approved by the Accounting Officer.

### *35. Asset Disposal Management*

35.1 The authority for the disposal of assets rests with the Chief Financial Officer.

35.2 The Asset Disposal Committee is hereby established and must consist of at least:

35.2.1 The Chief Financial Officer
35.2.2 Any official from the procurement department
35.2.3 At least two other senior managers of the JDA

35.3 The Asset Disposal Committee must on a quarterly basis:

35.3.1 Review all assets pending disposal;
35.3.2 Assess the best possible disposal method and;
35.3.3 Make recommendations to the Chief Financial Officer on the disposal methods to be applied;

35.4 Assets may be disposed of by –

35.4.1 Transferring the asset to another organ of state in terms of a provision of the Act enabling the transfer of assets;

35.4.2 Transferring the asset to another organ of state at market related value or, when appropriate, free of charge;
35.4.3 Selling the asset; or
35.4.4 Destroying the asset.

35.5 The Accounting Officer must ensure that –

35.5.1 Immovable property is sold only at market related prices except when the public interest or the plight of the poor demands otherwise;
35.5.2 Movable assets are sold either by way of written price quotations, a competitive bidding process, auction or at market related prices, whichever is the most advantageous;
35.5.3 Firearms are not sold or donated to any person or institution within or outside the Republic unless approved by the National Conventional Arms Control Committee;
35.5.4 Immovable property is let at market related rates except when the public interest or the plight of the poor demands otherwise;
35.5.5 All fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property are annually reviewed;
35.5.6 Where assets are traded in for other assets, the highest possible trade- in price is negotiated; and
35.5.7 In the case of the free disposal of computer equipment, the provincial department of education is first approached to indicate within 30 days whether any of the local schools are interested in the equipment.

## *36. Risk Management*

36.1 The Accounting Officer shall ensure that JDA has and maintains an effective system of risk management for the identification, consideration and avoidance of potential risks in the SCM process and shall be accountable to the Board.

36.2 Aspects of risk management shall be allocated to the CFO, the SCM practitioners, the bid committees risk and compliance function each of which shall ultimately be accountable to the Accounting Officer for the discharge of their responsibilities

36.3 The criteria for the identification, consideration and avoidance of potential risks in the supply chain management system must include –

36.3.1 The identification of risks on a case-by-case basis;
36.3.2 The allocation of risks to the party best suited to manage such risks;

36.3.3 Acceptance of the cost of the risk where the cost of transferring the risk is greater than that of retaining it;

36.3.4 The management of risks in a pro-active manner and the provision of adequate cover for residual risks; and

36.3.5 The assignment of relative risks to the contracting parties through clear and unambiguous contract documentation.

36.4 Risk management is however a continuous and proactive process that relates to all organisational activities at all levels.

36.5 All JDA officials must have a thorough understanding of the risks involved in the activities under their control.

## *37. Commercial Risk In Relation to Procurement Process*

37.1 A risk analysis will be undertaken on the tenderer having the highest ranking / number of points to ascertain if any of the following will not present any unacceptable commercial risk to the JDA in line with the JDA's risk tolerance framework;

a) Unduly high or unduly low tendered rates, significant arithmetical errors and omissions in the tender offer;

b) the tenderer has insufficient financial capability (working capital) to perform the contract;

c) total value and number of contracts awarded to a single contractor/service provider in a particular year.
A negative outcome from the analysis may result in the tender being rejected

37.2 The JDA may only appoint a contractor/supplier /service provider who obtained the highest number of points if the objective criteria in addition to the criteria listed in the invitation to bid is met.

37.2.1 Objective criteria for contractor's

- Working capital requirements, the contractor must have working capital that is in line with the CIDB requirements, this can be any of the following:
- Cash and cash equivalent in the bank
- Short term investments
- Short term Credit facilities from a bank or a registered credit provider on JDA database

- A financial sponsorship to cover liabilities should the contractor be unable to meet its financial obligations. Sponsorship may be provided by:

a). a financial institution or anybody else.

b). a shareholder in the company

If the sponsor is not a financial institution its sponsorship may not exceed 15% of its net asset value.

- Contractors with CIDB grading 2-9, are required to have working capital as follows:

a) Grade 2 - N/A
b) Grade 3 - R100 000
c) Grade 4 - R200 000
d) Grade 5 - R650 000
e) Grade 6 - R1 300 000
f) Grade 7 - R4 000 000
g) Grade 8 - R13 000 000
h) Grade 9 - R40 000 000

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- Undiuly low and unduly high offer will be determined as follows:
  - The Engineers estimate will be used together with the median of the offers received
  - Significantly lower (more than 10%) than professional estimate (QS/Engineer; and
  - Below the average offers received by 10%
  - Significantly higher (more than 15%) than professional estimate (QS/Engineer); and/or
  - Significantly higher than budget allocated
  - Bill of quantities calculation error or aggregation error which is 5% or higher relative to overall offer.
  - Draft Guarantee 10% of offer amount (fixed not variable)

- The number of contracts/projects within a particular financial year or over two financial years in line with the JDA risk tolerance Framework

37.2.2 Objective criteria for contractor's

- 10% or higher costs offered relative to gazetted professional fees, where applicable.
- 10% above the average offers received
- The number of contracts/projects within a particular financial year or over two financial years in line with the JDA risk tolerance Framework

37.3 Rejection/disqualification of bidders

Bidders will be rejected/disqualified for the following:

- the bidder was terminated during the last five (5) years on previous contracts with the JDA or any other organ of state after written notice was given to the bidder
- Poor performance, substandard work, failure to carry out work on projects/projects and written notice was given to the bidder
- an intention to terminate has been issued due failure to complete the works, poor performance and reneging on contractual obligations

Where BEC is unable to determine the working capital, finance must undertake a financial analysis

## *38. Performance Management*

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

38.2 The guiding principles for measuring the success of the supply chain management objectives are the:

(i) preservation of the highest standard of ethical behaviour;

(ii) selection of suppliers through a process that is competitive, fair, transparent and cost effective;

(iii) empowerment of SMMEs and enterprises that comply with the provisions of Broad-Based Black Economic Empowerment and codes of good practice;

(iv) creation of employment and skills development opportunities;

38.3 The following performance monitoring process will be undertaken to determine whether the prescribed SCM processes are being followed and whether the desired objectives are in the process of being achieved.

i. Monitoring of the SCM policy and processes followed
ii. Contractor assessment.
iii. Consultant assessment

38.4 Monitoring the SCM policy and processes followed

a) To effectively measure the achievement of JDA's procurement objectives and targets set
b) Measure performance in terms of achievement of BBBEE and SMME targets;
c) Measure compliance with norms and standards;
d) Identify any breach of contract;
e) Determine cost efficiency of the acquisition process;

38.5 Contractor Assessment

The process for contractor performance assessment is detailed in the JDA SCM procedure manual.

38.6 Consultant assessment

a) Consultants should observe due diligence and prevailing standards in the performance of the assignment

b) The Accounting Officer or delegate should evaluate the performance of consultants appointed in a fair and confidential process.
c) In the case of repeated poor performance, the firm should be notified in writing and provided an opportunity to explain the reasons for poor performance and the remedial action proposed.
d) Consultants should be responsible for the accuracy and suitability of their work.

e) Although JDA supervise and review the consultants' work, no modifications should be made in the final documents prepared by the consultants without mutual agreement.

38.7 Contractor Performance Management Process

When poor performance issues are identified within a project, the conditions of contract must be followed to remedy the poor performance i.e JBCC, GCC, NEC, FEDIC or any applicable contract.

- The principal agent will write to the contractor to remedy in line with the condition of contract,
- JDA to meet with contractor and try to assist,
- If contractor fails to remedy, and principal agent issue intention to terminate to contractor,
- Contractor must be afforded an opportunity to defend the termination.
- If all intervention to assist the contractor has failed and termination is imminent,
- Project Manager must submit intention to terminate signed by executive manager to CEO with reasons for termination,
- CEO may approve the termination, if CEO needs further advice may refer the matter to group legal as stated below
- An independent and COJ run dispute mechanism must be set up as follows:
- Independent dispute resolution mechanism to be chaired by Group Head: Group Legal and deputized by Unit Head: Engineering Centre for Excellence
- CFO and Executive Manager of the business unit whose contract is being proposed for termination to attend proceedings on observer status.
- Chairperson to make final recommendation to the CEO
- The principal agent will state the reasons for the intention to terminate and contractor will forward his reasons for poor performance and or objection to the intention terminate,
- The chair will assess the matter and provide a recommendation,
- The recommendation will then be submitted to the CEO,

### *39. Deviation from, and Ratification of Minor Breaches of Procurement Processes*

39.1 The accounting officer may –

39.1.1 Dispense with the official procurement processes established by this policy and to procure any required goods or services through any convenient process, which may include direct negotiations, but only –

(i) In an emergency;
(ii) If such goods or services are produced or available from a single provider only;
(iii) For the acquisition of special works of art or historical objects where specifications are difficult to compile;
(iv) Acquisition of animals for zoos and/or nature and game reserves; or
(v) In any other exceptional case where it is impractical or impossible to follow the official procurement processes; and

39.1.2 Ratify any minor breaches of the procurement processes by an official or committee acting in terms of delegated powers or duties which are purely of a technical nature.

39.1.3 The accounting officer must record the reasons for any deviations in terms of subparagraph 39.1 of this policy and report them to the next meeting of the Board of Directors and include as a note to the annual financial statements. Subparagraph 39.2 does not apply to the procurement of goods and services contemplated in paragraph 3.2.2 of this policy.

39.2 The process is detailed in the JDA SCM procedure manual.

### *40. Irregular Expenditure or fruitless and wasteful expenditure*

40.1 Any employee who becomes aware of or suspects the occurrence of irregular expenditure must immediately, in writing, report such expenditure to the Accounting Officer or the CFO.

40.2 The Board or his/her delegate must decide on the level of enquiry/investigation to be undertaken to determine whether the expenditure in question is irregular expenditure or not. The results of the enquiry/investigation will determine the appropriate action to be taken regarding the transgression.

40.3 The Board may request condonation or write-off for non-compliance with the MFMA or other legislation respectively from the City Council. Submissions requesting condonation or write-off for non-compliance must contain the following:

(a) detailed motivation as to why the irregular expenditure in question should be considered for condonation;
(b) details of the transgression;
(c) reference to relevant legislation;
(d) reason(s) for deviating from the required legislation or prescripts;
(e) whether the JDA suffered any loss due to the transgression;
(f) in the case of supply chain management transgressions provide reasonableness of price(s) determined in a case where only one price was sourced from one bidder;
(g) financial implications for such a transgression;
(h) in the case of a supply chain management transgression provide contractor(s) who were involved;
(ii) corrective steps taken to prevent any recurrence; and

40.4 The Board of Directors must investigate the recovery of the irregular and fruitless and wasteful expenditure incurred by the JDA. If irrecoverable the Board of Directors must certify that the expenditure is irrecoverable to the Mayor. Where the expenditure is recoverable the Board must decide on the steps to be taken to recover such expenditure. This will be reported in the quarterly report to the Mayor and MPAC. The Board may then request from condonation from Council of the irregular and fruitless and wasteful expenditure.

40.5 If the irregular expenditure is subsequently condoned or written off by the Council, no further action is required by the JDA.

40.6 In instances where condonation for irregular expenditure is not granted by the relevant authority, immediate steps must be taken to recover such expenditure from the relevant person, if he/she is liable in law.

40.7 If there is doubt regarding liability in law referred to in (40.6) above, the accounting officer must consult their in house legal services in this regard

40.8 (1) On discovery of any irregular expenditure or any fruitless and wasteful expenditure, the Board of Directors of the JDA must promptly report, in writing, to the Mayor and Municipal Manager of CoJ and the Auditor General :

a. Particulars of the expenditure; and
b. Any steps that have been taken –
    i. To recover the expenditure; and
    ii. To prevent a recurrence of the expenditure.

(2) The Board of Directors of the JDA must promptly report to the South African Police Service any –

a. Irregular expenditure that may constitute a criminal offence; and
b. Other losses suffered by the JDA which resulted from suspected criminal conduct.

### *41. Combating of Abuse of Supply Chain Management system*

41.1 The JDA's Accounting Officer must–

41.1.1 Take all reasonable steps to prevent abuse of the supply chain management system;

41.1.2 Investigate any allegations against an official or other role player of fraud, corruption, favoritism, unfair or irregular practices or failure to comply with this policy, and when justified –

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

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

41.1.3 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;

41.1.4 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 parent municipality and /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 JDA or any other organ of state after written notice was given to that bidder that performance was unsatisfactory or the contract was terminated;

(iii) Whose tax matters have not been declared to be in order by the South African Revenue Services;

(iv) Who did not complete, in full, the tender offer page

(v) Whose tender document have been completed in pencil;

(vi) Whose tender document has been faxed;

(vii) Whose tender document have been received after the closing time;

(viii) Whose tender document has not been deposited in the tender box at the time of closing;

(ix) Who did not attend a compulsory briefing session

(x) Who failed to complete the rates on the Bill of Quantities

(xi) Who is not registered on the National Treasury's Supplier Database;

41.1.5 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;

40.1.6 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;

(iii) The contracted supplier has been liquidated;

(iv) The contracted supplier is unable to raise a construction guarantee within the required time frame;

41.1.7 Reject the bid of any bidder if that bidder or any of its directors –

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

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

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

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

(v) Has <u>been awarded a number of contracts by the JDA in any one financial year or over two financial years of the JDA as per the JDA's Risk Tolerance Framework and has been assessed as a high risk as per the Risk Tolerance Framework.</u>

41.1.8 Must ensure that any non-performance and/or poor performance is treated in the manner required by the General Conditions of Contract as issued by National Treasury, which process is detailed in the JDA SCM procedure manual.

More measures for combating abuse of SCM system are included in the JDA SCM procedure manual.

## *Part 4 – Miscellaneous Matters*

### *42. Proudly SA Campaign*

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

42.1.1 Firstly – suppliers and businesses within the municipality ;
42.1.2 Secondly – suppliers and businesses within the relevant province;
42.1.3 Thirdly – suppliers and businesses within the Republic.

### *43. Prohibition on Awards to Persons in the Service of the State*

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

43.1.1 Who is in the service of the state;
43.1.2 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
43.1.3 A person who is an advisor or consultant contracted with the JDA.

### *44. Awards to Close Family Members of Persons in the Service of the State*

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

44.1.1 The name of that person;
44.1.2 The capacity in which that person is in the service of the state; and
44.1.3 The amount of the award.

### *45. Prohibition on Awards to Persons whose Tax Matters are not In Order*

45.1 Service providers whose tax matters are not known or have not been declared to be in order by the South African Revenue Services are not eligible to be awarded business by the JDA. The JDA will afford the service provider seven (7) working days to remedy and get their tax matters in order. The bidder must submit written proof from SARS of their tax compliant status or that they have made arrangements with SARS to meet their outstanding obligations. Bidders that fail to provide proof of their tax compliance status within the 7 days will be rejected. Valid Tax Clearance Certificate is a mandatory requirement for all

procurement mechanisms listed in this Policy with the exception of Petty Cash purchases;

45.1.1 It is the service provider's responsibility to provide the JDA with a valid Tax Clearance Certificate or a the tax pin.. It is an offence to deregister for VAT purposes after obtaining business from the JDA, without advising the JDA accordingly. Should the JDA establish that a service provider has deregistered after the contract award and is claiming VAT, the JDA shall be entitled to summarily cancel the contract, prohibit the offender from doing future business with the JDA and/or lay criminal charges against the offender.

### *46. Ethical Standards*

46.1 A code of ethical standards as set out in the "National Treasury's code of conduct for supply chain management practitioners and other role players involved in supply chain management" is hereby established for officials and other role players in the supply chain management system of the JDA in order to promote –

46.1.1 Mutual trust and respect; and

46.1.2 An environment where business can be conducted with integrity and in a fair and reasonable manner.

46.1.3 A breach of the code of ethics must be dealt with as follows -

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

46.1.5 In the case a role player who is not an employee, through other appropriate means in recognition of the severity of the breach;

46.1.6 In all cases, financial misconduct must be dealt with in terms of chapter 15 of the Act as amended.

### *47. Inducements, Rewards, Gifts and Favours to Municipal Entities, Officials and Other Role Players*

47.1 No person who is a provider or prospective provider of goods or services, or a recipient or prospective recipient of goods disposed or to be disposed

of may either directly or through a representative or intermediary promise, offer or grant:

47.1.1 Any inducement or reward to the JDA for or in connection with the award of a contract; or

47.1.2 Any reward, gift, favour or hospitality to –

- Any JDA official; or
- Any other role player involved in the implementation of this policy.

47.2 The Accounting Officer must promptly report any alleged contravention of subparagraph 45.1 to the National Treasury for considering whether the offending person, and any representative or intermediary through which such person is alleged to have acted, should be listed in the National Treasury's database of persons prohibited from doing business with the public sector.

47.3 Subparagraph 45.1 does not apply to sponsorship less than R 350 in value.

### *48. Sponsorships*

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

48.1.1 A provider or prospective provider of goods or services; or

48.1.2 A recipient or prospective recipient of goods disposed or to be disposed.

### *49. Objections and Complaints*

49.1 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 after receiving a written correspondence or the award notification on the JDA website,

49.2 A written objection or complaint against the decision or action. Detailing the following:

a) The tender/bid or the quotation reference number;
b) The part of the JDA Policy, Regulations or Act that has been violated;
c) The details of the violation;
d) Relief sought:

49.3 Provided that no person aggrieved by any such decisions or actions shall be entitled to lodge such complaint, objection or query after expiry of the period of 14 days, unless the Accounting Officer has on good cause shown, condoned the late lodging thereof;

### *50. Resolution of Disputes, Objections, Complaints and queries*

50.1 The accounting officer must appoint an independent and impartial person, not directly involved in the supply chain management processes –

50.1.1 To assist in the resolution of disputes between the JDA and other persons

50.1.2 To deal with objections, complaints or queries regarding any such decisions or actions or any matters arising from such contract.

50.1.3 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.

50.2 The person appointed must –

50.2.1 Strive to resolve promptly all disputes, objections, complaints or queries received; and

50.2.2 Submit monthly reports to the Accounting Officer on all disputes, objections, complaints or queries received, attended to or resolved.

50.2.3 A dispute, objection, complaint or query may be referred to the Accounting Officer, who may in turn refer the case to the Board and/or Parent Municipality. If the dispute is not settled the Accounting Officer may refer the matter to the relevant provincial treasury if –

50.2.4 The dispute, objection, complaint or query is not resolved within 60 days; or

50.2.5 No response is forthcoming within 60 days.

50.3 If the parent municipality does not or cannot resolve the matter, the dispute, objection, complaint or query may be referred to the National Treasury for resolution.

50.4 This paragraph must not be read as affecting a person's rights to approach the Public Protector or a court at any time.

50.5 All complaints must be reported to the Accounting Officer on a quarterly basis.

### *51. Contracts Providing for Compensation Based on Turnover*

51.1 If a service provider acts on behalf of a JDA 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 JDA must stipulate –

51.1.1 A cap on the compensation payable to the service provider; and

51.1.2 That such compensation must be performance based.

### *52. Handling Proprietary Information*

52.1 All information designed and prepared for the JDA is deemed as proprietary. No such information may be distributed, modified or customized for third parties without written permission;

52.2 All information pertaining to service providers shall be treated confidential;

52.3 In appropriate instances, the JDA may require security clearance and confidentiality agreements to be entered into with service providers;

### *53. Information to be placed on the website of the JDA*

53.1 The following information must be published on the JDA website as and when required:

53.1.1 The Accounting Officer or delegate must publish;

i. the entries in the bid register within 10 days after opening of tenders;
ii. the bid results after award of tenders;
iii. Any requirements in excess of R30 000(VAT included) and procured by means of formal written quotations;
iv. Any invitation to prospective providers to submit bids

### *54. Penalties for Abuse of this Policy*

54.1 No abuse or contravention of this Policy shall be tolerated. Any abuse or contravention of this Policy shall be brought to the attention of the Accounting Officer for his further consideration;

54.2 Any official who abuses or contravenes this Policy shall be dealt with in terms of clause 51.1 above;

54.3 Service providers and their directors/representatives who have been found guilty of abusing this Policy will be barred/suspended from doing business with the JDA and National Treasury will be informed accordingly;

54.4 The JDA reserves the right to criminally prosecute any person found to have contravened or abused this Policy;

54.5 The JDA reserves the right to cancel or not to award business to service providers found to have:

(a) unfairly influenced the process of award and have been found guilty of improper conduct;
(b) been convicted for fraud or corruption during the past 5 years;
(c) willfully neglected, reneged on or failed to comply and deliver on any government, municipal or other public sector contract during the past five years;or
(d) been listed in the Register for Bid Defaulters In terms of section 29 of the Prevention and Combating of Corrupt Activities Act 12 of 2004;
All officials are expected to assist the JDA in fighting corruption and to this extent are encouraged to report all suspicious acts in terms of the JDA's Anticorruption Policy;

## Part 5 – Preferential Procurement

### 55 Planning and Stipulation of preference point system to be utilised

#### 55.1 Categories of Specific Goals for JDA

The categories of preferential goals as contained in the relevant legislation is hereby listed below and JDA will be at liberty to apply specific goals in any combination format depending on preference targets and availability of suppliers. Both specific goal 1 and goal 2 must be included in the Request for Quotations and Tenders.

#### 55.1.1 Specific Goal 1 : HDI

A maximum of 10 points from specific goal 1 must be allocated when applying the 80/20 Preference Point System or 5 points when using the 90/10 Preference Points System. Bidder may score the points based on company ownership. The tender/RFQ must be advertised with a specific tendering preferential procurement requirement in order for the bidder to claim 10 or 5 points for specific goal 1, the tenderer must be 51% owned or more by the following designated groups:

(a) Black People.
(b) Women.
(c) Black Youth.
(d) Black People with Disabilities.
(e) Black People who are Military Veterans.
(f) Cooperative which is at least 51% owned by Black People.

Table below provides for the guide on the allocation and verification of specific points under goal 1:

| SPECIFIC GOAL 1: HDI | MEANS OF VERIFICATION | 80/20 | 90/10 |
|---|---|---|---|
| **Maximum points:** | | **10** | **5** |
| Business owned by 51% or more - **Black People** | CSD, Valid BBBEE Certificate / Affidavit Sworn under oath, ID copy of owner/s of the business and Shareholder's certificate. | 5 | 2 |
| Business owned by 51% or more — **Women** | CSD, ID copy of owner/s of the business and Shareholder's certificate. | 10 | 3 |
| Business owned by 51% or more — **Black Youth** | CSD, Valid BBBEE Certificate / Affidavit Sworn under oath, ID copy of owner/s of the business and Shareholder's certificate. | 10 | 3 |
| Business owned by 51% or more - **Black People with Disabilities** | CSD, ID copy of owner/s of the business, and Shareholder's certificate. | 2 | 1 |
| Business owned by 51% or more - **Black People who are Military Veterans** | CSD, registration with military veteran's database (stamped printout from military veterans' office showing the principal member with the ID number will be required), and a valid BBBEE Certificate / affidavit Sworn under oath. | 2 | 1 |
| Cooperative which is at least 51% owned by Black People | CSD, Valid BBBEE Certificate / Affidavit Sworn under oath, ID copy of owner/s of the business and CIPC registration document. | 5 | 1 |

### 55.1.2 Specific Goal 2 : Promotion of Local Economy

A maximum of 10 points from specific goal 2 must be allocated when applying the 80/20 Preference Point System or 5 points when using the 90/10 Preference Points System. These Specific Goals are regarded as critical in contributing towards the economic development and growth in Gauteng Province. The tender/RFQ must be advertised with a specific tendering preferential procurement requirement in order for the bidder to claim 10/5 points for specific goals. Therefore, specific goal 2 points may be allocated for the following RDP:

a. Promotion of SMMEs (An EME or QSE).
b. The promotion of enterprises located within the City of Johannesburg Metropolitan Municipality.
c. Promotion of enterprises located in a specific region within the City of Johannesburg Metropolitan Municipality for work to be done or services to be rendered in that region.
d. The promotion of enterprises located in Townships.
e. The upliftment of communities through, but not limited to, housing, transport, schools,

infrastructure donations, and charity organisations.

f. Subcontracting to business owned by designated groups (up to 30%).

Table below provides for the guide on the allocation and verification of specific points under goal 2:

| **SPECIFIC GOAL 2: PROMOTION OF LOCAL ECONOMY** | **MEANS OF VERIFICATION** | **80/20** | **90/10** |
|---|---|---|---|
| **Maximum points:** | | **10** | **5** |
| SMMEs (An EME or QSE). | CSD and BBBEE Certificate / Affidavit Sworn under oath. | 5 | 1 |
| Enterprises located within the City of Johannesburg Metropolitan Municipality. | CSD and proof of municipal account. | 10 | 5 |
| Enterprises located in a specific region within the City of Johannesburg Metropolitan Municipality for work to be done or services to be rendered in that region. | CSD and proof of municipal account / letter from the Ward Council confirming the business address. | 5 | 5 |
| Enterprises located in Townships. | CSD and proof of municipal account / letter from the Ward Council confirming the business address. | 4 | 1 |
| Upliftment of communities through, but not limited to, housing, transport, schools, | CSIR policy, list of organisations assisted in the current financial | 4 | 3 |
| infrastructure donations, and charity organisations. | year and reference/acceptance letters from those organisations. | | |
| Subcontracting to business owned by designated groups (up to 30%). | Draft subcontracting agreement to the designated groups, and | 5 | 5 |

### 55.1.2 Specific Goals : Women, Youth and People with Disability

To achieve the participation of disadvantaged groups such as women owned companies, people with disabilities and youth the service providers with such directorship will be considered from time to time.

**The accounting officer may from time to time identify projects where specific goals will be strictly directed to Women, Youth and People with Disabilities**

## 56 Local Production and Content / Proudly South African Campaign

The JDA must, in the case of designated sectors, and in compliance with the requirements as published from time to time by the Department of Trade, Industry and Competition, advertise such tenders with a specific bidding condition that only locally produced goods, services and infrastructure or locally manufactured goods with a stipulated minimum threshold for local production and content will be considered.

All bids issued where local production and content is a criterion, must be measurable and audited and must meet fully the requirements of the South African Bureau of Standards Technical Specification SATS1286:2017 — Local goods, services and works — Measurement and verification of local content.

The following mechanisms will be used to evaluate tenders, and should be submitted with the proposal documentation at the closing date and time of the bid to substantiate the declaration made in terms of the local production and content:

- Annexure, C, D and E.
- Completed and signed MBD 6.2 form.

The JDA commits to only conduct business with service providers that comply with the Department of Trade, Industry and Competition requirement for local production and content.

56.1 The Senior Manager Supply Chain Management shall, on behalf of the JDA, submit to the Department of Trade and Industry all bids with a stipulated minimum threshold on local content. The Proudly South African Campaign shall be fully supported and will as far as practical seek to award business to service providers with high local content in their products and services.

56.2 When a bid specification committee compiles the technical specifications for a particular requirement, the technical specifications must consider the requirements of the Preferential Procurement Regulations, 2022, in relation to the procurement of goods and services that have been designated for local production and content.

57 In accordance with the Preferential Procurement Regulations, 2022, to the extent that price points awarded for the specific goal of the tender becomes the basis for preference for one bidder over the other shall not apply when appointing bidders onto a panel of service providers. Preferential Points system shall apply when a service provider appointed onto the panel is requested to submit quotations. In the case where a fixed or standardised rates are agreed upon by all members of the Panel no further preferential elimination shall apply and service providers shall be utilised on a rotational basis.

## 58 Evaluation of bidders on functionality

58.1 All bids that have a functionality aspect must adhere to the following: -

58.1.1 The invitation to bid must indicate that the bid will be evaluated on functionality.

58.1.2 Bid invitation should clearly stipulate that the bid will be evaluated on functionality in order to give prospective bidders insight to the evaluation criteria and an understanding that the bidder will be required to demonstrate certain level of functional competence in order to compete effectively for the requirement for which a bid has been invited.

58.1.3 The bid document must indicate the evaluation criteria for measuring functionality. All the functional elements that will form part of the evaluation should be specified. Such elements should be quantifiable and measurable and clear guidelines in terms of how such are going to be evaluated should be given in order to ensure that the evaluation panel has a common understanding on how to evaluate and score bidders on functionality.

58.1.4 The bid document must indicate the weight for each criterion. Each functionality element must be allocated a weight and such must be in accordance with the significance of that element in relation to the totality of the functionality aspect. In essence, each element must be allocated a weight that demonstrates its worth relative to other elements that are going to be evaluated.

58.1.5 The applicable values as well as the minimum threshold for functionality. The range of values that are going to be utilized in the computation of the scores must be stipulated upfront and no deviations should be allowed once such has been decided even though such a deviation might not affect the final outcome.

58.1.6 The minimum participation threshold that a bidder must obtain for functionality in order to be considered for further evaluation must be outlined in the bid document and all bidders who do not meet the stipulated threshold must be disqualified. Scores for functionality must be expressed to two decimal places.

58.2 All bids that do not have functionality element shall be evaluated and adjudicated on a straight 90/10 and 80/20 preference point system respectively, where 90 or 80 points will be for price and the 10 or 20 points will be awarded for the specific goal of the tender in accordance with the Preferential Procurement Regulations, 2022.

58.3 The assessment of functionality must first be done in terms of the evaluation criteria and the minimum threshold stipulated in the bid invitation. In other words, bids must first be evaluated and scored on the functionality elements.

58.4 Only those bidders that meet the minimum threshold shall be considered for the subsequent stages of the evaluation process and all those who did not meet the minimum threshold shall be disqualified and not considered further.

58.5 The outcome of the evaluation of functionality no longer has a bearing on the subsequent stages of the evaluation process for all those bidders that have met the set minimum threshold.

## 59 The 80/20 and 90/10 preference point system for the acquisition of goods and/or services

The formulae for the 80/20 and 90/10 preference points system are as follows:

(a) the price in respect of bids (including quotations) with an estimated Rand value of greater than R30 000 and up to a Rand value of R50 000 000 (all applicable taxes included):

(b) the price in respect of bids (including price quotations) with an estimated Rand value of greater than R50 000 000 (all applicable taxes included):

Where:

$$Ps = 80\ [1 – (Pt – Pmin)]$$

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

Where:

Ps = Points scored for comparative price of the bid under consideration;

Pt = Comparative price the bid under consideration; and

Pmin = Comparative price of the lowest responsive bid.

## 60 Award of contracts to bidders not scoring the highest number of points

60.1 Tender(s) received need to be evaluated in terms of the preference point system first. Once the highest points scorer has been ascertained only then the targeted procurement will be applied. Targeted Procurement will justify the award of tender to a tenderer with lower preference points score.

60.2 Targeted Procurement Criteria will be applied, where feasible, on a tender-by-tender basis.

60.3 In an event where a tender with the highest number of preference points score does not meet the targeted procurement criteria set for the specific tender, then the next responsive tender with a lower preference points score and who meets targeted procurement criteria must be considered for the award of a tender.

60.4 If the tendered price of the next responsive tender who meets the targeted procurement criteria is too high than that of a tender with a highest number of preference points score, the organ of state must ensure that a cost effective price is derived through employing one of the following options through a negotiation process with the preferred bidder:

(a) That the next responsive tender who meets targeted procurement criteria accepts the lowest responsive price of a tender that did not meet the targeted procurement criteria

OR

(b) That the next responsive tender accepts a tender price that is market related as was determined by the JDA through the budgeting process of the tender itself.

60.5 Where negotiations fail the JDA reserves the right to cancel the tender or consider the highest scoring bid in terms of preference points scoring.

## 61 SMME Empowerment

61.1 The JDA may take a strategic position to empower designated groups through the following measures: -

61.1.1 Obligating large contractors to engage small businesses in the performance of their contracts;

61.1.2 Requiring joint ventures / consortium formation between large business and small businesses; or

61.1.3 Obligating main contractors or service providers to engage targeted enterprises in the performance of their contracts incorporating resource specifications.

61.2 Sub-contracting to SMME's and designated groups shall be an effective mechanism to achieve the JDA's and the City's transformation goals. Sub-contracting shall be a minimum of 30% of the contract for construction contracts and 15% for consultants if applicable, or as stated in the tender specification.

## 62 Declarations

62.1 The Risk and SCM department must keep an up to date gift register and record of all declarations made by the employees with regards to:-

(a) Business interest held by the employees;
(b) Business interest held by the family members;
(c) Interest in a business transaction where conflict of interest exist.

62.2 The Accounting officer must keep record of all declarations for reporting to the Board.

## *63 Commencement*

This policy takes effect on approval by the JDA Board.

## ANNEXURE A

### JOHANNESBURG DEVELOPMENT AGENCY

***Code of Conduct for Supply Chain Management Practitioners and Other Role Players***

*In accordance with regulation 46(4) and 46(5) of the Local Government Municipal Finance Management Act, 2003: Municipal Supply Chain Management Regulations, the supply chain management policy of a municipality or municipal entity is required take into account the National Treasury's code of conduct for supply chain management practitioners and other role players. Alternatively a municipality or municipal entity may adopt the National Treasury code of conduct. When adopted, such code of conduct becomes binding on all officials and other role players involved in the implementation of the supply chain management policy of the municipality or municipal entity.*

The **purpose** of this Code of Conduct is to promote mutual trust and respect and an environment where business can be conducted with integrity and in a fair and reasonable manner.

### General Principles

The JDA commits itself to a policy of fair dealing and integrity in the conducting of its business. Officials and other role players involved in supply chain management (SCM) are in a position of trust, implying a duty to act in the public interest. Officials and other role players should not perform their duties to unlawfully gain any form of compensation, payment or gratuities from any person, or provider/contractor for themselves, their family or their friends.

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

Officials and other role players involved in SCM should be fair and impartial in the performance of their functions. They should at no time afford any undue preferential treatment to any group or individual or unfairly discriminate against any group or individual. They should not abuse the power and authority vested in them.

### Conflict of interest

Any official or other role player of the JDA –

(i) must treat all providers and potential providers equitably;

(ii) may not use his or her position for private gain or to improperly benefit another person;

(iii) may not accept from current and potential providers any reward, gift, favour, hospitality or other benefit directly or indirectly, including to any close family member, partner or associate of that person;

(iv) must declare to the Accounting Officer details of any private or business interest which that person, or any close family member, partner or associate, may have in any proposed procurement or disposal process, or in any award of a contract by the JDA;

(v) 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;

(vi) must declare any business, commercial and financial interests or activities undertaken for financial gain that may raise a possible conflict of interest;

(vii) should not place him/herself under any financial or other obligation to outside individuals or organizations that might seek to influence them in the performance of their official duties; and

(viii) should not take improper advantage of their previous office after leaving their official position. “No javelin throwing” nor setting oneself up in anticipation for the new employment

**Accountability**

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

Practitioners should use public property scrupulously.

Only Accounting Officers or their delegates have the authority to commit for the procurement of goods and / or services.

All transactions conducted by a practitioner should be recorded and accounted for in an appropriate accounting system. Practitioners should not make any false or misleading entries into such a system for any reason whatsoever.

Practitioners must assist the Accounting Officer in combating fraud, corruption, favouritism and unfair and irregular practices in the supply chain management system.
Practitioners 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 the policy on inducements, rewards, gifts and favours to municipalities or municipal entities, officials or other role players; and
(iii) Any alleged breach of this code of conduct.

Any declarations made must be recorded in a register which the Accounting Officer must keep for this purpose. Any declarations made by the Accounting Officer must be made to the Board of Directors who must ensure that such declaration is recorded in the register.

**Openness**

Practitioners should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only if it is in the public interest to do so.

**Confidentiality**

Any information that is the property of the JDA or its providers should be protected at all times. No information regarding any bid / contract / bidder / contractor may be revealed if such an action will infringe on the relevant bidder's / contractor's personal rights.

Matters of a confidential nature in the possession of officials and other role players involved in SCM should be kept confidential unless legislation, the

performance of duty or the provisions of law requires otherwise. Such restrictions also apply to officials and other role players involved in SCM after separation from service.

**Bid Specification / Evaluation / Adjudication Committees**

All officials should implement supply chain management on behalf of the JDA in an honest, fair, impartial, transparent, cost-effective and accountable manner.

All members / officials who participate in the adjudication process should be familiar with and adhere to the prescribed legislation, directives and procedures in respect of supply chain management in order to perform effectively and efficiently.

All members / officials who participate in the adjudication process should maintain confidentiality of all discussions and should sign a declaration of confidentiality and partiality. All officials should be required to declare their financial interest annually.

No person should-

(i) Interfere with the supply chain management system of the JDA; or
(ii) Amend or tamper with any price quotation / bid after its submission.

**Combative Practices**

Combative practices are unethical and illegal and should be avoided at all cost. They include but are not limited to:

(i) Suggestions to fictitious lower quotations;
(ii) Reference to non-existent competition;
(iii) Exploiting errors in price quotations / bids;
(v) Soliciting price quotations / bids from bidders / contractors whose names appear on the Register for Tender Defaulters.

**ANNEXURE B**

## CODE OF ETHICAL CONDUCT FOR SUPPLY CHAIN MANAGEMENT PRACTITIONERS AND OTHER ROLE PLAYERS

### 1. PURPOSE

1.1 The purpose of this Code of Conduct is to ensure that all business transactions take place in an environment of honesty, integrity, fair competition and respect for South African Laws. This Code outlines the JDA's expectations from all its employees and service providers who participate, directly or indirectly, in the Supply Chain Management activities. The main aim is 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.

1.2 Failure to adhere to this Code shall not be tolerated and shall be punishable by the JDA.

### 2. GENERAL PRINCIPLES

2.1 The JDA commits itself to a policy of fair dealing and integrity in the conducting of its business. Employees and other role players involved in Supply Chain Management (SCM) are in a position of trust, implying a duty to act in the public interest. Employees and other role players should not perform their duties to unlawfully gain any form of compensation, payment or gratuities from any person, or provider/contractor for themselves, their family or their friends.

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

2.3 Employees and other role players involved in SCM should be fair and impartial in the performance of their functions. They should at no time afford any undue preferential treatment to any group or individual or unfairly discriminate against any group or individual. They should not abuse the power and authority vested in them.

## 3. EMPLOYEE ETHICAL CONDUCT

3.1 An employee or other role player involved with Supply Chain Management:-

(i) must treat all providers and potential providers equitably;

(ii) may not use his or her position for private gain or to improperly benefit another person;

(iii) must not interfere with Supply Chain Management processes and system in order to influence the outcome of an award by tampering with any price quotations and bids;

(iv) must keep all information, including service providers information, as confidential. Only the duly authorized official will communicate the outcome of the bidding process;

(v) must not be soliciting price quotations / bids from bidders / contractors whose names appear on the Register for Tender Defaulters;

(vi) must not exploit errors in price quotations / bids;

(vii) 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.

(viii) must declare to the JDA's Chief Executive Officer details of any reward, gift, favour, hospitality or other benefit promised, offered or granted to that person or to any close family member, partner or associate of that person and record them on the declaration register;

(ix) must declare to the Chief Executive Officer details of any private or business interest which that person, or any close family member, partner or associate, may have in any proposed procurement or disposal process, or in any award of a contract by the JDA ;

(x) 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;

(xi) must declare any business, commercial and financial interests or activities undertaken for financial gain that may raise a possible conflict of interest;

(xii) should not place him/herself under any financial or other obligation to outside individuals or organizations that might seek to influence them in the performance of their official duties;

(xiii) should not take improper advantage of their previous office after leaving their official position; and

(xiv) Employees must report to the JDA's Chief Executive Officer any alleged irregular conduct in the Supply Chain Management system which that person may become aware of, including:-

(a) any alleged fraud, corruption, favouritism or unfair conduct;

(b) any alleged contravention of the policy on inducements, rewards, gifts and favours to the JDA's Chief Executive Officer, employees or other role players; and

(c) any alleged breach of this code of conduct.

3.2 The JDA is committed to the highest standard of integrity and any official transgressing this code will be dealt with in accordance with the JDA's Disciplinary code of conduct.

## 4. RECORD KEEPING

4.1 Every Head of Department must keep an up to date gift register and record of all declarations made by the employees with regards to:-

(a) Business interest held by the employees;

(b) Business interest held by the family members;

(c) Interest in a business transaction where conflict of interest exist.

4.2 The JDA Chief Executive Officer must keep record of all declarations.

## 5. SERVICE PROVIDERS ETHICAL CONDUCT

5.1 Service providers are expected to assist the JDA in enforcing good ethical conduct from its employees and:–

(a) must not induce or reward the employees for contract awarded or to be awarded;

(b) must not put undue pressure on employees;

(c) must not assist or offer financial relief to employees in financial difficulties;

(d) must not request from employees information about the JDA's operations or competitors information; and

(e) must not offer favours or hospitality to employees of the JDA ..

5.2 Service providers are expected to comply with this Policy fully and failure to do so will lead to barring or black listing from doing business with the JDA. The names of service providers defaulting will be submitted to National Treasury for black listing.

a world class African city

# REQUEST FOR GOODS AND SERVICES

# REQUISITION FORM

Requesting Department:

Date of Request:

Available Budget: 23/24:
24/25:
25/26:

**Budget Source Description:**

**Budget Verified By:**

_____ Date: _____
Name and Surname

_____
Signature

**Procurement process:**

1. RFQ 3 Quotations (less than R30 000) from CSD database OR ☐
2. RFQ advertised on website for 7 days (up to R750 000) or quotations sourced from database OR ☐
3. RFQ from Panel for period of 7 days (Professionals) OR ☐
4. RFQ from Panel for period of 14 days (Contractor's) OR ☐
5. Public Tender ☐

| Item | Description of work (detailed specification, including quantities and drawings must be attached) | Qty | Compulsory briefing session (Y/N) | Services commencement date |
|---|---|---|---|---|
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |

**USER DEPARTMENT DETAILS**

Name of Manager**:**

Designation:

Telephone Number**:**

_____
Signature

**RECOMMEDNATION: Head of Department**

_____ Date: _____
Name and Surname

_____
Signature

**GOODS AND SERVICES IN SCM ACQUIDITION PLAN: Yes / No**

_____ Date: _____
Name and Surname

_____
Signature

**APPROVAL: Chief Financial Officer**

_____ Date: _____
Name and Surname

_____
Signature