

SUPPLY CHAIN MANAGEMENT POLICY

Department of Higher Education and Training

*Supply Chain Management
Recommended Policy for Technical and Vocational Education and Training (TVET) Colleges*



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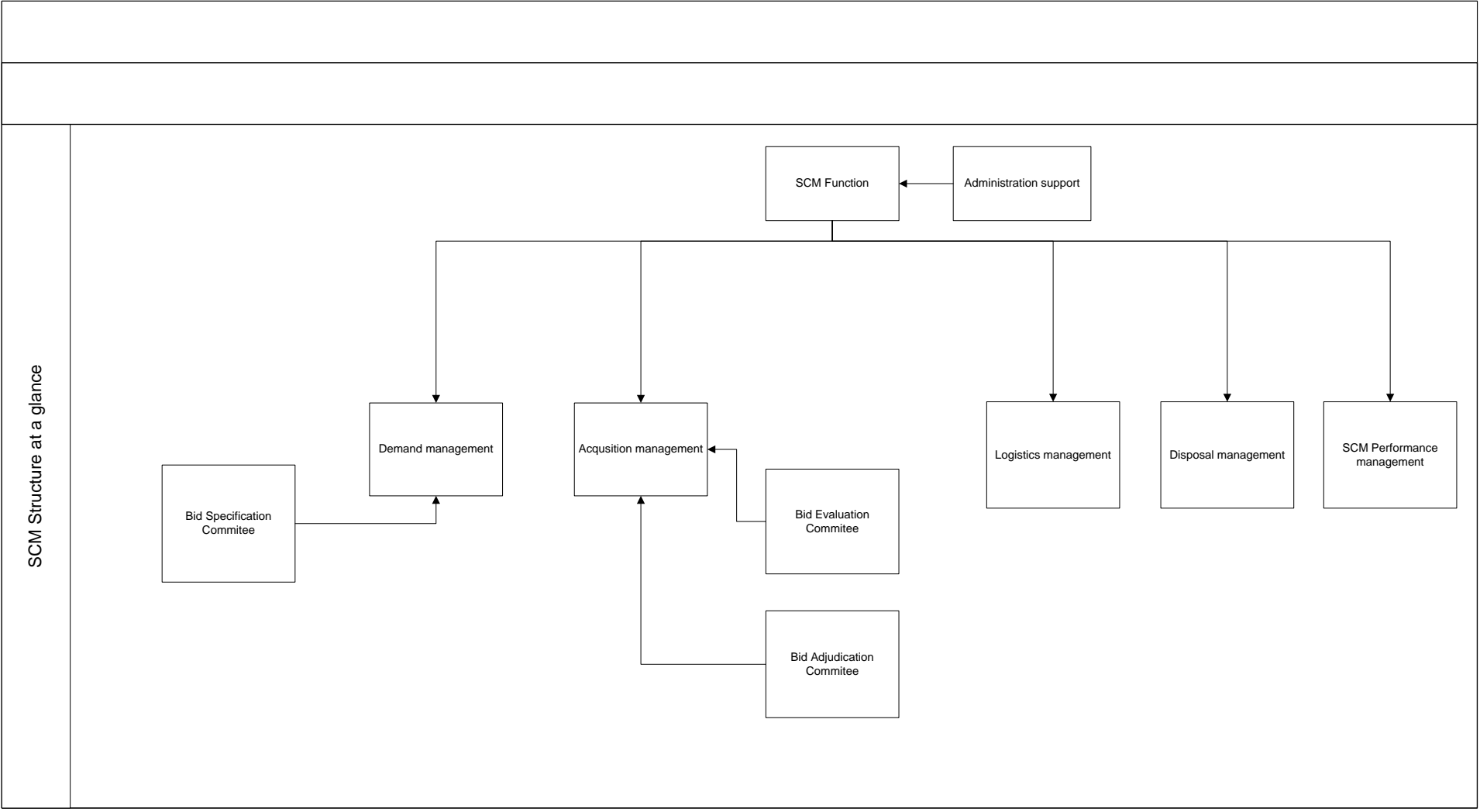
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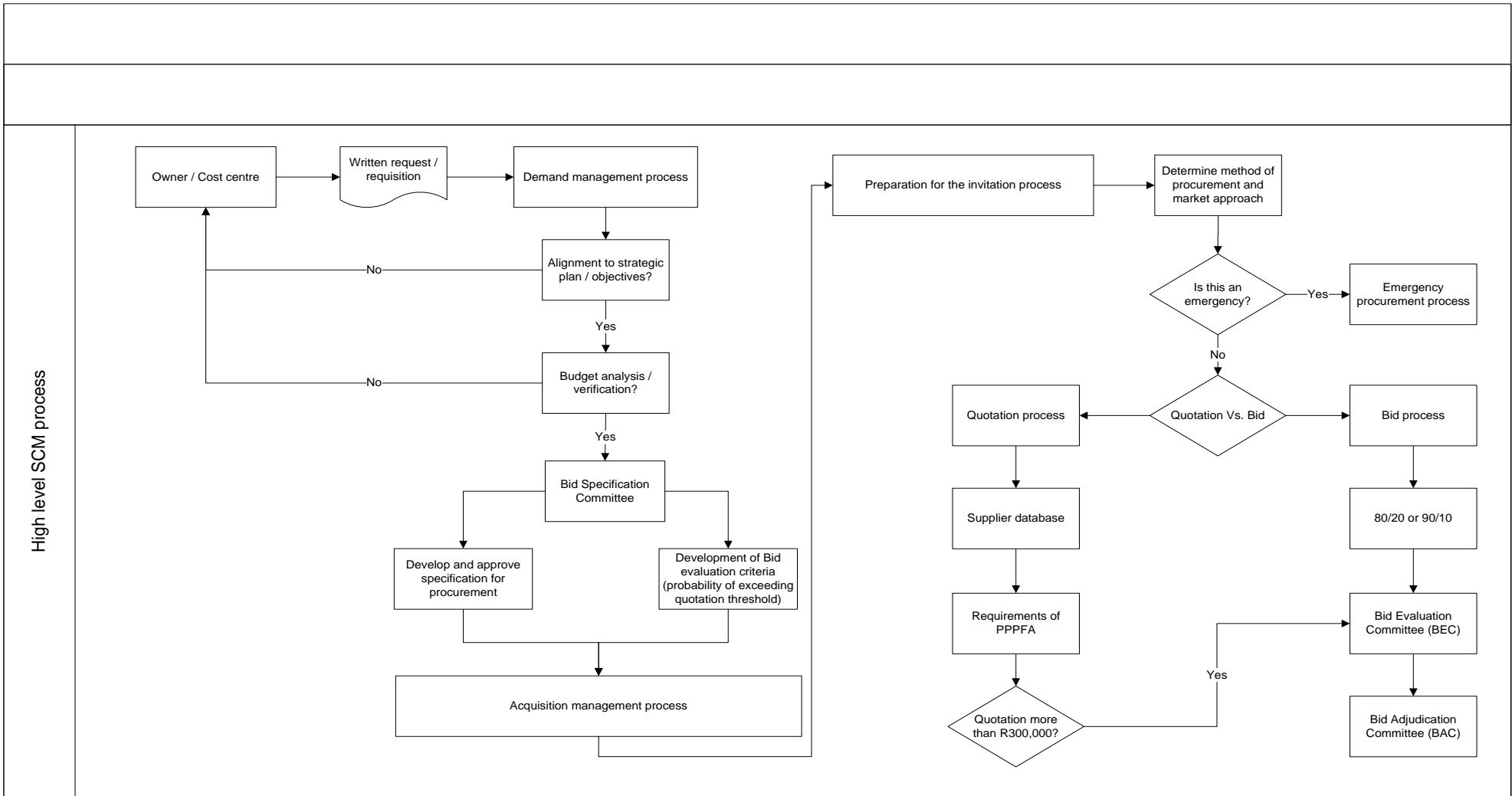
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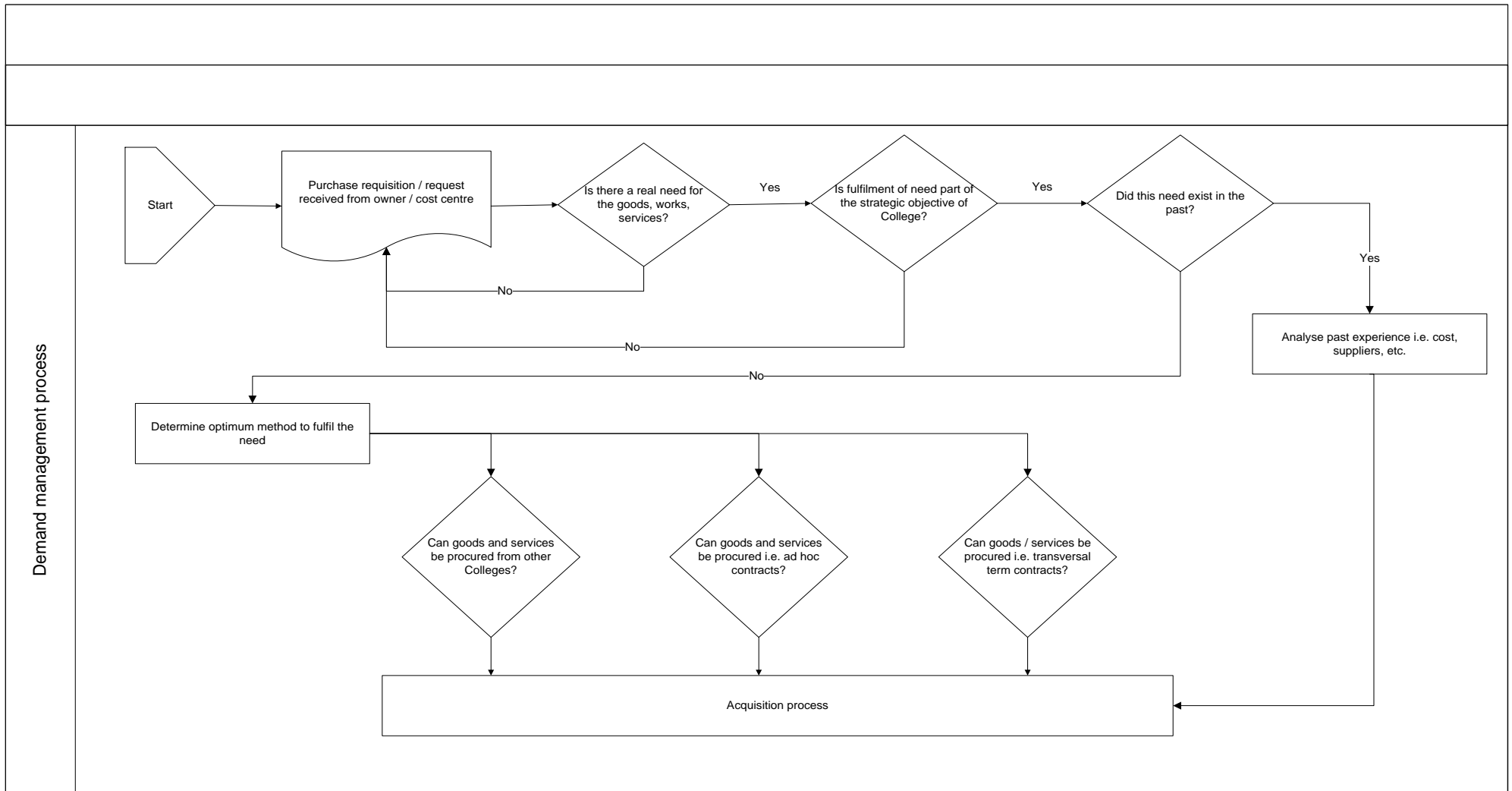
SCM Structure at a glance



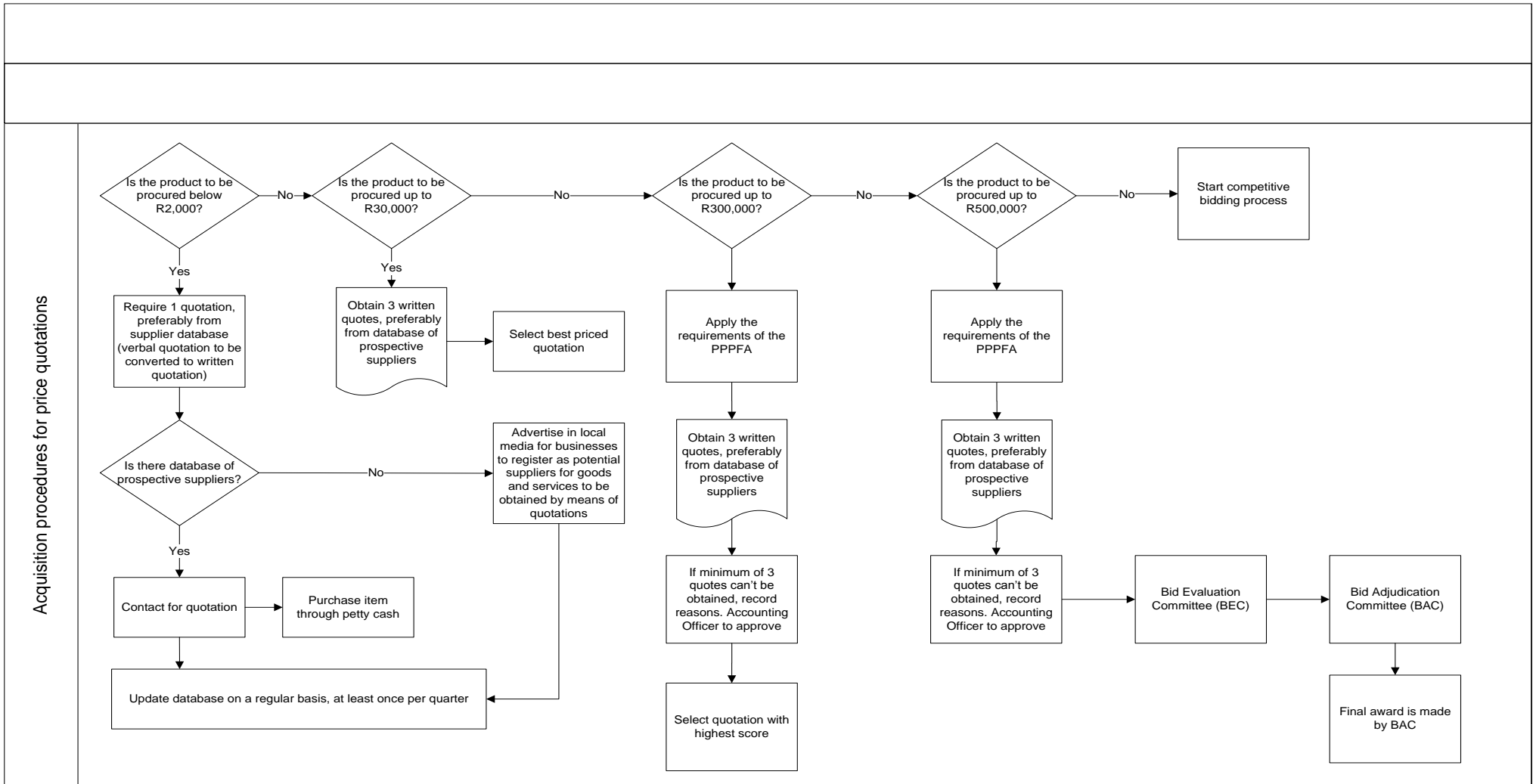
High level SCM process



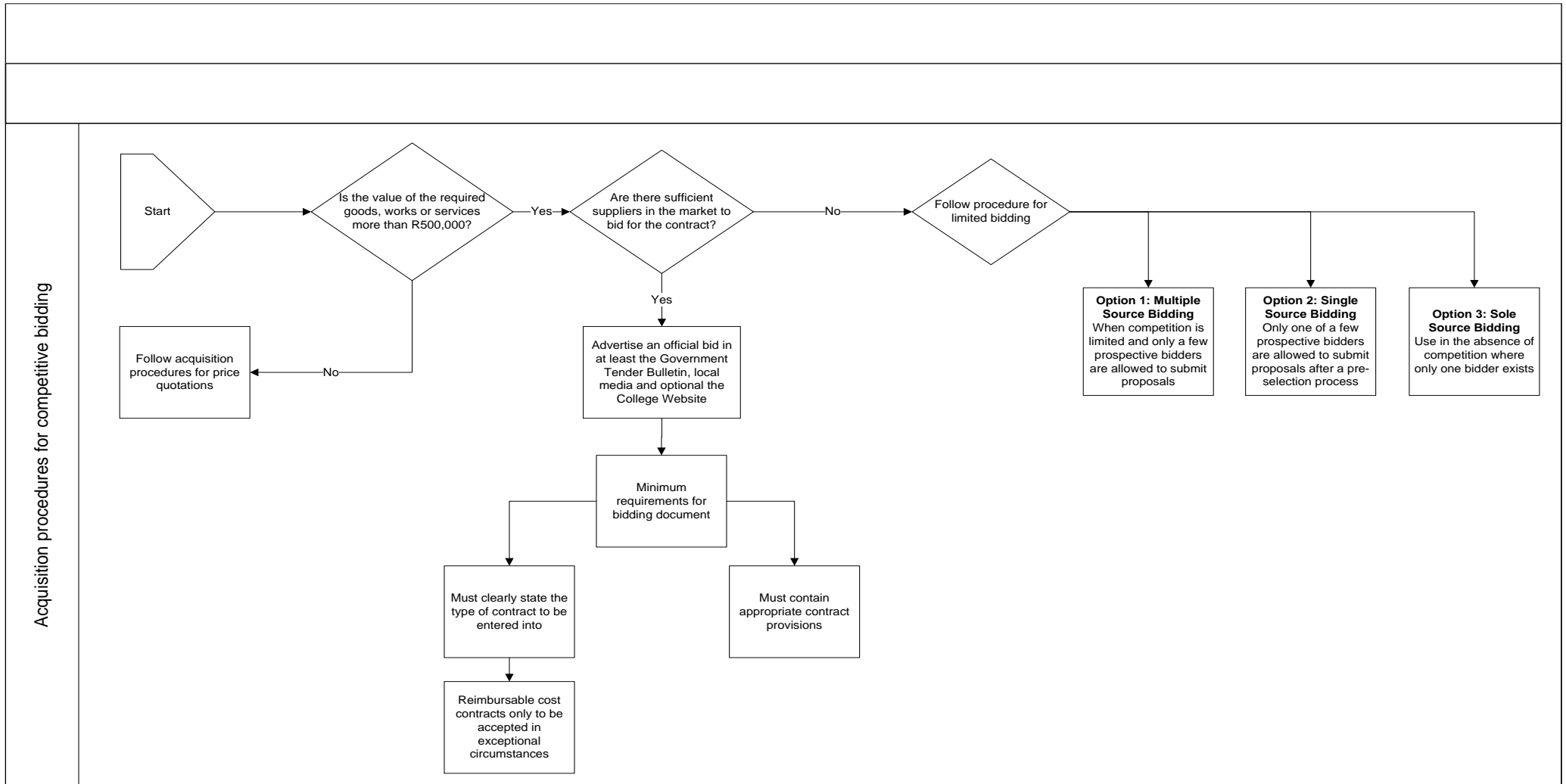
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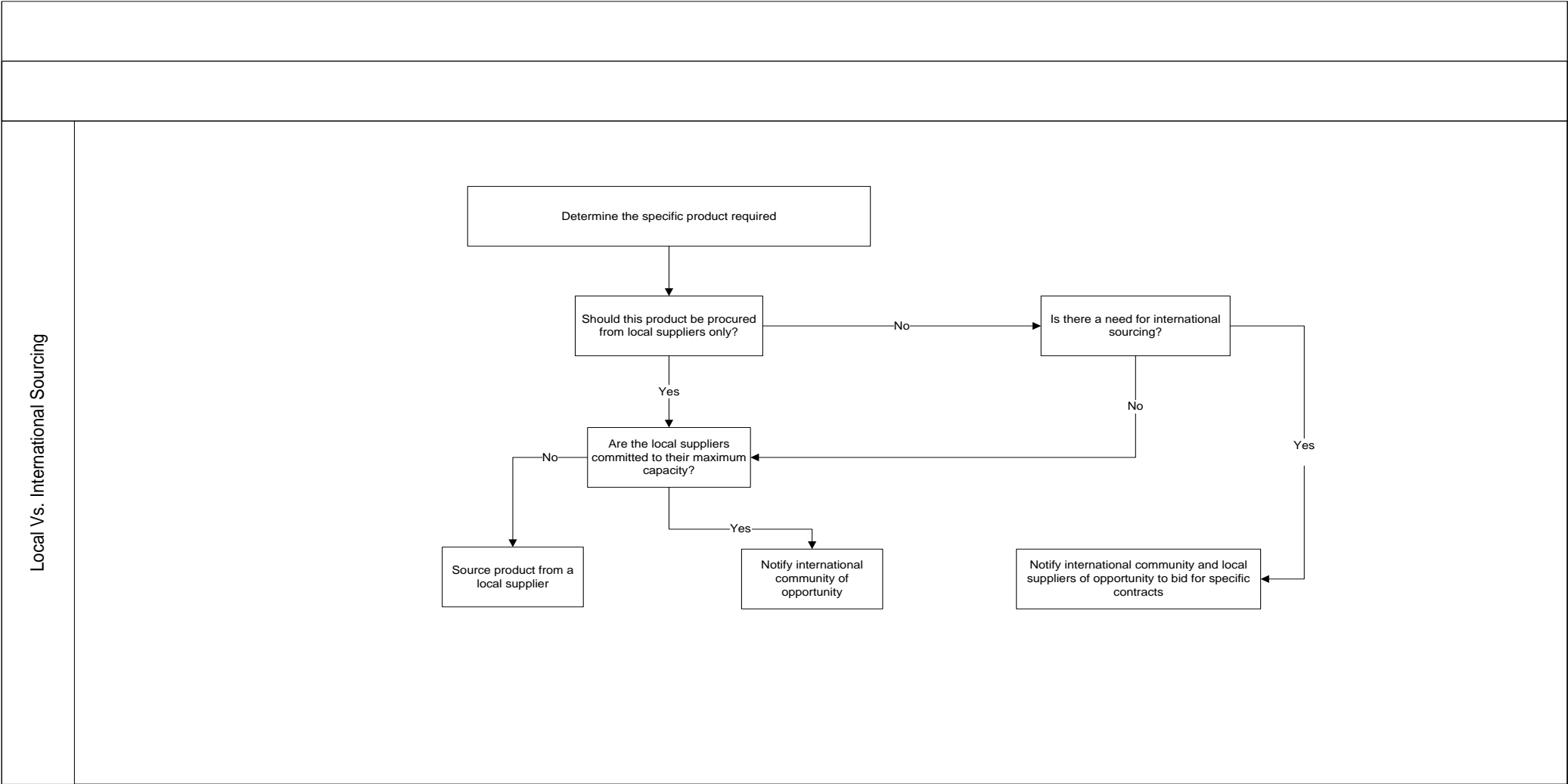
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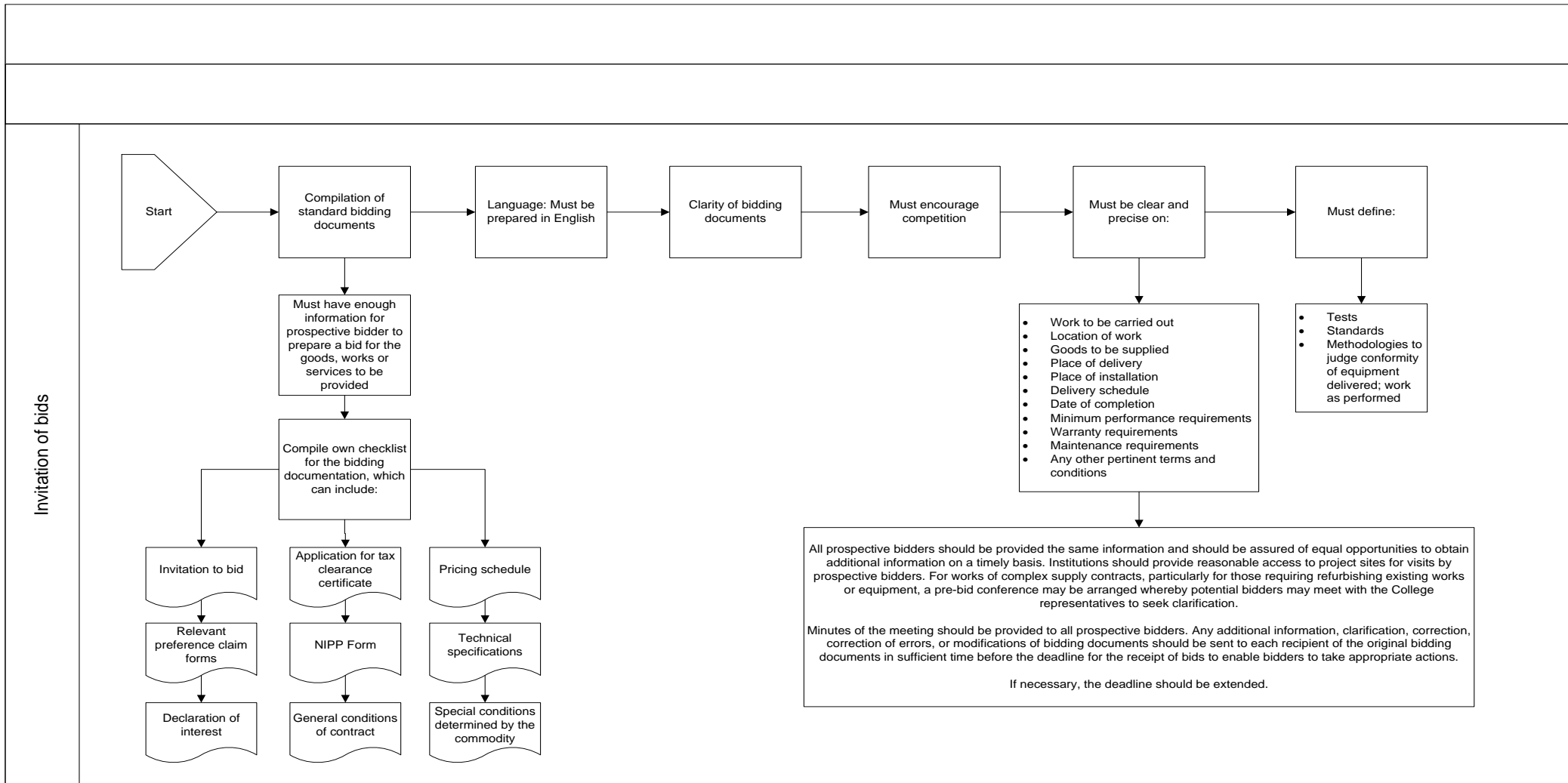
Acquisition procedures for competitive bidding



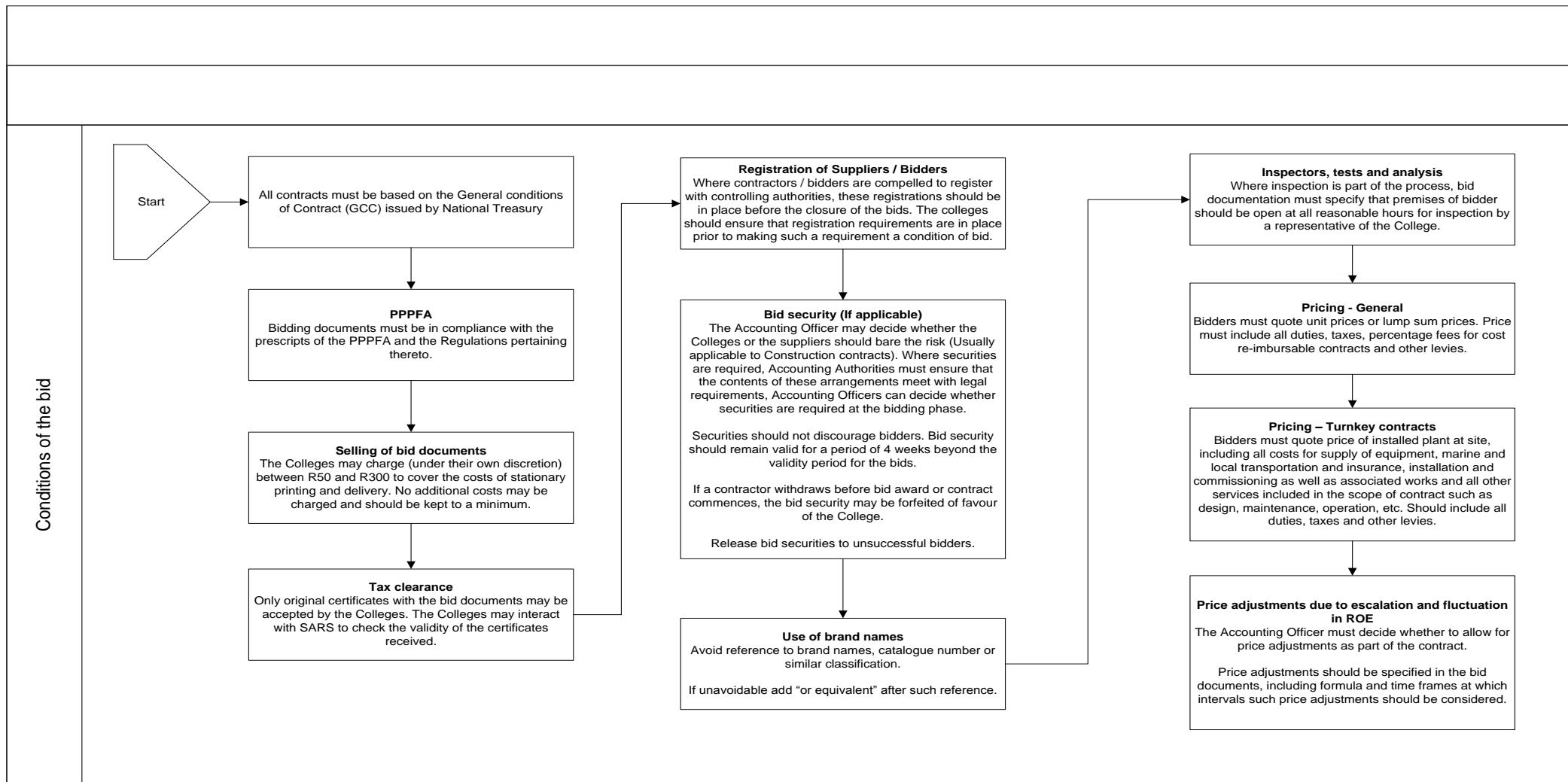
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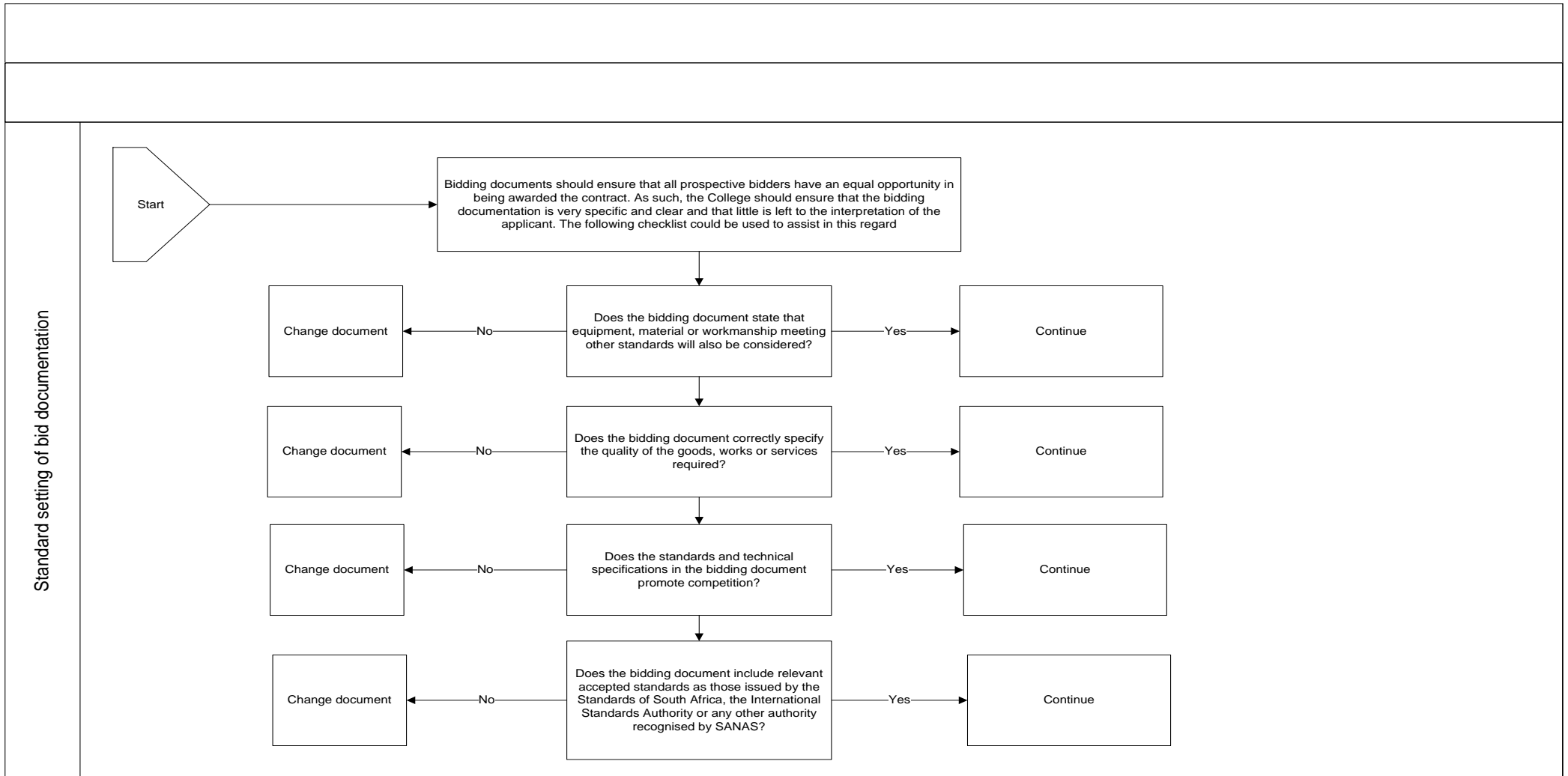
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PART 1: INTRODUCTION

1.1 STATEMENT OF INTENT

The intent of this policy is to provide a framework that will enable the College to source and appoint service providers, contractors and suppliers that will provide the College with the correct goods and services at the correct time, quality and quantity and at the correct place in the most cost effective way.

The key drivers underlying this intent are:

- Value for money;
- Affordability;
- Efficiency and effectiveness;
- Ethical behaviour;
- Uniform application;
- Open and effective competition;
- Fairness;
- Equal treatment (equitability);
- Accountability and
- Transparency.
- Commitment to safety health and the environment

1.2 APPLICABILITY

This policy is issued under the authority of the Accounting Officer of the College and is applicable to all bids, quotations and contracts.

This policy will be applicable to all entities that are under management and wholly owned by the College.

The policy will apply not only to the procurement of goods and services but also to the letting or leasing of College/state property and equipment, the acquisition or granting on any right for and on behalf of the College as well as the disposal of assets

1.3 LEGISLATIVE FRAMEWORK

Key principals contained in the following legislation were applied to develop this policy:

- Continued Education and Training (CET) Act No.16 of 2006 as amended;
- Public Finance Management Act, 1999 (Act No 1 of 1999 as amended by Act 29 of 1999)(PFMA);
- Treasury Regulations: Framework for Supply Chain Management including Notes and Circulars issued by National Treasury;
- Supply Chain Management: A Guide to Accounting Officers;
- The Preferential Procurement Policy Framework Act (Act 5 of 2000) and the Regulations pertaining to the Act;
- Broad Based Black Economic Empowerment Act; and
- The Code of Conduct for Supply Chain Management practitioners (Practice Note 4 of 2003) and corruption measures.

1.4 DEFINITIONS

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

- **“competitive bidding process”** means a competitive bidding process as described in this policy;
- **“college”** means a College as defined in terms of the CET Act (as amended);
- **“competitive bid”** means a bid in terms of a competitive bidding process;

- **“Council”** means the Council of the College established in terms of the CET Act
- **“final award”** in relation to bids or quotations submitted for a contract, means the final decision on which a bid or quote is accepted;
- **“formal written price quotations”** means quotations in writing;
- **“long term contract”** means a contract with a duration period exceeding one year;
- **“transversal contract”** means a contract arranged for more than one department or for more than one level of government e.g. national as well as provincial government;
- **“list of accredited prospective providers or provincial database of accredited prospective suppliers”** means the list of accredited prospective providers or suppliers that provincial treasury will keep, update and distribute;
- **“other applicable legislation”** means any other legislation applicable to the College supply chain management referred to in this policy;
- **“written or verbal quotations”** means quotations referred to in paragraph 3.4 of this policy;
- **“Accounting Officer”** means the Principal of the College;
- **“treasury”** means the National Treasury or a provincial treasury, as may be appropriate in the circumstances;
- **“National Treasury”** means the National Treasury of South Africa.
- **“EME” (Exempted Micro Enterprise)** means any enterprise with an annual total revenue of R10 million or less
- **“QSE” (Qualifying Small Enterprise)** means an entity with an annual total revenue of between R10 million and R50 million
- **“SUE” means Start-up Enterprise**
- **“GCC”** means General Conditions of Contract
- **“IRBA”** means Independent Regulatory Board for Auditors

1.5 SCOPE

Based on the principles contained in the PFMA, the Chief Financial Officer must promulgate financial Regulations in terms of which Supply Chain Management will function efficiently and effectively.

In order to achieve fair, effective, transparent and equitable Supply Chain processes, Supply Chain Management should ensure the stimulation and development of emerging contractors/businesses by awarding tenders in terms of development objectives and price mechanisms. The SCM system should also promote joint ventures/consortiums between small to medium entities (SME's) as well as larger companies. Breaking down large contracts into smaller parts for effective participation of the marginalized sector of society into the contraction or industrial projects should also be promoted.

To ensure the promotion of the Broad Based Black Economic Empowerment Policy, economic transformation should take place in order to enable meaningful participation of black people in the economy of the Colleges.

With this system it is Government's intent to modernize the management of the public sector, to make it more people friendly and sensitive to meeting the needs of the communities it serves. With this system the responsibility for decisions is placed in the hands of the Accounting Officers. The accountability chain is the most critical driver for improving financial management in the Colleges.

In addition, the award and management of contracts is an area where fraud and corruption has been found in the past and the College's fraud prevention plan must reflect this, through cost-effective use of control measures and procedures and an ethical culture.

A detailed financial delegation process should be developed and applied by all persons in their day to day operations in conformity with this policy.

The delegations should be signed for and placed on file.

The same principle will apply to all SCM Committee members, i.e. appointed in writing and authorized accordingly.

PART 2: POLICY

2.1 THE POLICY OBJECTIVE

The objective of the SCM policy is to promote efficient and effective procurement and provisioning systems and practices that will enable the Colleges to deliver the required quality and quantity of services to its students. The establishment of uniformity in procedures, policies, documentation and contract options, and the implementation of sound systems of control and accountability, should form the cornerstone of College supply chain practices.

The six main elements of this Supply Chain Management policy include:

1. Demand Management ;
2. Acquisition Management ;
3. Logistics Management ;
4. Disposal Management ;
5. Performance Management ; and
6. Risk Management (compliance unit).

2.2 GENERAL PROVISIONS AND APPLICATION OF THE POLICY

Commencement and Review

- This policy is effective from the date on which it is adopted by the Council.
- The Accounting Officer must annually review the implementation and effectiveness of this policy and consider as necessary any amendments required that should be presented to the Department of Higher Education Training (DHET) for incorporation into the policy.
- (Refer to section 5.8 for more details.)

Application of Policy

This policy applies to:

- The procuring of goods or services and letting of property, including construction works and consultant services and
- The disposal of goods no longer required.

Unless specifically stated otherwise, this Policy does not apply to contracts with another organ of state for:

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

These systems must be adhered to in all supply chain management activities undertaken by the College.

Delegations

- To the extent that it may be necessary, the Accounting Officer may delegate or sub-delegate to staff members any power conferred on the Accounting Officer in terms of this Policy.
- No decision-making in terms of any supply chain management powers and duties can be delegated to an advisor, consultant or professional service provider.

Oversight Role

- The Accounting Officer will exercise all oversight roles on and over the administration of Supply Chain Management Function.
- A SCM activity report will be submitted at every Council meeting by the Accounting Officer.
- The occurrence and the detection of any fraud and corruption, including fruitless and wasteful, unauthorized and irregular expenditure will be reported to Council.

Competency

- The Accounting Officer must ensure that all persons involved in the implementation of this policy meets the prescribed competency levels, and where necessary, shall provide relevant training.
- The training of officials involved in implementing this policy shall take into account any National Treasury guidelines issued in terms of Supply Chain Management.

Supply Chain Management Unit

- The College should establish a Supply Chain Management unit to assist the Accounting Officer to implement this policy. The establishment, role and responsibility of the Supply Chain Management Unit are as defined in the Public Finance Management Act Regulations.

Communication

- All correspondence with regard to this policy shall be addressed to the Accounting Officer and Head of Supply Chain Management.

Availability of Supply Chain Management Policy

- A copy of this Policy and other relevant documentation should be made available on the College website.

2.3 GENERAL PROCUREMENT GUIDELINES

Strategy Objectives

To evaluate and improve the current procurement practices to achieve better value for money and to ensure customer needs are met through effective strategic sourcing strategies and Service Level Agreements.

- To ensure good practices are identified and applied consistently throughout the College by means of policies and procedures aligned to best practice principals contained in legislation.
- To align procurement activities with other strategies adopted (e.g. Facilities Management strategies and Technology strategies). This will include demand management to strategic sourcing strategies, contract management, supplier management and invoicing and payments.
- To ensure that current and future procurement activities are planned, monitored and reviewed effectively by means of effective resource performance management processes.
- Encourage fair competition and the participation of high quality bidders through the implementation of effective bid and contract management processes.
- Manage and assess risks at all stages.

- Establish the optimal balance between supply by local SMME's and via a consolidated supply base to gain economies of scale.

PART 3: ELEMENTS OF SUPPLY CHAIN MANAGEMENT

3. ESTABLISHMENT OF SCM FUNCTIONS

The College must provide for the following functions within the SCM office.

3.1 DEMAND MANAGEMENT

This is the beginning of the Supply chain process.

- Prior to the invitation of a bid/quotation, planning is conducted for the realistic estimation of the costs for which the invitation for a bid/quotation is to be made.
- Determine the preference point system to be used as well as the criteria for evaluation.
- Determine deliverables and /or performance indicators in terms of which a person awarded a contract will be assessed.
- A needs assessment must be done to ensure that goods or services are acquired in order to deliver the agreed requirement.
- Specifications must be precisely determined to promote uniformity.
- All requirements are to be linked to the budget.
- The supply industry is to be analyzed (data base).
- A Bid Specifications Committee (BSC) should be established, which predominantly performs the function of Demand Management as part of the pre-planning stages to the budget.
- The Accounting Officer should apply his/her mind and appoint a BSC in writing, for each meeting. Membership will vary depending on the requirements for instance representatives of each activity/business unit and/or cost centre.
- The persons serving on the BSC **may not serve** on the Bid Evaluation Committee (BEC) or the Bid Adjudication Committee (BAC).
- Members of the BSC and BEC may only make presentations to the BAC regarding the recommendations / findings of the committees.
- A Chairperson, with the relevant experience, should be appointed in writing by the Accounting Officer.
- The services of a professional advisor or consultant might be used.
- The full and detailed description or functionality would be determined after the budget had been confirmed by the CFO and linked to the demand from the end-user.

3.1.1 Demand Management Process Considerations

- All requirements must be linked to the approved budget.
- Specifications must be determined beforehand in conjunction with the end user.
- The need must form part of the strategic plan of the College.
- Frequency of requirements must be specified.
- Order quantity must be economical.
- Delivery times must be specified.
- Is there a real need for the goods or services?
- Does the need form part of strategic objectives of the College?
- Is the method determined how the need will be fulfilled?
- Has past experience been analyzed?

3.1.2 Achievement of Broader Government SCM Goals

The Accounting Officer should determine a strategy for the College to determine the manner within which the objectives of the broader Government SCM goals and other policy issues will be achieved such as aspects of Black Economic Empowerment.

SCM must be used as a tool to achieve these objectives

3.2 THE PROCUREMENT OF CONSTRUCTION RELATED SERVICES

The procurement of construction related services must comply with the following activities that creates, manages and fulfils contracts namely:

- Establish what is to be procured.
- Decide on procurement strategies.
- Solicit bids/offers.
- Evaluate bids/offers.
- Award contracts.
- Administer contracts and confirm compliance with requirements.

The implementation of or the decision to undertake capital construction must consider two main factors, namely:-

- Capital funding and;
- Sustainable operating funding.

The complete capital budget is fully funded from only 3 sources

- Own funds;
- Grant and Donation Funds or
- Loan funds.

Utilization of a trust fund in the event of the funds being donated, (i.e. the full amount.)

Approval of Capital Expenditure

- Capital Expenditure should be approved by the College Council.
- Operational and maintenance for future consideration should also be approved
- If the capital expenditure extends beyond one financial year, it should be approached as a multi-year budget at the inception of the project.

Project Variations

- Project variations and expansion up to 10% of the original award should be approved by the Accounting Officer, and may be delegated to the CFO.
- Project variations and expansion exceeding 10% of the original award should be approved by the Council of the College.

Default Awards

- No default award to be made to the existing contractor.

Value for Money

- The end user must consult with the SCM practitioner in the Demand Management unit and *vice versa* to ensure that value for money is achieved.

3.3 ACQUISITION MANAGEMENT

3.3.1 Acquisition Process

Building, Engineering or Construction works are to be handled in accordance with the prescripts of the Construction Industry Development Board (CIDB) to promote the uniform application of policy to the construction industry. The standard bidding documents for construction projects must be utilized. Public Private Partnership programs must be followed in terms of section 16 of the Treasury Regulations.

3.3.2 Market Approach

This unit must manage the acquisition of assets by deciding on the manner in which the market will be approached as well as the total cost of ownership of the asset to the College.

The promoting of BEE businesses must be applied. Maximum participation of black owned businesses must be applied. (Refer to College BEE policy)

3.3.3 Supplier Data Base

Compiling a data base of suppliers must be done by inviting potential suppliers through local representative newspapers or by any other means, to register with the College.

This College database of suppliers must be utilized for all procurement actions.

The data base should be managed by the Demand Management unit.

This data base must be updated at least twice a year.

All price quotations should be invited from this list per commodity on rotation basis in such manner that ongoing competition amongst suppliers is promoted.

No bidder whose name appears on the National Treasury's database as a person prohibited from doing business with the public sector may be contracted. (List of Tender Defaulters)

The following lists of suppliers must be considered:

- List of potential suppliers;
- List of pre-qualified suppliers; and
- List of approved suppliers.

3.3.4 Database of Approved Suppliers

- Where goods, services or works of a technical / specialized nature are required on a recurring basis, a list of approved suppliers for the supply of the goods, services or works may be established. These lists should be established through the competitive bidding process.
- The intention to establish a list of approved suppliers should be published in the media and the closing time and date for inclusion in the list of approved suppliers should be indicated.
- For this purpose, a questionnaire should be made available and should make provision for the following:
- Among others, full details of the supplier;
 - Composition in terms of shareholding;
 - Personnel complement;
 - Financial position; and
 - Ability to provide the goods, services or works required.
- Requirements for admission to the list and criteria should be linked to the numeric value in terms of which applicants will be measured, for example acceptability, capability, facilities, resources etc. A predetermined standard method of awarding points should be followed.
- The applications received should be evaluated and any rejection of applicants should be motivated and recorded.
- Once the list of suppliers has been approved, only the successful applicants are approached, depending on the circumstances, either by obtaining quotations on a rotation basis or according to the bid procedure when the goods, services or works are required, with the exception that the requirement is not advertised in the Tender Bulletin or media again.
- When a list of approved suppliers for a particular commodity/service has been drawn up, it is the responsibility of the College to ensure that bidders whose names appear on the list receive bid documents. In cases where a large number of firms are involved, it is sufficient to advertise particulars of the bid invitation in the media and to indicate in the advertisement that only firms whose names appear on the list of approved bidders will be provided with bid documents.
- An advertisement should be placed in the media in which prospective suppliers whose names do not appear on the list concerned, are invited to apply for evaluation and to be included in the list.
- All services, which annual value will exceed the stipulated minimum of a quotation, should be subjected to an annual SCM procurement process.

3.4 THRESHOLD VALUES FOR THE INVITATION OF PRICE QUOTATIONS AND COMPETITIVE BIDDING

SCM Practitioners must apply the following threshold values when procuring goods or services, hiring or letting anything, acquiring or granting any right or disposing of movable state property:

These thresholds may be adjusted downwards by the Colleges based on their individual risk management ratings, but may not be increased.

3.4.1 PETTY CASH PURCHASES

From R1 up to and including R2 000

- A. Transaction value above R1 up to and including R500 (vat included)
Formal written quotes are not required if it is impractical.

- B. Above R500 up to and including a transaction value of R2 000 (vat inclusive),
One written quotation should be obtained.

The quotation must be obtained from, but not limited to, providers whose names appear on the supplier database.

If a quotation is submitted verbally, the order may be placed only against written confirmation by the selected provider.

The following conditions will be applicable for the procurement of goods up to and including R2 000 by means of petty cash purchases:-

- Determining the terms of which a manager may delegate responsibility for petty cash to an employee reporting to the manager;
- Limiting the number of petty cash purchases or the maximum amounts per month for each manager;
- Excluding any types of expenditure from petty cash purchases, where this is considered necessary;
- Requiring monthly reconciliation reports from each manager to the Chief Financial Officer, including the total amount of petty cash purchases for that month including receipts and appropriate documents for each purchase.

3.4 THRESHOLD VALUES FOR THE INVITATION OF PRICE QUOTATIONS AND COMPETITIVE BIDDING - Continued

3.4.2 QUOTATIONS

Above R2 000 up to and including a transaction value of R30 000 (vat inclusive)

The following conditions will be applicable for the procurement of goods above R2 000 up to and including R30 000:-

- Written quotations must be obtained from at least three different providers preferably from, but not limited to, providers whose names appear on the supplier database.
- It is imperative that quotations are selected on a rotational basis.
- If quotations are obtained from providers who are not listed, such providers must meet the listing criteria as determined by the demand management unit and be registered on the supplier database.
- In these instances the providers should be requested to submit such quotations in writing accompanied by the following documentation:-
 - Company registration form / Corporate document (CIPCO);
 - BBBEE certification and
 - Latest municipal account (to confirm address and existence of provider, and any indebtedness to the state).
- If it is not possible to obtain at least three quotations, the reasons must be recorded and approved by the Accounting Officer or an official designated by the Accounting Officer.
- The Accounting Officer **may** apply prescripts of the Preferential Procurement Policy Framework Act, Act 5 of 2000, and its associated Regulations and procurement with a value of less than R30 000, if and when appropriate.
- These quotations should be reviewed by a committee of at least three people, which should include:-
 - A representative from the supply chain unit
 - A campus manager
 - A representative from the user department (owner/cost centre)
- The designated official in Acquisition Management must within fifteen days of the end of each month report to the Chief Financial Officer on any approvals above the amount of R2 000 up to and including R30 000 awarded during that month.

3.4 THRESHOLD VALUES FOR THE INVITATION OF PRICE QUOTATIONS AND COMPETITIVE BIDDING - Continued

3.4.3 FORMAL WRITTEN PRICE QUOTATIONS

Above R30 000 up to and including a transaction value of R300 000 (vat inclusive)

The following conditions will be applicable for the procurement of goods or services through formal written price quotations above R30 000 up to and including R300 000:-

- Written quotations must be obtained from at least three different providers preferably from, but not limited to, providers whose names appear on the supplier database.
- It is imperative that quotations are selected on a rotational basis.
- If quotations are obtained from providers who are not listed, such providers must meet the listing criteria as determined by the demand management unit and be registered on the supplier database.
- In these instances the providers should be requested to submit such quotations in writing accompanied by the following documentation:-
 - Company registration form / Corporate document (CIPCO);
 - BBBEE certification

- Latest municipal account (to confirm address and existence of provider, and any indebtedness to the state) and
 - **A valid tax clearance which is compulsory for all suppliers who have reached the threshold irrespective of the supply price.**
 - If it is not possible to obtain at least three quotations, the reasons must be recorded and approved by the Accounting Officer or an official designated by the Accounting Officer;
- The Accounting Officer **shall** apply the prescripts of the Preferential Procurement Policy Framework Act, Act 5 of 2000 and its associated Regulations
- These quotations should be reviewed by a committee of **at least four people**, which should include:-
 - The manager/head of the supply chain unit
 - A campus manager
 - A representative from the user department (owner/cost centre)
 - **The Chief Financial Officer**
- The designated official in Acquisition Management must within fifteen days of the end of each month report to the Chief Financial Officer on any approvals above the amount of R30 000 up to and including R300 000 awarded during that month.

3.4 THRESHOLD VALUES FOR THE INVITATION OF PRICE QUOTATIONS AND COMPETITIVE BIDDING - Continued

3.4.4 EXTENDED PROCEDURES FOR FORMAL WRITTEN PRICE QUOTATIONS

Above R300 000 up to and including a transaction value of R500 000 (vat inclusive)

The following conditions will be applicable for the procurement of goods or services through formal written price quotations above R300 000, up to and including R500 000:

- Written quotations must be obtained from at least three different providers preferably from, but not limited to, providers whose names appear on the supplier database.
- If quotations are obtained from providers who are not listed, such providers must meet the listing criteria as determined by the demand management unit and be registered on the supplier database.
- In these instances the providers should be requested to submit such quotations in writing accompanied by the following documentation:-
 - Company registration form / Corporate document (CIPCO);
 - BBBEE certification
 - Latest municipal account (to confirm address and existence of provider, and any indebtedness to the state) and
 - A valid tax clearance which is compulsory for all suppliers who have reached the threshold irrespective of the supply price.
- If it is not possible to obtain at least three quotations, the reasons must be recorded and approved by the Accounting Officer or an official designated by the Accounting Officer.

- The Accounting Officer **shall** apply the prescripts of the Preferential Procurement Policy Framework Act, Act 5 of 2000 and its associated Regulations
- These quotations should be reviewed by the **Bid Evaluation Committee** and recommended to the **Bid Adjudication Committee**.
- The **Bid Adjudication Committee** should approve the final quotation to be accepted.
- The designated official in Acquisition Management must within fifteen days of the end of each month report to the Chief Financial Officer on any approvals above the amount of R300 000 up to and including R500 000 awarded during that month.

3.4 **THRESHOLD VALUES FOR THE INVITATION OF PRICE QUOTATIONS AND COMPETITIVE BIDDING - Continued**

3.4.5 **COMPETITIVE BIDDING – TENDER PROCESS**

Transaction value above R500 000 (vat inclusive) and procurement of long term contracts

The Accounting Officer **shall** invite competitive bids for all procurement above a transaction value of R500 000 and for the procurement of long term contracts.

The Accounting Officers **shall** apply the prescripts of the Preferential Procurement Policy Framework Act, Act 5 of 2000 and its associated Regulations.

No requirement for goods or services above an estimated transaction value of R500 000 may deliberately be split into parts or items of lesser value merely for the sake of procuring the goods or services otherwise than through competitive bids.

Any official found practicing such an activity will be subjected to disciplinary action.

3.5 PROCESS FOR COMPETITIVE BIDDING

The approved procedures for a competitive bidding process for each of the following stages must be adhered to:-

- The approval of specifications (Terms of Reference – TOR);
- The compilation of bidding documentation;
- The public invitation of bids;
- Site meetings or briefing sessions, if applicable;
 - (compulsory for all parties in a joint venture/consortium);
- The handling of bids submitted in response to the public invitation;
- The evaluation of bids;
- The adjudication of bids;
- The awarding of contracts;
- The notification to bidders
- The signing of contracts
- The signing of service level agreements (where applicable) SLA's
- The administration of contracts; and
- Proper record keeping.

3.6 PROCESS FOR PROCURING GOODS OR SERVICES THROUGH WRITTEN OR VERBAL QUOTATIONS AND FORMAL WRITTEN PRICE QUOTATIONS

All procurement through the quotation system must comply with the following:-

- That the use of the list of accredited prospective providers is obligatory for such quotations, but that quotations may be obtained from providers who are not listed only when no suitable providers for the required commodity or type of service are available from the list;
- That when using the list of accredited prospective providers ensure to promote ongoing competition amongst providers, including by inviting providers to submit quotations on a rotation basis;
- That all reasonable steps are taken to ensure that the procurement of goods and services through written or verbal quotations or formal written price quotations is not abused;
- That the Accounting Officer or CFO must on a monthly basis be notified in writing of all written or verbal quotations and formal written price quotations accepted/awarded
- That contracts awarded are properly administered and managed
- That proper record keeping is maintained

3.7 INCORPORATION OF SMME'S IN PUBLIC SECTOR PROCUREMENT

In accordance with the National Small Business Act 102 of 1996 a "small business" means a separate and distinct entity including co-operative enterprises and non-government organizations, managed by one owner or more that includes its branches or subsidiaries, if any. Such a business must predominantly be carried out in a sector or sub-sector of the economy that can be classified as a small, medium or micro enterprise, the so-called SMME's.

It is the aim of the government to incorporate as many SMMEs as possible in the process of public sector procurement.

3.8 INFORMATION BE OBTAINED FROM PROSPECTIVE SUPPLIERS TO REGISTER AS A SUPPLIER ON THE DATABASE

- Name of business;
- Postal address;
- Telephone (land line and cell numbers), e-mail addresses and fax numbers, where possible;
- Core business (what is the principle business);
- Names of directors/members/owners of business;
- Specific expertise vested in the company;
- Composition of the business.
- The inclusion of a valid tax clearance certificate;
- Permission that the financial position of the supplier and the ability to manufacture or to supply goods or to render a service may be examined before its offer is considered for acceptance;
- Monetary value of contracts interested in;
- Maximum quantities that can be supplied; and
- Quantity and frequency of delivery.

All suppliers must furnish the Colleges with their:-

- ❖ Full name
- ❖ Identification number or company or other registration numbers;
- ❖ Tax reference number
- ❖ VAT registration number, if any;
- ❖ Copies of Identity documents
- ❖ Authorization to obtain financial statements (if required).

3.9 CONFERENCES

- Facilities for conferences, seminars, workshops, “legotlas” etc. should whenever possible be obtained by means of competitive bidding.
- If this is not possible or practical the conference facilities should be obtained by means of written quotations, (see thresholds) as is proposed under urgent and emergency procurement.

3.10 LOGISTICS MANAGEMENT

This aspect pertains, among others, to coding of items, setting of inventory levels, placing of orders, receiving and distribution, stores/warehouse management, expediting orders, transport management and vendor performance. This process should also activate the financial system to generate payments.

The end-user is responsible to plan for the delivery of goods and services since it is the function of logistics management to ensure that the goods and services are available at the right time at the right place.

Otherwise, all other items are to be delivered to the store prior to deployment within the institution.

Stock items that has good lead times and stability of supply should not be held in stock. The minimum thresholds should be reduced accordingly.

3.10.1 Stock Levels

Due to protracted lead times, or because of a need to keep specific items in stock, the following should be determined in order to automate the ordering process:

- Which items and quantities thereof to be kept in stock.
- Minimum/maximum levels to be kept in stock based on consumption figures or inputs from users
- Allowing for a safety margin to be added to the minimum quantity to cover unforeseen circumstances.

3.10.2 Placing Of Orders

An order should be placed either when a pre-determined stock level is reached or when a request is received from an end user for an item which is not held in stock. A properly authorized external request, together with confirmation of availability of funds is essential before an order can be placed. A financial authorization signed by a delegated official is a pre-requisite for issuing an official purchase order.

3.10.3 Order Processing

Orders are processed for contract purchases, quotation and bidding purchasing. No order may be placed without written approval of the delegated person. (Refer to College delegations)

3.10.4 Vendor Assessment

The reliability of the supplier should be monitored in terms of, inter alia:

- Delivery periods;
- Quality;
- Quantity and
- Stock availability.

Should problems be encountered, they must be followed up with the vendor. If it is a contract item, it must be reported to the head of the SCM unit. The supplier's performance must be monitored before and after the awarding of a contract by the SCM unit.

End users must notify the SCM unit of any deviation in performance of suppliers. If performance lacks it must be reported to the Head of SCM to take the matter up with the supplier.

For any involvement of fraud and corruption restriction of bidders must be applied. A complete investigation is to be conducted by the Accounting Officer.

All communication with suppliers is to be in writing. An incident register should be maintained, recording all ineffective and inefficient goods and services from suppliers. Compliance with the "Black-list" protocols is compulsory. Administrative justice is to be applied.

3.11 DISPOSAL MANAGEMENT

Obsolescence planning and a data base of redundant assets need to be maintained by the College. All **assets** earmarked for disposal must be inspected for re-use and or repair.

A disposal strategic plan needs to be in place and be managed for the entire College. The following aspects must be managed by this unit:

- Obsolescence planning;
- Maintaining a data base of redundant material;
- Physical disposal process; and
- Values of disposal assets.

The disposal committee appointed by the Accounting Officer must deal with disposals at the College and make recommendations with regard to the disposal of any asset, including the alienation of rights. The Accounting Officer or his/her delegate will consider the recommendations of the appointed committee as follows:

- Recommendation by the disposal committee of assets up to estimated selling value of R50 000 to be approved by the Accounting Officer.
- Recommendation by the disposal committee of assets above an estimated selling value of R50 000 is to be approved by the College Council.

Regular committee meetings must take place to ensure optimal utilization of assets and to take disposal actions in time. The college should, **at least annually**, undertake an assessment of assets that are impaired, obsolete, or damaged beyond repair, that need to be disposed of.

A minimum of three members are to be appointed by the Accounting Officer, in writing, to serve on this committee.

A schedule providing the details of the assets to be disposed of, together with asset numbers as per the asset register, and the estimated realizable values must be provided in support of all asset disposals.

It must be noted that **specific approval** for disposal of movable or immovable College assets and property require approval by the **Minister of Higher Education and Training** in terms of Section 3(3) of the Continuing Education and Training Act No. 16 of 2006, as amended. Thus before the disposals are approved by the Accounting Officer or Council, Minister approval has to be obtained in writing.

3.11.1 Disposal Methods

After consideration and recommendation to dispose of assets from the Disposal Committee, including Minister approval, the following methods may be applied by the Colleges:

- A public auction;
- A reserve price;
- A trade-in;
- An offer at market value failing the above;
- A grant or donation;
- Transfer to another institution;
- Transfer to another institution at market value; and
- As a last resort, to destroy if e.g. hazardous or confidential.

Firearms may not be sold or donated to any person or institution without approval of the National Conventional Arms Control Committee.

PART 4: DETAILED PROCEDURES

4. DETAILED PROCEDURES: PROCUREMENT ADMINISTRATION - GOODS AND SERVICES AND WORKS

4.1 THE PROCEDURE FOR THE PROCUREMENT OF GOODS OR SERVICES THROUGH WRITTEN OR VERBAL QUOTATIONS OR FORMAL WRITTEN PRICE QUOTATIONS IS AS FOLLOWS:

- (a) When using the list of accredited prospective providers the Accounting Officer must promote on-going competition amongst providers by inviting providers to submit quotations on a rotation basis.
- (b) Quotations received must be evaluated on a comparative basis taking into account unconditional discounts.
- (c) The Accounting Officer or CFO must on a monthly basis be notified in writing of all written or verbal quotations and formal written price quotations accepted by an official acting in terms of a sub-delegation.
- (d) Quotations below R30 000 (VAT included) must be awarded based on compliance to specifications and conditions of contract, ability and capability to deliver the goods and services and lowest price.
- (e) Acceptable and responsive offers, which are subject to the preference points system, offers from R30 000 (PPPFA and associated Regulations), must be awarded to the bidder who scored the highest points.

4.2 ALL PROCUREMENT OF GOODS AND SERVICES VIA A COMPETITIVE BIDDING METHOD MUST BE DONE IN ACCORDANCE WITH THE FOLLOWING:

- 1. A written request to be completed in duplicate and signed by the Cost Centre Manager, attached a specification / TOR of the required goods or services to be procured;
- 2. Confirmation of sufficient budget provision and availability of cash resources should be obtained in writing from the CFO.
- 3. The goods and services to be procured must be part of the strategic plan of the College.
- 4. The specifications to be approved by the Bid Specification Committee as per delegation by the Accounting Officer. The evaluation criteria must also be determined in terms of the PPPFA and Regulations as well as the weights if functionality is applicable. After approval the documents must be submitted to the Acquisition Management Unit for preparation for the invitation process.
- 5. Acquisition Management to determine the method of procurement and market approach. Whether quotation or competitive bidding or existing contract. The estimated cost will also determine the point system to be used. (80/20 or 90/10).
- 6. All requirements in excess of R30 000 (vat inclusive) to be procured by means of formal written price quotations and must include an original and valid tax clearance certificate. The PPPFA points should also be applied.
- 7. When using the list of accredited prospective providers from the database of suppliers, the Accounting Officer must promote ongoing competition amongst providers, including by inviting providers to submit quotations on a rotation basis. The Accounting Officer must take all reasonable steps to ensure that the procurement of goods and services through written or verbal quotations or formal written price quotations is not abused; (Regular feedback on rotation is important).
- 8. The Accounting Officer or CFO must on a monthly basis be notified in writing of all written or verbal quotations and formal written price quotations accepted by an official acting in terms of a sub-delegation.

4.3 COMPETITIVE BIDDING

This SCM Policy specifies that:

- a) Goods or services above a transaction value of R500 000 (vat inclusive) and long term contracts must be procured by the College only through a competitive bidding process, and
- b) That no requirement for goods or services above an estimated transaction value of R500 000 (vat inclusive), may deliberately be split into parts or items of lesser value merely for the sake of procuring the goods or services otherwise than through a competitive bidding process.

The abovementioned excludes URGENT and EMERGENCY cases.

4.4 PROCESS FOR COMPETITIVE BIDDING

The SCM policy also provides procedures for a competitive bidding process for each of the following stages:

- (a) The compilation of bidding documentation;
- (b) The public invitation of bids;
- (c) Site meetings or briefing sessions, if applicable;
- (d) The handling of bids submitted in response to public invitation;
- (e) The evaluation of bids;
- (f) The award of contracts;
- (g) The administration and management of contracts; and
- (h) Proper record keeping.

4.5 BID DOCUMENTATION FOR COMPETITIVE BIDS

The supply chain management policy also determines the criteria to which bid documentation for a competitive bidding process must comply, and states that the bid documentation must take into account the following:-

- a. The general conditions of contract, or any special condition of contract, as well as the CIDB conditions of contract for construction procurement;
- b. Any Treasury guidelines on bid documentation; and
- c. The requirements of the Construction Industry Development Board, in the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure.
- d. Include evaluation and adjudication criteria, including any criteria required by other applicable legislation;
- e. Compel bidders to declare any conflict of interest they may have in the transaction for which the bid is submitted; (SBD 4.1)
- f. If the value of the transaction is expected to exceed R10 million (vat inclusive), require bidders to furnish :-
 - If the bidder is required by law to prepare annual financial statements for auditing, their audited annual financial statements:-
 - For the past three years; or
 - Since their establishment if established during the past three years; and
 - 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.
- g. 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.

4.6 PUBLIC INVITATION FOR COMPETITIVE BIDS

The supply chain management policy determines the procedure for the invitation of competitive bids, and stipulates that:-

- a. Any invitation to prospective providers to submit bids must be by means of a public advertisement in newspapers commonly circulating locally, secondly the National Treasury Government Tender Bulletin and thirdly (this is optional and not mandatory) the College website; and
- b. The information that a public advertisement must contain, must include :
 - The closure date for the submission of bids, which may not be less than **21 days**.
 - A statement that bids may only be submitted on the bid documentation provided by the College.

The supply chain management policy allows the Accounting Officer to determine a closure date for the submission of bids which is **less than the 21** 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. Bids submitted to the department must be in a sealed envelope.

4.7 PROCEDURE FOR HANDLING, OPENING AND RECORDING OF BIDS

The supply chain management policy also determines the procedure for the handling, opening and recording of bids, and

- a. Stipulate that bids–
- (i) may be opened only in public; and
 - (ii) must be opened at the same time and as soon as possible after the period for the submission of bids has expired;

(NB Checklist to be compiled for each bid by SCM Officials)

- b. Confer on any bidder or member of the public 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; and
- c. Requires the Accounting Officer to: -
- (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 or media

4.8 NEGOTIATIONS WITH PREFERRED BIDDERS

The supply chain management policy allows the Accounting Officer to negotiate the final terms of a contract with bidders identified through a competitive bidding process as preferred bidders, provided that such negotiation –

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

Minutes of such negotiations must be kept for record purposes.

4.9 TWO-STAGE BIDDING PROCESS

A two-stage bidding process can be followed for:

- (a) Large complex projects;
- (b) Projects where it may be undesirable to prepare complete detailed technical specifications;
- (c) Long term projects with a duration period exceeding three years.

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.

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

4.10 COMMITTEE SYSTEM FOR COMPETITIVE BIDS

The supply chain management policy provides for

A committee system for competitive bids consisting of at least –

- A bid specification committee (BSC)
- A bid evaluation committee (BEC)
- A bid adjudication committee (BAC)

The appointment by the Accounting Officer of the members of each committee, and attendance or oversight process by a neutral or independent observer or expert appointed by the Accounting Officer when this is appropriate for ensuring fairness and promoting transparency.

The committee system must be consistent with:

- PPPFA Regulations 2011; and
- Any other applicable legislation.

The supply chain management policy allows the Accounting Officer to apply the committee system to formal written price quotations from R300 000 to R500 000.

These thresholds may be lowered by the Colleges based on their individual risk matrix, but may not be increased.

4.11 BID SPECIFICATION COMMITTEE (BSC)

A bid specification committee must compile the specifications for all procurement of goods or services before the invitation process. The specifications must be approved by the Accounting Officer or his/her delegate.

Specifications:

- (a) Must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services;
- (b) Must take account of any accepted standards such as those issued by Standards South Africa, the International Standards Organization, or an authority accredited or recognized by the South African National Accreditation System (SANAS) with which the equipment or material or workmanship should comply;
- (c) Where possible, be described in terms of performance required rather than in terms of descriptive characteristics for design;
- (d) May not create trade barriers in contract requirements in the forms of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labeling of conformity certification;
- (e) May not make reference to any particular trade mark, name, patent, design, type, specific origin or producer unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the words "equivalent";
- (f) **Must be approved by the Accounting Officer prior to publication of the invitation for bids.**

The bid specification committee must be composed of a minimum of 3 members. One or more officials of the College, preferably the manager responsible for the function involving the end user and may, when appropriate, include external specialist advisors

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

4.12 BID EVALUATION COMMITTEES (BEC)

A Bid Evaluation Committee must:

- (a) Evaluate bids in accordance with:
 - (i) The specifications for a specific procurement; and
 - (ii) The points system as set out in the supply chain management policy of the College in terms of regulation 27(2) (f) and as prescribed in terms of the Preferential Procurement Policy Framework Act.
- (b) Evaluate each bidder's ability to execute the contract;
- (c) Check in respect of the recommended bidder whether no director, partner, shareholder are listed as a tender defaulter.
- (d) Submit to the adjudication committee a report and recommendations regarding the award of the bid or any other related matter.
- (e) The BEC upholds the right to recommend a re-tender if for any reason compliance was not acceptable.

A BEC must as far as possible be composed of a minimum of **3 members**:

- (a) At least 2 officials from the College requiring the goods or services; and
- (b) At least one supply chain management practitioner.

No members of the College Council may be part of the BEC.

4.13 BID ADJUDICATION COMMITTEES (BAC)

A Bid Adjudication Committee must:

- (a) Consider the report and recommendations of the BEC; and
- (b) Either:
 - (i) Depending on its delegations, make a final award or a recommendation to the Accounting Officer to make the final award; or
 - (ii) Make another recommendation to the Accounting Officer how to proceed with the relevant procurement.

A Bid Adjudication Committee must consist of a minimum of **3 senior managers** which must include:

- (i) The Chief Financial Officer or, if the Chief Financial Officer is not available, another senior manager (with the appropriate delegations);
- (ii) At least two senior supply chain management practitioners who are officials; and if applicable
- (iii) A technical expert in the relevant field who is an official, if the College has such an expert. (For example an engineer)

No members of the College Council may be part of the BAC.

A minimum of three members should be present to form a quorum of the BAC. If the required members are not available, the BAC should be postponed until the members are available.

Any representatives of the committee members should have the full consent / delegations to act on this committee. Minutes of all meetings should state the representatives as well as the relevant consent / delegations that were rendered.

The Accounting Officer must appoint the chairperson of the committee. If the Chairperson is absent from a meeting of the members, the members forming a quorum should nominate a Chairperson for that meeting amongst themselves and be recorded in the minutes for audit purposes.

Neither a member of a BEC, nor an advisor or person assisting the evaluation committee, may be a member of a BAC.

If the Accounting Officer decides to award a bid other than the one recommended by the Bid Adjudication Committee, reasons for the deviation should be recorded and should be made available for audit purposes. The reasons must be justifiable and defensible in a court of law.

The Accounting Officer may:

- (i) After due consideration of the reasons for the deviation, ratify or reject the decision of the BAC; and
- (ii) If the decision of the BAC is rejected, refer the decision back to the BAC for reconsideration.

The Accounting Officer may at any stage of a bidding process, refer any recommendation made by the BEC or the BAC back to the respective committees for reconsideration and recommendation.

All decisions must be recorded and kept for audit purposes

4.14 BID DOCUMENTS

STANDARD BIDDING DOCUMENTATION (SBD) FOR GOODS AND SERVICES

The standard bidding document (SBD) as prescribed by the National Treasury must be used at all times for all goods and services. For construction related projects the standard bid document for works and roads must be used.

The Bid section will prepare the bidding documentation and ensure that the documents are complete including the evaluation criteria. Documents should specify clearly and precisely the work to be carried out, the location, the goods to be supplied, the place of delivery or installation, the schedule for delivery or completion, minimum performance requirements and the warranty and maintenance requirements as well as any other terms and conditions.

The formal contract document (SBD 7.1) should not form part of the bidding documents issued to every prospective bidder, but should be made applicable only to the successful bidder after adjudication and award of the bid.

The following documents must form part of the bid invitation:

- i. Invitation to bid (SBD 1);
- ii. Application form for Tax Clearance Certificate (SBD 2) **or** Original Tax Clearance Certificate **or** letter of arrangement from SARS; ***(This documentation / certificate should be valid till the date of contract award. If expired at contract award date, new documentation should be requested from the bidder);***
- iii. Declaration of interest (SBD 4);
- iv. Pricing schedule (SBD 3.1 and 3.3);
- v. Claim for preference points (SBD 6.1);
- vi. Declaration of Bidders past supply chain management practices (SBD 8);
- vii. Certificate of Independent Bid Determination (SBD 9);
- viii. General Conditions of Contract / CIDB conditions;
- ix. Special Conditions of Contract; and
- x. Specifications / Terms of Reference.

A *non-refundable* fee ranging from R50 to R300 for bid documentation will be charged when deemed necessary by the College to cover administrative expenditure such as stationary and printing.

The College may determine what fee (inside the specified range) will be charged for each bid.

NOTE: Only original tax clearance certificates will be accepted.

For joint ventures, all parties must submit an original tax clearance certificate. In the case of any sub-contractors each sub-contractor must submit a tax clearance certificate. A joint venture agreement between the parties must also accompany the proposal.

4.15 COMPLYING WITH CIDB REQUIREMENTS FOR CONSTRUCTION PROCUREMENT

STANDARD BID DOCUMENTS FOR CONSTRUCTION PROJECTS

The bid document for construction projects both Roads and Works must be utilized.

GENERAL AND SPECIAL CONDITIONS OF CONTRACT

To strive towards uniformity, all contracts must be based on the General Conditions of Contracts (GCC) issued by National Treasury. Any aspect not covered can be dealt with in the special conditions of contract. These conditions should form an integral part of the bidding documents. The CIDB General Conditions should also apply. The Special Conditions of Contract (SCC) applicable to each bid must be approved by the Accounting Officer or his/her delegate (Bid Adjudication Committee) before included in the bidding documents.

The following needs to be addressed in the Special Conditions of Contract (SCC)

- **Supplier performance**
Supplier's performance must be monitored by the College Cost Center Manager / Deputy Principals in consultation with Supply Chain Management and any deviation or delays in performance by the supplier/contractor must be reported to the Accounting Officer for further action.
- **Penalties**
Penalties will be charged for noncompliance and for no completion. Amounts will be indicated in the Special Conditions of Contract
- **Bid Performance Security**
Bidding documents for works shall require security in an amount sufficient to protect the College in case of breach of contract by the contractor. The security shall be provided by a performance guarantee or bank guarantee on an appropriate form and amount as specified in the bidding documents and SCC.

The bid security shall be in the form of a certified cheque, a letter of credit or a bank guarantee from preferably a reputable bank. Only guarantees from banks registered in terms of the Banks Act, 1965 (Act no 23 of 1965) will be accepted. The correct amount both in word and in amounts must be quoted.
- **Inspections and tests**
Bidding documents must indicate that regular inspections, tests and analyses will be done during production or execution of goods/works and also by whom.
- **Delivery**
Delivery of goods shall be made by the supplier in accordance with the terms specified in the contract. Refer to paragraph 10 of GCC.
- **Packing**
Refer to paragraph 9 of the General Condition of Contract (GCC)

The supplier shall provide such packing of the goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the contract. The packing shall be sufficient to withstand, without limitation, rough handling during transit and exposure to extreme temperatures, salt and precipitation during transit, and open storage. Packing, case size and weights shall take into consideration, where appropriate, the remoteness of the goods' final destination and the absence of heavy handling facilities at all points in transit.

The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the contract, including additional requirements, if any, specified in Special Conditions of Contract (SCC), and in any subsequent instructions ordered by the purchaser

- **Insurance**

All goods supplied under a contract shall be fully insured against loss or damage incidental to manufacture or acquisition. Transportation, storage and delivery in the manner specified in the SCC. Refer to paragraph 11 of GCC.

- **Transport**

Should a price other than an all-inclusive delivery price be required, this must be specified in the SCC. Refer paragraph 12 of GCC.

- **Incidental Service**

All incidental services required from the supplier needs to be specified in the SCC.

- **Warranty**

Warranties shall remain valid for 12 months after the goods or portion thereof have been delivered. Refer to paragraph 15 of GCC.

The supplier warrants that the goods supplied under the contract are new, unused, of the most recent or current models and that they incorporate all recent improvements in design and materials. The supplier further warrants that the goods supplied shall have no defect arising from design, materials, or workmanship, or from any act or omission of the supplier, that may develop under normal use of the supplied goods.

If the supplier, having been notified, fails to remedy the defect(s) within the period specified in the Special Conditions of Contract (SCC), the purchaser may proceed to take such remedial action as may be necessary, at the supplier's risk and expense and without prejudice to any other rights which the purchaser may have against the supplier.

- **Payment**

All payments must be effected within 30 days of receipt of an original invoice from the supplier or in the case of progress payments within 30 days after the payment certificate is signed by the project manager.

4.16 SPECIFICATIONS

All specifications must be approved by the Accounting Officer or his/her delegate (Bid Specification Committee (BSC)) before a bid/quotation is invited. Specifications must be numbered and kept on file for future use.

Existing SABS specifications must be used as far as possible. Specifications must promote the broadest possible competition. Care must be taken to guard against obscurities and contradictions in specifications. Standards and technical specifications quoted in bidding documents should promote the broadest possible competition, whilst assuring that critical elements of performance or other requirements for the goods and / or works being procured are achieved.

Requirements should not be over specified. It should enable small businesses to compete effectively. Specifications must be user friendly so that it can be understood by emerging contractors/suppliers/service providers and at the same time promote competition. Conditions of contract must not be included in specifications. As part of the invitation a requirement must be that only products that are SABS approved will be accepted.

4.16.1 Bid Specification Committee (BSC)

As indicated earlier in the policy, a BSC must be appointed by the Accounting Officer to compile the specifications / TOR for each procurement activity of goods or services by the College.

A BSC should be cross- functional and should be composed of a minimum of 3 or more officials from the College, preferably the manager responsible for the function, the end user and may, when appropriate, include external specialist advisors.

No person, advisor or corporate involved with the BSC may bid for any resulting contracts. The BSC should discuss and, if necessary, motivate the inclusion of special conditions, maps, plans, drawings, submission of samples, etc.

4.16.2 Preparation of Specifications

Specifications –The end user should initiate the drafting of specifications and submit it with an approved request memorandum (requisition form) to Demand Management.

The specification:

- Must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services;
- Where possible, be described in terms of performance required rather than in terms of descriptive characteristics for design;
- May not create trade barriers in contract requirements in the forms of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labelling of conformity certification;
- May not make reference to any particular trade mark, name, patent, design, type, specific origin or producer unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the words “equivalent”
- Must be approved by the Accounting Officer or his/her delegate(s), e.g. the BAC, prior to publication of the invitation for bids as bids may only be evaluated according to the criteria stipulated in the bid documentation.

4.17 EVALUATION CRITERIA - PPPFA

4.17.1 The Applicable Point System to Be Used Must Be Indicated According To the PPPFA

- The criteria for the evaluation of bids and quotations must be determined beforehand and approved by the bid specifications committee.
- **The 80/20** preference point system is applicable to bids (including price quotations) with a Rand value equal to, or **above R30 000 and up to a Rand value of R1 million** (all applicable taxes included).
- Institutions may apply the 80/20 preference point system to price quotations with a value less than R30 000, if and when appropriate.
- **The 90/10** preference point system is applicable to bids with a **Rand value above R1 million** (all applicable taxes included).

This policy is inclusive of the new PPPFA legislation in its entirety and without any amendments.

4.17.2 Broad-Based Black Economic Empowerment (B-BBEE) Status Level Certificates

- Bidders are required to, together with their bids, submit original and valid B-BBEE Status Level Verification Certificates or certified copies thereof to substantiate their B-BBEE rating claims.
- Bidders who do not submit B-BBEE Status Level Verification Certificates do not qualify for preference points for B-BBEE but **should not be disqualified from the bidding process**.

4.17.3 (A) Verification Certificates In Respect Of Exempted Micro Enterprises (EME'S)

- In terms of the Generic Codes of Good Practice, an enterprise with annual total revenue of R10 million or less qualifies as an EME.
- An Exempted Micro Enterprise is deemed to have a BBEE status of "Level Four Contributor".
- An EME which is at least 51% Black owned, qualifies for elevation to "Level Two Contributor"
- An EME which is 100% Black owned, qualifies for elevation to "Level One Contributor"
- An EME is allowed to be measured in terms of the QSE scorecard should they wish to maximise their points and move to a higher BBEE recognition level
- An EME is only required to obtain a sworn affidavit on an annual basis confirming the following:-
 - Annual total revenue of R10 million or less
 - Level of Black ownership

Any misrepresentation in terms of the above constitutes a criminal offence as set out in the B-BBEE Act as amended

4.17.3 (B) Verification Certificates In Respect Of Qualifying Small Enterprises (QSE'S)

- In terms of the Generic Codes of Good Practice, a Measured Entity with annual total revenue of between R10 million and R50 million qualifies as a QSE.
- A QSE must comply with all of the elements of B-BBEE for the purposes of measurement.
- A QSE which is at least 51% Black owned qualifies for Level Two B-BBEE recognition level
- A QSE which is 100% Black owned qualifies for a Level One B-BBEE recognition
- A QSE is only required to obtain a sworn affidavit on an annual basis confirming the following:-
 - Annual total revenue of R50 million or less
 - Level of Black ownership

Any misrepresentation in terms of the above constitutes a criminal offence as set out in the

B-BBEE Act as amended

A QSE is required to comply with Ownership as a compulsory priority element and **either** Skills development **or** Enterprise and Supplier Development

4.17.3 (C) Verification Certificates In Respect Of Start-up Enterprises (SUE's)

- Start-up Enterprises must be measured as an EME for the first year following their formation or incorporation, regardless of the expected total revenue of the Start-up Enterprise.
- A SUE is deemed to have a BBEE status of "Level Four Contributor".
- A SUE which is at least 51% Black owned, qualifies for elevation to "Level Two Contributor"
- A SUE which is 100% Black owned, qualifies for elevation to "Level One Contributor"
- A SUE must provide an independent confirmation of its status confirming the following:-
 - Annual total revenue
 - Level of Black ownership

Any misrepresentation in terms of the above constitutes a criminal offence as set out in the B-BBEE Act as amended

- A SUE must submit a QSE scorecard when tendering for any contract or any other economic activity with a value higher than R10 million but less than R50 million
- A SUE must submit a Generic scorecard when tendering for contracts R50 million or more

4.17.4 B-BBEE Status Level Verification Certificates

Any representation made by an Entity about its BBEE compliance must be supported by suitable evidence or documentation. A Measured Entity that does not provide evidence or documentation supporting any initiative must not receive any recognition for that initiative.

Accounting Officers must ensure that the B-BBEE Status Level Verification Certificates submitted are issued by the following agencies:

- **Bidders other than EME's, QSE's and SUE's**
 - (a) Verification Agencies accredited by the South African National Accreditation System (SANAS); or
 - (b) Registered auditors approved by the Independent Regulatory Board of Auditors (IRBA).
- **Trusts and public entities**

A trust, consortium or joint venture must obtain and submit a consolidated B-BBEE Status Level Verification Certificate for every separate bid.

Public entities and tertiary institutions must also submit B-BBEE Status Level Verification Certificates together with their bids.

- **Verification Agencies accredited by SANAS**

Confirmation of the validity of a B-BBEE Status Level Verification Certificate can be done by tracing the name of the issuing Verification Agency to the list of all SANAS accredited agencies. The list is accessible on www.sanas.co.za/directory/bbbee/default.php.

As a minimum requirement, all valid B-BBEE Status Level Verification Certificates should have the following information detailed on the face of the certificate:

- The name and the physical location of the measured entity;
- The registration number and, where applicable, the VAT number of the measured entity;
- The date of issue and date of expiry;
- The certificate number for identification and reference;
- The scorecard that was used (for example EME, QSE or Generic);
- The name and / or logo of the Verification Agency;
- The SANAS logo;
- The certificate must be signed by the authorized person from the Verification Agency; and
- The B-BBEE Status Level of Contribution obtained by the measured entity.

- **Verification Agencies accredited by IRBA**

The format and content of B-BBEE Status Level Verification Certificates issued by registered auditors approved by IRBA must:

- Clearly identify the B-BBEE approved registered auditor by the auditor's individual registration number with IRBA and the auditor's logo;
- Clearly record an approved B-BBEE Verification Certificate identification reference in the format required by the SASAE;
- Reflect relevant information regarding the identity and location of the measured entity;
- Identify the Codes of Good Practice or relevant Sector Codes applied in the determination of the scores;
- Record the weighting points (scores) attained by the measured entity for each scorecard element, where applicable, and the measured entity's overall B-BBEE Status Level of Contribution; and
- Reflect that the B-BBEE Verification Certificate and accompanying assurance report issued to the measured entity is valid for 12 months from the date of issuance and reflect both the issuance and expiry date.

- **Accounting Officers as contemplated in section 60(4) of the Closed Corporations Act**

The certificates should be issued on the Accounting Officer's letterhead with the practice number and contact number clearly specified on the face of the certificate.

The content of B-BBEE Status Level Verification Certificates issued by Accounting Officers as contemplated in the CCA is detailed below:

When confirming the validity of a certificate in respect of an EME, the following should be detailed on the face of the certificate:

- The Accounting Officer's or Registered Auditor's letter head with full contact details;
- The Accounting Officer's or Registered Auditor's practice numbers;
- The name and the physical location of the measured entity;
- The registration number and, where applicable, the VAT number of the measured entity;
- The date of issue and date of expiry;
- The B-BBEE Status Level of Contribution obtained by the measured entity; and
- The total black shareholding and total black female shareholding.

4.18 FUNCTIONALITY

In general, not all bids should be invited on the basis of functionality as a criterion. The need to invite bids on the basis of functionality as a criterion depends on the nature of the required commodity or service taking into account quality, reliability, viability and durability of a service and the bidder's technical capacity and ability to execute a contract.

4.18.1 Invitation of Bids on Functionality

When an institution invites a bid that will be evaluated on the basis of functionality as a criterion, the Accounting Officer must clearly specify the following aspects in the bid documents:

(a) *Evaluation criteria for measuring functionality:*

The evaluation criteria may include criteria such as:-

- the consultant's relevant experience for the assignment,
- the quality of the methodology proposed,
- the qualifications of the key staff proposes,
- the transfer of knowledge etc.

(b) *Weight of each criterion:*

The weight that is allocated to each criterion should not be generic and should be determined separately for each bid on a case to case basis.

(c) *Applicable values:*

The applicable values that will be utilised when scoring each criterion should be objective. As a guide, values ranging from 1 being poor, 2 being average, 3 being good, 4 being very good and 5 that are excellent, may be utilised.

(d) *Minimum qualifying score for functionality:*

The minimum qualifying score for functionality that must be obtained for a bid to be regarded as acceptable should not be generic. It should be determined separately for each bid or each case on its own merit basis. The minimum qualifying score must not be prescribed so low that it may jeopardise the quality of the service required nor so high that it may be restrictive to the extent that it jeopardizes the fairness of the SCM system.

Note: A minimum of 60% to be achieved for functionality is generally used in practice
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4.18.2 The Formula to calculate percentages is as follows:

$P_s = S_o/M_s \times 100$ where:

P_s = percentage scored for functionality by bid/proposal under consideration

S_o = total score of bid/proposal under consideration

M_s = maximum possible score

4.18.3 Evaluation of Bids on Functionality

Bids that were invited on the basis of functionality as a criterion must be evaluated in two stages.

Firstly, functionality must be assessed and then in terms of the 80/20 or 90/10 preference point systems prescribed in Preferential Procurement Regulations 5 and 6.

The evaluation must be done as follows:

- **First stage – Evaluation of functionality**

Bids must be evaluated in terms of the evaluation criteria as embodied in the bid documents. The amendment of evaluation criteria, weights, applicable values and/or the minimum qualifying score for functionality after the closure of bids should not be allowed as this will jeopardise the fairness of the system.

A bid is regarded as acceptable if it achieves the prescribed minimum qualifying score **of 60%** for functionality.

Bids that fail to achieve the minimum qualifying score for functionality must be disqualified.

- **Second stage – Evaluation in terms of the 80/20 or 90/10 preference point systems**

Only acceptable bids must be evaluated further in terms of the 80/20 or 90/10 preference point systems prescribed in Preferential Procurement Regulations 5 and 6.

4.19 LOCAL PRODUCTION AND CONTENT

Bids in respect of designated sectors must contain a specific bidding condition that only locally produced goods, services or works or locally manufactured goods with a stipulated minimum threshold for local production and content will be considered.

Where there is no designated sector, Accounting Officers may decide to include a specific bidding condition that only locally produced goods, services or works or locally manufactured goods with a stipulated minimum threshold for local production and content will be considered.

Every bid invited on the basis of local production and content must be measurable and must be audited by the College internal audit. Bids that were invited on the basis of local production and content should be evaluated by following a **two-stage bidding** process:

- **First stage – Evaluation in terms of the stipulated minimum threshold for local production and content**

Bids must be evaluated in terms of the evaluation criteria stipulated in the bid documents. The amendment of the stipulated minimum threshold for local production and content after the closure of bids should not be allowed as this will jeopardise the fairness of the system.

A bid is regarded as acceptable if it achieves the stipulated minimum threshold for local production and content.

Bids that fail to achieve the stipulated minimum threshold for local production and content must be disqualified.

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

Only acceptable bids must be evaluated further in terms of the 80/20 or 90/10 preference point systems prescribed in Preferential Procurement Regulations 5 and 6.

No price negotiations are allowed where a process of bidding has taken place unless the price is a reduction (lowest in the market and fair) in the case of an emergency only.

Where appropriate, prices may be negotiated only with short listed or preferred bidders. The reasons for such price negotiations must be approved by the Accounting Officer and recorded for audit purposes.

4.20 SERVICES RENDERED BY TERTIARY INSTITUTIONS AND PUBLIC ENTITIES

Based on thorough analysis of the market, institutions may invite bids for services that can only be provided by tertiary institutions through a bidding process from the identified tertiary institutions.

Where the required service can be provided by tertiary institutions, public entities and enterprises from the private sector, institutions must invite competitive bids.

4.21 DISCOUNTS

When calculating comparative prices:

- Unconditional discounts must be taken into account when calculating comparative prices for evaluation purposes; and
- Conditional discounts must not be taken into account when calculating comparative prices for evaluation purposes but should be implemented when payment is affected.

4.22 FUNCTIONALITY AS CRITERIA IN RESPECT OF A PROFESSIONAL SERVICE

In respect of functionality, each technical proposal must (using an evaluation panel of at least one specialist in that field of expertise) be evaluated in terms of the specified evaluation criteria approved by the specification committee.

The panel members must be appointed in writing by the Accounting Officer and must be subject specialists.

The criteria must include at least the following:

- The relevant experience for the assignment;
- The quality of the methodology proposed;
- The qualifications of the key staff proposed;
- Transfer of knowledge; and
- Financial position of the bidder.

These criteria can be divided into sub-criteria, for example, the sub-criteria under methodology might be innovation and level of detail.

More weight should be given to the methodology in the case of more complex assignments for example multidisciplinary feasibility or management studies and project management.

Evaluation of only "key" personnel is recommended as they ultimately determine the quality of performance. More weight should be assigned to this criterion if the proposed assignment is complex. The SCM Office should review the qualifications and experience of proposed key personnel in their curricula vitae which should be accurate, complete and signed by the CFO.

When the assignment depends critically on the performance of key staff, such as a Project Manager in a large team of specified individuals, it may be desirable to conduct interviews. The individuals can be rated, among others, in the following sub-criteria as relevant to the assignment:

- General qualifications: general education and training, length of experience, positions held, time with the consulting firm staff, and experience in developing countries;

- Adequacy for the assignment: education, training and experience in that specific sector, field or subject relevant to the particular assignment; and
- Experience in the region: knowledge of the local language, culture, administrative system, government organization, etc.

The evaluation panel appointed by the Accounting Officer must evaluate each proposal on the basis of its response to the TOR. A proposal should be rejected at this stage if it does not respond to important aspects of the TOR or it fails to achieve the minimum qualifying score for functionality as specified in the RFP.(see score sheet)

At the end of the process, an evaluation report on the quality of the proposals must be prepared.

The report should substantiate the results of the evaluation and describe the relative strengths and weaknesses of the proposals.

All records relating to the evaluation such as individual score sheets should be retained until completion of the project and its audit.

The percentage scored for functionality should be calculated as follows:

Each panel member should award values for each individual criterion on a score sheet.

The value scored for each criterion should be multiplied with the specified weighting for the relevant criterion to obtain the marks scored for the various criteria.

These marks should be added to obtain the total score.

The following formula should then be used to convert the total score to a percentage for functionality:

$$Ps = \frac{X Ap}{Ms} \times So$$

Where:

Ps = percentage scored for functionality by bid/proposal under consideration;

So = total score of bid/proposal under consideration;

Ms = maximum possible score; and

Ap = percentage allocated for functionality.

The percentages of each panel member should be added together and divided by the number of panel members to establish the average percentage obtained by each individual bidder for functionality.

After calculation of the percentage for functionality, the prices of all bids that obtained the minimum score for functionality should be taken into consideration.

Bids/proposals that do not score a certain specified minimum percentage for functionality, should be disqualified and not be considered further.

Calculation of percentage for price:

- For the purpose of evaluation, the price shall include all local taxes and other reimbursable expenses such as travel, translation, report printing or secretarial expenses. **The proposal with the lowest price will obtain the maximum percentage for price as prescribed in the RFP.** Proposals with higher prices will proportionately obtain lower percentages according to the method as prescribed in the RFP.
- The percentage scored for price should be calculated as follows:

The lowest acceptable bid/proposal will obtain the maximum points allocated for price.

The other bids/proposals with higher prices will proportionately obtain lower points.

The following must be taken into consideration when applying the **80/20 or 90/10 point system**:

- **The bidder obtaining the highest number of points will be awarded the contract;**
- Preference points shall be calculated after prices have been brought to a comparative basis i.e. the price after all unconditional discounts that can be utilized have been taken into consideration;
- Points scored will be rounded off to 2 decimal places;
- In the event of equal points scored, the bid will be awarded g to the bidder scoring
- the highest number of points for specific goals; and
- If the bids are still equal, the award will be decided by the drawing of lots.

Points awarded for price

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

80/20

90/10

$$Ps = 80\left(1 - \frac{Pt - Pmin}{Pmin}\right) \quad \text{or} \quad Ps = 90\left(1 - \frac{Pt - Pmin}{Pmin}\right)$$

Where:

Ps = Points scored for price of the bid under consideration;
Pt = Rand value of the bid under consideration; and
Pmin = Rand value of lowest acceptable bid.

After evaluation by the Bid Evaluation Committee (BEC) the points scored by each bidder must be calculated, a submission compiled for recommendation to the Bid Adjudication Committee, including a recommendation to the Accounting Officer to approve the final award.

4.23 CANCELLATION AND RE-INVITATION OF BIDS

- In the event, that in the application of the 80/20 preference point system as stipulated in the bid documents, all bids received exceed the estimated Rand value of R1 000 000 the bid invitation must be cancelled.
- In the event, that in the application of the 90/10 preference point system as stipulated in the bid documents, all bids received are equal to, or below R1 000 000 the bid invitation must be cancelled.
- A College that cancelled a bid invitation as indicated above must re-invite bids and in the “fresh” bid documents, stipulate the revised preference point system to be applied.
- Regulation 10(4) of the Preferential Procurement Regulations, 2011, prescribes that an organ of state may, prior to the award of a bid, cancel the bid if:
 - ❖ Due to changed circumstances there is no longer a need for the goods or services for which bids were solicited;
 - ❖ Funds are no longer available to cover the total envisaged expenditure; or
 - ❖ No acceptable bids were received.

4.23.1 Cancellation of Contracts

Referring to the General Condition of Contract a College may cancel a contract partly or in whole if a supplier/contractor:

- Fails to deliver any or all of the goods or services within the period stipulated in the contract, or within any extension thereof;
- Fails to perform any other obligation under the contract; and
- If the supplier has engaged in corrupt or fraudulent practices in competing for or in executing the contract

The Accounting Officer must notify College Council of all contracts cancelled / terminated.

4.24 QUOTATIONS MUST BE COMPLETE AND MUST CONTAIN AT LEAST THE FOLLOWING PARTICULARS:

- (i) Name of Business;
- (ii) Address of Business;
- (iii) Unit price including VAT;
- (iv) 30 days validity period (***bids 90 or 120 days***);
- (v) Signed by employee and in print;
- (vi) Indication of delivery time; and
- (vii) Indication of availability of stock.

All quotations above R 30,000 must be submitted in a sealed envelope.

Faxed or e-mailed quotations will be considered but an order can only be placed against the original signed quotation.

If the original signed quotation is scanned and e-mailed, this will still be acceptable.

4.25 BIDDING METHODS

The following bidding methods may be applied by the Colleges in terms of the best practice principals contained in the National Treasury Supply Chain Management Guidelines:

- Competitive bidding;
- Two Stage Bidding;
- Limited Bidding:
 - Single source;
 - Multiple source;
 - Sole source;
- Public Private Partnerships;
- Specific Cases;
- Urgent and Emergency cases; and
- Negotiations.

Depending on the outcome of the assessment under the demand management phase the best possible bidding method must be decided upon. The following methods can be pursued:

4.25.1 Competitive Bidding

- For **all procurement above R500 000** competitive bids should be advertised for at least 21 days. The bids must be advertised in the Tender Bulletin in addition to any other media. This allows for unfettered competition and provides an opportunity for any prospective bidder to make an offer and compete on an equal basis.
- The objective of competitive bidding should be to provide all prospective bidders with timely and adequate notification of an institution's requirements and an equal opportunity to bid for the required goods, works or services.
- The aspects that play an important role in competitive bidding are discussed below.

❖ Type and size of contract

The bid documents should clearly state the type of contract to be entered into and contain the appropriate contract provisions. The most common types of contracts provide for payments on the basis of a lump sum, unit prices, reimbursable cost plus fees, or combinations thereof.

Reimbursable cost contracts should be acceptable only in exceptional circumstances such as conditions of high risk or where costs cannot be determined in advance with sufficient accuracy. Such contracts should include appropriate incentives to limit costs and may only be concluded subject to the approval of the Accounting Officer or his/her delegate. It is advisable that the reasons and formal approval for following the reimbursement route be recorded.

4.25.2 Two - Stage Bidding

- Detailed design and engineering of the goods, services and works to be provided, including the preparation of technical specifications and other bidding documents, normally precede the invitation to bid for major contracts.

However, in the case of turnkey contracts or contracts for large complex plants or works of a special nature, it may be undesirable or impractical to prepare complete technical specifications in advance. In such a case, a two-stage bidding procedure may be used, under which first unpriced technical proposals on the basis of a conceptual design or performance specifications are invited, subject to technical as well as commercial clarifications and adjustments, to be followed by amended bidding documents and the submission of final technical proposals and priced bids in the second stage.

These procedures are also appropriate in the procurement of equipment, which is subject to rapid technological advances, such as major computer and communications systems.

- Subject to approval by the Accounting Officer, the institution may engage in procurement by means of two-stage bidding, or request for proposals or competitive negotiation, in the following circumstances:

- If it's not feasible for the procuring entity to formulate detailed specifications for the goods or construction or, in the case of services, to identify their characteristics and, in order to obtain the most satisfactory solution to its procurement needs;
- If it seeks bids, proposals or offers as to various possible means of meeting its needs; or
- Because of the technical character of the goods or construction, or because of the nature of the services, it is necessary for the procuring entity to negotiate with suppliers or contractors; and
- When the procuring entity seeks to enter into a contract for the purpose of research, experiment, study or development, except where the contract includes the production of goods in quantities sufficient to establish their commercial viability or to recover research and development costs.
- The prescripts of the PPPFA and its Regulations must always be adhered to. The Regulations allow points to be claimed for BEE status. The method of evaluation, including the allocation of points, must be clearly specified in the bid documents.

4.25.3 Limited Bidding

Under this system the following variances can be used:

- **Multiple source bidding**
 - This system can be used in the case of limited competition where only a few prospective bidders are allowed to make a proposal.
 - Care should be taken that there is no infringement on the rights of other possible suppliers. Thorough analysis of the market should be done to minimize this risk.
- **Single source bidding**
 - In this case only one amongst a few prospective bidders is requested to make a proposal after a transparent and equitable pre-selection process was followed. Again a thorough analysis of the market is a prerequisite.
- **Sole source bidding**
 - This system can be used in the absence of competition and where only one bidder exists.
 - A sole source bidder normally has patent rights or sole distribution rights.

4.25.4 Unsolicited Bids

- An Accounting Officer is not obliged to consider unsolicited bids received outside a normal bidding process.
- If an Accounting Officer decides to consider an unsolicited bid, he/she may do so only if:
 - The bid complies to the principals contained in National Treasury Practice Note 11 of 2008 on unsolicited bids;
 - The setting aside of the bidding process are found to be sound;
 - Presentations be made on new products and service should be not exposed to any member of the BEC nor the BAC committee;
 - The product or service offered in terms of the bid is a unique innovative concept that will be exceptionally beneficial to, or have exceptional cost advantages for the College;
 - The person who made the bid is the sole provider of the product or service; and
 - The need for the product or service by the College has been established during its strategic planning and budgeting processes.

4.25.5 Public / Private Partnerships (PPP)

Whenever goods, works and/or services are procured by means of public private partnerships or as part thereof, the principals contained in Treasury Regulation 16 should be applied.

4.25.6 Deviation from the Normal Procurement Processes – Specific Cases

4.25.6.1 Urgent cases are cases where early delivery is of critical importance and the invitation of competitive bids is either impossible or impractical. However, a lack of proper planning should not be constituted as an urgent case.

4.25.6.2 Emergency cases are cases where immediate action is necessary in order to avoid a dangerous or risky situation or misery. Other cases which may require exemption from normal procurement procedure will be limited to the following situations:

- Disasters like floods, fire etc.
- System failures; and

- Liquidation of an existing supplier/contractor.

The reasons for the urgency/emergency and for dispensing of competitive bids should be clearly recorded and approved by the Accounting Officer.

The Accounting Officer may dispense with the official procurement processes established by this Policy, and procure any required goods or services through any convenient process, which may include direct negotiation, but only in respect of:

- Any contract relating to an emergency where it would not be in the interests of the College to invite bids,
- Any urgent case where early delivery is of the utmost importance;
- Any goods or services which are available from a single provider only;
- The acquisition of special works of art or historical objects where specifications are difficult to compile;
- Any other exceptional circumstances where it is impractical or impossible to follow the official procurement process, including:
 - Any purchase on behalf of the College at a public auction sale;
 - Any contract in respect of which compliance therewith would not be in the public interest;
 - Ad-hoc repairs to plant and equipment where it is not possible to ascertain the nature or extent of the work required in order to call for bids;
 - The Accounting Officer may condone a deviation from the procurement processes, provided that such deviation is limited to the circumstances referred to above; and
 - A list of such deviations including the approvals should be made available for audit purposes.

4.25.6.3 Emergency Dispensation

The conditions warranting Emergency dispensation should include the existence of one or more of the following:

- The possibility of human injury or death;
- The prevalence of human suffering or deprivation of rights;
- Health risk/environmental risk;
- The possibility of damage to property, or suffering and death of livestock and animals;
- The interruption of essential services, including transportation and communication facilities;
- Or support services critical to the effective functioning of the College as a whole;
- The possibility of serious damage occurring to the natural environment;

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

The prevailing situation, or imminent danger, should be of such a scale and nature that it could not readily be alleviated by interim measures, in order to allow time for the formal procurement process. Emergency dispensation shall not be granted in respect of circumstances other than those contemplated above.

Where possible, in an emergency situation, three quotes in accordance with general acquisition management principles should be obtained if possible and a report submitted to the Accounting Officer for approval.

However, where time is of the essence, the emergency shall be immediately addressed, and the process formalized in a report to the Accounting Officer as soon as possible thereafter.

In all cases above the reasons for deviating from inviting competitive bids must be recorded and approved by the Accounting Officer.

4.25.7 Negotiations

Subject to approval by the Accounting Officer, the College may engage in procurement by means of negotiation when:

There is an urgent need for the goods, works or services, and engaging in bidding proceedings would therefore be impractical, provided that the circumstances giving rise to the urgency were neither foreseeable by the procuring entity nor the result of dilatory conduct on its part;

- a) Owing to a catastrophic event, there is an urgent need for the goods, works or services, making it impractical to use other methods of procurement because of the time involved in using those methods; or
- a) Bidders have been identified as preferred bidders through a competitive bidding process.

4.26 TYPES OF CONTRACTS FOR GOODS AND SERVICES

- **Transversal Contracts**

This kind of contracts may be arranged by the National Treasury / Provincial Treasury for goods/services required on a repetitive basis by more than one participating institution.

- **Purchasing consortiums**

Public TVET Colleges are not permitted to enter into any purchasing consortiums whereby rebates from the suppliers are specific requirements for such contracts. If these rebates are a mandatory requirement it will eliminate potential suppliers not willing to surrender the rebate and thus create an unfair procurement process which is not transparent and may be queried by the Auditor-General of South Africa.

- **Ad Hoc Contracts**

This kind of contracts can be arranged for a once off requirement for goods and services after obtaining prior approval from the Accounting Officer.

- **Specific Term Contracts**

A specific term contract refers to the supply of goods or services, hiring or letting of anything, the acquisition or granting of any right, or sale of moveable state property over a specific term, of the repetitive requirements of a specific institution.

Prior approval of the Accounting Officer needs to be obtained.

4.27 NOTIFICATION AND ADVERTISING

The Acquisition Management unit is responsible for the notification and advertising of all bids and quotations.

4.27.1 Mandatory Advertising Principals

- All bids should be advertised in the National Treasury Tender Bulletin;
- In addition to the National Treasury Bulletin, may be advertised in the local newspapers; and
- Must be advertised on the College website.

Any other appropriate media can also be used if the Accounting Officer deems it necessary to ensure greater exposure to potential bidders except in urgent cases when bids can be advertised for shorter periods as the Accounting Officer may determine.

Timely notification of bidding opportunities is essential in competitive bidding. Bids should be advertised for at least **21 days** before closure. If a shorter running period is required pre-approval must be obtained from the Accounting Officer with a motivation. Longer periods for large and complex works can also be considered.

4.27.2. Closing and Opening of Bids

Two officials of the acquisition management unit must be appointed to open bids on the closing date and time. There must always be two officials present when bids are opened in public. Bid prices to be read out in public as far as possible. A cut-off time must be set to maintain bidder's confidence in the system. **The cut-off time is 11:00 on the day indicated in the bid invitation documents.**

Bids received after the closing time must not be considered and must be returned unopened to the bidder with an explanation.

No bid should close between 15 to 31 December due to the beginning of the festive season.

Postponement of the closing date can only be done if the postponed date can be advertised in the same media as originally advertised before the original closing date.

4.28 SOURCING STRATEGY

The optimum sourcing strategy and technique should be used, taking due cognizance of the nature of the commodity or service required, delivery conditions (JIT) supplier and specific College goals to be promoted. Sourcing strategies might include:

- Quotations;
- Bidding;
- Pre-qualification;
- Two stage bidding;
- Negotiations; and
- Existing contracts.

No subdividing of requirements to avoid the invitation of formal competitive bids will be allowed. A minimum of three quotations must be obtained to avoid favouritism. Where not possible each case will be dealt with on its own merits. All purchases above R30 000 is subjected to the preferential procurement points system. All quotations below the amount of R30 000 needs to be allocated on a rotation basis to promote equal opportunities amongst all EME's.

Suppliers will be categorized by the SCM Unit according to the goods / services they are capable of supplying. (Refer to data base) The CIDB grading system will be used for construction related projects.

4.29 BID VALIDITY

The College shall complete the evaluation of bids and the award of a contract within the initial period of validity so that extensions are not necessary.

- **Validity of Bids** **60-90 days**
- **Validity of Quotations** **30-60 days.**
- An extension of the bid validity required to complete the evaluation, if justified by exceptional circumstances, shall be requested in writing from all bidders.
- Bidders will not be permitted to lower their bid price.
- The prices can remain the same or be increased.
- No fluctuation in prices is allowed in the event of requesting bid validity extension.

Whenever a extension of the validity period is requested, bidders shall not be requested or be permitted to change the right to refuse to grant such an extension without forfeiting their bid security, but those who are willing to extend the validity of their bid shall be required to provide a suitable extension of bid security. The bid validity is set on 90 days.

4.30 AWARDING OF CONTRACTS

According to the prescripts of the PPPFA and its Regulations, a contract may only be awarded to a bidder who scored the highest number of points, unless objective criteria justify the award to another bidder. Should this be the case, the Accounting Officer should be able to defend the decision not to award the bid to the bidder who scored the highest points in any court of law.

- The College shall award the contract, within the period of the validity of bids, to the bidder who meets the appropriate standards of capability and resources and whose bid has been determined:
 - To be substantially responsive to the bidding documents; and
 - Has scored the highest number of points for price and BEE rating.
- A bidder shall not be required, as a condition of award, to undertake responsibilities for work not stipulated in the bidding documents or otherwise, to modify the bid as originally submitted.

Confidentiality:

- Bids are not available for perusal by the public;
- The Colleges must inform all unsuccessful bidders in writing about the outcome of the bid.
- The Colleges should, only when requested in writing by the bidders, provide them with the reasons why his/her own bid was not successful;
- The reasons why another bidder's bid was unsuccessful should not be supplied, as this may contain privileged information (e.g. a negative banking report);
- No itemized prices other than the formal contract prices of the successful bidder(s) should be supplied to competitors;
- According to the prescripts of section 36 of the Promotion of Access to Information Act, No. 2 of 2000, no information may be revealed that will prejudice a third party in commercial competition. Revealing itemized prices of unsuccessful bidders may reveal their trade secrets, strategies and no such information should be revealed without the written consent of the relevant bidder(s).

4.31 CONTRACT MANAGEMENT / ADMINISTRATION

It is at all times the duty of the state to protect the public interest, hence the disposition to acquire supplies and services at the best conditions relative to the specified quality. However, this does not place the state in a position, as one party to a contract, to claim any special prerogatives or powers other than those specifically provided for in the contract conditions and those that are legally admissible.

Before a contract is concluded there must be absolute consensus between the parties concerned and once the contract has been concluded the contract conditions must be strictly adhered to by all parties.

A supplier is obliged to furnish the required item or service and the buyer, in this instance the College, is obliged to take delivery if the required item conforms to the specified requirements, and to pay the agreed price to the supplier.

All actions after conclusion of a contract can be regarded as contract administration. Contracts must be administered in terms of the specifications and conditions contained in the contract, as well as general legal aspects. Decisions taken must be able to stand up in a court of law.

General

- Once the Accounting Officer has awarded the contract, the responsibility for managing the contract rests with the College Cost Centre Manager / Deputy Principals who initiated the need for the contract. This management process includes monitoring adherence to the contract agreement by the contractor.
- Deputy Principals will be served with the contract(s) for the service(s) they have procured or using.
- Each College Cost Centre / Deputy Principals should develop and apply the necessary performance management systems including appropriate record keeping to ensure contracts are managed in an effective and efficient manner.
- Contract administration, including monitoring of socio-economic objectives as undertaken by the contractor during the bidding stage, should also be monitored by the College Cost Centers / Deputy Principals.
- The contract shall be written in English. All correspondence and other documents pertaining to the contract that are exchanged by the parties shall also be written in English.
- Contracts register is to be established.

Cancellation of Contracts

The provision for cancellation of a contract for unsatisfactory performance and the appropriate mechanisms to undertake the cancellation should be included in the relevant bid documentation.

The Accounting Officer will cancel a contract awarded to a person if:

- That person committed any corrupt or fraudulent act during the bidding process or the execution of the contract; or
- An official or any other roll player committed any corrupt or fraudulent act during the bidding process or the execution of the contract that benefited that person.
 - In addition to cancelling the contract, the Accounting Officer should also consider the possibility and/or appropriateness of:
 - Claiming monetary reimbursement;
 - Laying criminal charges; and
 - Blacklisting of the supplier and/or the owners of the business.
- The Accounting Officer must consult with the SCM Unit and obtain Legal input (College Legal or Office of the State Attorney) before contracts are cancelled / terminated.
- The Accounting Officer must notify the College Council of all contracts cancelled / terminated including the reasons thereof.

Awarding of Contract and notification

- All notifications to bidders must be done within **48 hours** after the Accounting Officer has approved the contract.
- The letter of award should be approved by the Accounting Officer.
- The SCM Unit / bidding section is responsible to issue the approved letter of award to the successful provider.
- **Only the accounting officer or his delegate can sign the formal contract on behalf of the college.**
- No bidder will be awarded a second contract at the same time if it cannot be proven beyond doubt and to the satisfaction of the Accounting Officer that the said contractor has the capacity to commence with both contracts and to complete both contracts in the minimum time allowed.

4.32 RECOVERABLE AND IRRECOVERABLE COSTS

4.32.1 Fruitless and Wasteful Expenditure

Definition:

In terms of the PFMA fruitless and wasteful expenditure is an expenditure that was made in vain that would have been avoided had reasonable care been exercised.

Costs incurred by Colleges that can be classified as fruitless and wasteful should be recovered from officials if found guilty of financial misconduct. These expenses will be reported to Council on a monthly basis.

- A separate Fruitless and Wasteful as well as Irregular Expenditure policy should to be developed in this regard.
- An investigation or incident report to be compiled for the Accounting Officer.

4.32.2 Irregular Expenditure

Definition:

Irregular expenditure relates to expenditure incurred that is in contravention of or that is not in accordance with a requirement of any applicable legislation, including the PFMA. All cases of irregular expenditure involving the procurement of goods and services must be reported to the Accounting Officer.

4.33 MONITORING AND COMPLIANCE

During the process of monitoring and compliance a retrospective analysis should be undertaken to determine whether proper processes were followed and the desired objectives achieved. The compliance unit in the SCM Office is responsible for monitoring compliance by both officials and suppliers/contractors.

Issues to Be Monitored For Compliance

- Achievement of college goals;
- Compliance to norms and standards;
- Validity of preference points claimed by contractors;
- Investigating suppliers profiles;
- Monitor savings generated;

- Evaluate stores efficiency;
- Contract compliance;
- Cost efficiency of procurement processes;
- Whether SCM objectives are consistent with the Governments broader policies; and
- Monitor BEE implementation.

The project leader must monitor and evaluate on site performance and report to the Accounting Officer on progress on a monthly basis. Monitoring of all payments should be carried out by the Chief Financial Officer.

4.34 APPOINTMENT OF CONSULTANTS

APPOINTMENT OF CONSULTANTS/PROFESSIONAL SERVICES OTHER THAN CONSTRUCTION PROFESSIONAL SERVICE PROVIDERS

(Refer to National Treasury Practice Note 3 of 2003)

The term consultants refers to and includes consulting firms, engineering firms, construction managers, management firms, procurement agents, inspection agents, auditors, other multinational organizations, investment and merchant banks, universities, research agencies, government agencies, non-government organizations and individuals.

Accounting Officers may use these organizations as consultants to help in a wide range of activities. The appointment of consultants needs to be done only when the necessary skills and/ or resources to perform a project / duty / study are not available, and when the Accounting Officers cannot be reasonably expected either to train or to recruit people in the time available.

Consultants are of intellectual and advisory nature.

4.34.1 Nature of Appointment

- Contract appointments in terms of the Public Service Act, 1994; and
- Formal contract appointments.
- Selection methods:
 - Quality and cost based selection;
 - Quality based selection;
 - Selection under a fixed budget;
 - Least cost selection;
 - Single source selection;
 - Selection based on qualifications;
 - Selection of individual consultants; and
 - Selection of specific types of consultants.

4.34.2 Selection Methods for the Appointment of Consultants

The Accounting Officer of the College should be responsible for preparing and implementing the project, for selecting the consultant, awarding and subsequently administering the contract, as well as for the payment of consulting services under the project.

While the specific rules and procedures to be followed for employing consultants depend on the circumstances of the particular case, at least the following **four major considerations** should guide the Accounting Officer on the selection process:

- The need for high-quality services;
- The need for economy and efficiency;
- The need to give qualified consultants an opportunity to compete in providing the services; and
- The importance of transparency in the selection process (competitive bidding).

The particular method to be followed for the selection of consultants for any given project should be selected by the Accounting Officer in accordance with the criteria outlined in the **National Treasury: Supply Chain Management - Guide for Accounting Officers**

The method selection is determined by the scope of the assignment, the quality of service, the complexity of the assignment and whether assignments are of a standard and routine nature.

Consultant services must be procured through competitive bids if:

- The value of the contract exceeds R500 000 (vat inclusive) or
- The duration period of the contract exceeds one year.

All documentation, system and process, information used and developed, produced or manufactured and rights so required by the consultant in there course of the consultancy services is vested in the College.

The following are the methods most generally used for the appointment of consultants:

4.34.2.1 Quality and Cost Based Selection (QCBS)

In the majority of cases, the abovementioned major considerations can best be addressed through competition among firms in which the selection is based both on the quality of the services to be rendered and on the cost of the services to be provided, i.e. Quality and Cost-Based Selection (QCBS). This method is used in the event of an assignment being not complex or specialized.

Cost as a factor of selection should be used judiciously.

The relative weight to be given to the quality and cost should be determined for each case depending on the nature of the assignment.

Investment and commercial banks, financial firms, and fund managers hired by the Accounting Officer for the sale of assets, issuance of financial instruments, and other corporate financial transactions, notably in the context of privatization operations, should be selected under QCBS.

Auditors typically carry out auditing tasks under well-defined TOR and professional standards. They should be selected according to QCBS, with cost as a substantial selection factor (40-50 points), or by the "Least Cost Selection" outlined in paragraph 4.34.2.4. When consultants are appointed to execute an audit function on behalf of the Accounting Officer, the tariffs agreed by the Auditor-General and the South African Institute for Chartered Accountants (SAICA) may be used as a guideline to determine the appropriate tariff or to, determine the reasonableness of the tariffs. These tariffs can be obtained from SAICA's website under www.saica.co.za. The tariffs are captured in a circular issued by SAICA.

In some circumstances, QCBS is not the most appropriate method for selecting consultants, and other methods are more appropriate. This section describes other selection methods and the circumstances under which they are generally appropriate.

4.34.2.2 Quality Based Selection (QBS)

- (i) QBS is appropriate for the following types of assignments:
 - (a) Complex or highly specialized assignments for which consultants are expected to demonstrate innovation in their proposals (for example, financial sector reforms) for which it is difficult to define precise TOR and the required input from the consultants, and for which the client expects the consultants to demonstrate innovation in their proposals (for example, country economic or sector studies, multi-sectoral feasibility studies, design of a hazardous waste remediation plant or of an urban master plan, financial sector reforms); the appointment of engineers for engineering designs can also be done under this method.
 - (b) Assignments that have a high downstream impact and in which the objective is to have the best experts (for example, feasibility and structural engineering design of such major infrastructure as large dams, policy studies of national significance, management studies of large government agencies); and
 - (c) Assignments that can be carried out in substantially different ways, such that proposals will not be comparable (for example, management advice, and sector and policy studies in which the value of the services depends on the quality of the analysis).
- (ii) In QBS, the RFP may request submission of a technical proposal only (without the financial proposal), or request submission of both technical and financial proposals at the same time, but in separate envelopes (**two-envelope system**). The RFP should not provide the estimated budget, but it may provide the estimated number of key staff time, specifying that this information is given as an indication only, and that consultants should be free to propose their own estimates.

If technical proposals alone were invited, after evaluating the technical proposals using the same methodology as in QCBS, the Accounting Officer should request the consultant with the highest ranked technical proposal to submit a detailed financial proposal. The Accounting Officer and the consultant should then negotiate the financial proposal and the contract. All other aspects of the selection process should be identical to those of QCBS.

If, however, consultants were requested to provide financial proposals initially together with the technical proposals, safeguards should be built in to ensure that the price envelope of only the selected proposal is opened and the rest returned unopened, after the negotiations are successfully concluded.

4.34.2.3 Selection under a Fixed Budget

This method is appropriate only when the assignment is simple and can be precisely defined and when the budget is fixed. The RFP should indicate the available budget and request the consultants to provide their best technical and financial proposals in

separate envelopes, within the budget. The TOR should be particularly well prepared to ensure that the budget is sufficient for the consultants to perform the expected tasks. Evaluation of all technical proposals should be carried out first as in the QCBS method where after the price envelopes should be opened in public. Proposals that exceed the indicated budget should be rejected. The consultant who has submitted the highest ranked technical proposal should be selected and invited to negotiate a contract.

4.34.2.4 Least-Cost Selection

This method is more appropriate to selection of consultants for assignments of a standard or routine nature (audits, engineering design of noncomplex works, and so forth) where well-established practices and standards exist, and in which the contract amount is small. Under this method, a “minimum” qualifying mark for the “functionality” is established. Proposals to be submitted in two envelopes are invited. Potential suppliers may be obtained from the list of approved service providers. Technical envelopes are opened first and evaluated. Those securing less than the minimum mark should be rejected and the financial envelopes of the rest are opened in public.

The firm with the highest points should then be selected. Under this method, the qualifying minimum mark should be established, keeping in view that all proposals above the minimum compete only on price and BEE Rating. The minimum mark to qualify should be stated in the RFP.

4.32.2.5 Single-Source Selection

- i. Single-source selection of consultants does not provide the benefits of competition in regard to quality and cost and lacks transparency in selection, and could encourage unacceptable practices. Therefore, single-source selection should be used only in exceptional cases. The justification for single-source selection should be examined in the context of the overall interests of the client and the project.
- ii. Single-source selection may be appropriate only if it presents a clear advantage over competition for tasks that represent a natural continuation of previous work carried out by the firm.

Also:

- (a) Where a rapid selection is essential (for example, in an emergency operation);
 - (b) For small assignments not exceeding R500 000 (vat inclusive) per case.
 - (c) When only one firm is qualified or has experience of exceptional worth for the assignment.
- iii. The reasons for a single-source selection must be recorded and approved by the Accounting Officer or his / her delegate prior to the conclusion of a contract.
 - iv. When continuity for downstream work is essential, the initial RFP should outline this prospect and if practical, the factors used for the selection of the consultant should take the likelihood of continuation into account. Continuity in the technical approach, experience acquired, and continued professional liability of the same consultant may make continuation with the initial consultant preferable to a new competition, subject to satisfactory performance in the initial assignment. For such downstream assignments, the Accounting Officer should ask the initially selected consultant to prepare technical and financial proposals on the basis of TOR furnished by the Accounting Officer, which should then be negotiated.
 - v. If the initial assignment was not awarded on a competitive basis or was awarded under tied financing or reserved procurement or if the downstream assignment is substantially larger in value, a competitive process acceptable to the Accounting Officer should normally be followed in which the consultant carrying out the initial work is not excluded from consideration if it expresses interest.

Consultants may be selected on rotation from the database of consultants in this case only

4.34.2.6 Selection Based On Consultants' Qualifications

This method may be used for very small assignments for which the need for preparing and evaluating competitive proposals is not justified. In such cases, the Accounting Officer should prepare the TOR, request expressions of interest (EOI) and information on the consultants' experience and competence relevant to the assignment and select the firm with the most appropriate qualifications and references. Potential suppliers may be obtained from the list of accredited service providers. The selected firm should be requested to submit a combined technical-financial proposal and then be invited to negotiate the contract.

4.34.2.7 Selection of Individual Consultants

Individual consultants may normally be employed on assignments for which:

- Teams of personnel are not required.
- No additional outside (home office) professional support is required.

- The experience and qualifications of the individual are the paramount requirement.
- When coordination, administration, or collective responsibility may become difficult because of the number of individuals, it would be advisable to employ a firm.
 - Individual consultants should be selected on the basis of their qualifications for the assignment. They may be selected on the basis of references or through comparison of qualifications among those expressing interest in the assignment or approached directly by the Accounting Officer. Individuals employed by the Accounting Officer should meet all relevant qualifications and should be fully capable of carrying out the assignment. Capability is judged on the basis of academic background, experience and, as appropriate, knowledge of the local conditions, such as local language, culture, administrative system, and local government environment.
- From time to time, permanent staff or associates of a consulting firm may be available as individual consultants. In such cases, the conflict of interest provisions described in these guidelines should apply to the parent firm.

4.34.2.8 Selection of Particular Types of Consultants - Use of Non-Governmental Organizations (NGOs):

NGOs are voluntary non-profit organizations that may be uniquely qualified to assist in the preparation, management, and implementation of projects, essentially because of their involvement and knowledge of local issues, community needs, and/or participatory approaches. NGOs may be included in the short list if they express interest and provided that the Accounting Officer is satisfied with their qualifications. For assignments that emphasize participation and considerable local knowledge, the short list may comprise entirely from NGOs.

If so, the QCBS procedure should be followed, and the evaluation criteria should reflect the unique qualifications of NGOs, such as voluntarism, non-profit status, local knowledge, scale of operation, and reputation. An Accounting Officer may select the NGO on a single-source basis, provided the criteria outlined for single-source selection are fulfilled.

4.34.2.9 Inspection Agents

Accounting Officers may wish to employ inspection agencies to inspect and certify goods prior to shipment or on arrival in the country. The inspection by such agencies usually covers the quality and quantity of the goods concerned and reasonableness of price. Inspection agencies should be registered with the South African National Accreditation System (SANAS) and the services of these inspection agents should be obtained by means of competitive bidding.

4.34.2.10 Banks

An Investment Policy must be formulated:

A competitive bid for bank service must be placed for a **minimum engagement period of three years** and annual reviews must be undertaken in comparison to market related fees.

Investment and commercial banks, financial firms, and fund managers hired by Accounting Officers for the sale of assets, issuance of financial instruments and other corporate financial transactions, notably in the context of privatization operations, should be selected under QCBS. The RFP should specify selection criteria relevant to the activity - for example, experience in similar assignments or network of potential purchasers - and the cost of the services.

In addition to the conventional remuneration (called a "retainer fee"), the compensation includes a "success fee." This fee can be fixed, but is usually expressed as a percentage of the value of the assets or other financial instruments to be sold. The RFP should indicate that the cost evaluation will take into account the success fee, either in combination with the retainer fee or alone. If alone, a standard retainer fee should be prescribed for all short-listed consultants and indicated in the RFP, and the financial scores should be based on the success fee as a percentage of a pre-disclosed notional value of the assets. For the combined evaluation (notably for large contracts), cost may be accorded a weight higher or the selection may be based on cost alone among those who secure a minimum passing mark for the quality of the proposal. The RFP should specify clearly how proposals will be presented and how they will be compared.

4.34.2.11 Auditors

Auditors typically carry out auditing tasks under well-defined TOR and professional standards. They should be selected according to QCBS, with cost as a substantial selection factor (40-50 points), or by the "Least-Cost Selection." When consultants are appointed to execute an audit function on behalf of the Accounting Officer, the tariffs agreed by the Auditor-General and the South African Institute for Chartered Accountants (SAICA) may be used as a guideline to determine the appropriate tariff or to determine the reasonableness of the tariffs. These tariffs can be obtained from SAICA's website under www.saica.co.za. The tariffs are captured in a circular issued by SAICA.

4.34.2.12 Service Delivery Contractors

Projects in the social sectors in particular may involve hiring of large numbers of individuals who deliver services on a contract basis (for example, social workers, nurses and paramedics). The job descriptions, minimum qualifications, terms of employment and selection procedures should be described in the project documentation.

4.34.2.13 Associations between Consultants

Consultants may associate with each other to complement their respective areas of expertise, or for other reasons. Such an association may be for the long term (independent of any particular assignment) or for a specific assignment and only permitted if the other partner is a B-BBEE entity with more than 50% black ownership. The association may take the form of a joint venture or a sub-consultancy. In case of a joint venture, all members of the joint venture should sign the contract and are jointly and severally liable for the entire assignment. Once the bids or Requests for Proposals (RFP's) from service providers are issued, any association in the form of joint venture or sub-consultancy among firms should be permissible only with the approval of the Accounting Officer or his/her delegate. Accounting Officers should not compel consultants to form associations with any specific firm or group of firms, but may encourage associations with the aim to enhance transfer of skills.

4.35 CONSTRUCTION PROCUREMENT

4.35.1 Applying the Register of Contractors

For the purposes of this section the Colleges should apply the principals contained in the **Construction Industry Development Board Act of 2000 (Act 38 of 2000)** as follows:

The Construction Industry Development Board Act of 2000 prohibits in the public sector the award of an engineering and construction works contract to an unregistered contractor. The regulations issued in terms of the Act prohibit the evaluation of calls for expressions of interest (EOI) and tender offers of respondents and tenderer's who are not registered in an appropriate contractor grading designation except under "extreme conditions" in which case only submissions of registered contractors will be evaluated.

It should be noted that the Regulations define "extreme conditions" as conditions where any of the following is present or imminent:

- a) Human injury or death;
- b) Human suffering or deprivation of human rights;
- c) Serious damage to property or financial loss;
- d) Injury, suffering or death to livestock or other animals;
- e) Serious environmental damage or degradation; or
- f) Interruption of essential services.

The Regulations require that the register be applied **only** to contracts having a value in excess of R30 000 (vat inclusive).

This would be similar to the database of suppliers; in this case a separate database / register should be maintained by the Colleges for Construction Contractors.

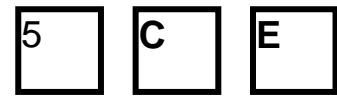
4.35.2 Contractor Grading Designations

The Construction Industry Regulations require the CIDB to register contractors in prescribed contractor grading designations, depending upon their verified works and financial capability. Contractors are assigned an alpha-numeric number which represents their contractor grading designation as illustrated in Figure 1 below.

Contractors may not tender for contracts above their **contractor grading designation**, but may do so below their designations.

Only prime or main contractors must be registered. Generally subcontractors need not be registered unless they are selected jointly by the employer and the contractor in terms of the procedures provided for in the Standard for Uniformity in Construction Procurement. Labour only contractors and contractors, who are provided with the bulk of the materials required for engineering and construction works by the employer or an agent of the employer, need not register as the register does not apply to them.

Figure 1: Describing contractor grading designations



Two letters depicting the **class of construction works** (general building, civil engineering, electrical engineering, mechanical engineering or specialist category) in which the contractor is registered

Single number representing a registered contractor's capability to undertake a contract in a particular **class of construction works** within a specified **tender value range** (see Table below)

Tender value range:

Tender Value Range designation	Range of Tender Values	
	Greater than	Less than or equal to
1	R 0	R 200,000
2	R 200,000	R 500,000
3	R 500,000	R 1,500,000
4	R 1,000,000	R 3,000,000
5	R 3,000,000	R 5,000,000
6	R 5,000,000	R 10,000,000
7	R 10,000,000	R 30,000,000
8	R 30,000,000	R 100,000,000
9	R 100,000,000	No limit

4.35.3 Contractors with Track Record

Contractors registered in contractor grading designation 1 are not required to have a track record. In order to distinguish between those that have a track record and those that do not, contractors who have in the last five years completed a contract having a value of R10 000 (vat inclusive), or more, may be registered as having a track record. Such contractors are designated by the letters "TR".

4.35.4 Potentially Emerging Contractors

The register of contractors also records the potentially emerging enterprise status of contractors. Contractors who are registered with the CIDB as potentially emerging contractors may, where employers have in place a targeted development programme, be awarded a contract in one contractor grading designation higher than their current contractor grading designation. Employers must, however:

- Be satisfied that the contractor has the potential to develop into and qualify for registration in a higher grade; and
- Ensure that financial, management or other support is provided to that contractor to enable the contractor to successfully execute the contract.

Such contractors are designated by the letters "PE".

4.35.5 CLASSES OF CONSTRUCTION WORK

Description	Designation	Definition
Civil engineering works	CE	Construction works that are primarily concerned with the materials such as steel, concrete, earth and rock and their application in the construction, operation, maintenance and management of hydraulic, structural, environmental and systems aspects of infrastructure works and services.
Electrical engineering works	EE	Construction works that are primarily concerned with installation, testing, operation and maintenance of equipment, plant and systems within the electrical, electronic, communication and electrical systems areas.
General building works	GB	Construction works that: <ol style="list-style-type: none"> a. are primarily concerned with the provision of permanent shelter for its occupants or contents; or b. cannot be categorised in terms of the definitions provided for civil engineering works, electrical engineering works, mechanical engineering works, or specialist works.
Mechanical engineering works	ME	Construction works that are primarily concerned with the installation, testing, operation and maintenance of machines, machine and thermodynamic processes and manufacturing, materials handling plants and systems.
Specialist works	SA	Alarms, security and access control systems
	SB	Asphalt works (supply and lay)
	SC	Building excavations, shaft sinking and lateral earth support
	SD	Corrosion protection (cathodic, anodic and electrolytic)
	SE	Demolition and blasting
	SF	Fire prevention and protection systems
	SG	Glazing, curtain walls and shop fronts
	SH	Landscaping, irrigation and horticultural works
	SI	Lifts, escalators and travellers (installation, commissioning and maintenance)
	SJ	Piling and specialized foundations for buildings and structures
	SK	Road markings and signage
	SL	Structural steelwork fabrication and erection
	SM	Timber buildings and structures
	SN	Waterproofing of basements, roofs and walls using specialist systems.
	SO	Water supply and drainage for buildings (wet services, plumbing)
	SP	Building of Homes as contemplated in the Housing Consumer Protection Measures Act (Act No 95 of 1998)

Applying the register of contractors in procurement documents

Quotations:

The procedure in relation to the invitation of quotations is as follows:-

The same procurement procedures are applicable as with normal procurement (3 quotations between R30 000 and R500 000 with submission to the BEC and BAC from R300 000 to R500 000).

The following are additional requirements in terms of construction procurement:

The maximum contract value that a contractor registered in contractor grading designation 1 is considered capable of performing is R200 000 (vat inclusive). This is the upper limit for quotations provided for in the regulations issued in terms of the Public Finance Management Act (these principals are adopted by the TVET Colleges). As a result, all contractors who are registered in respect of a particular class of construction works are eligible to have their submissions evaluated.

Step 1:

Identify preferably one, but not more than two class (es) of construction works that best describes the works to be performed. Where necessary, include requirements for track record. ()¹

Step 2:

State the requirements for CIDB registration in the Tender Data in the form of eligibility criteria using the wording prescribed in the Standard for Uniformity in Construction Procurement.

Step 3:

Notify tenderers of estimated requirements for CIDB registration in the Tender Notice and Invitation to tender using the wording prescribed in the Standard for Uniformity in Construction Procurement.

Step 4:

Look up each tenderer's contractor grading designation on the CIDB register (www.cidb.org.za) and evaluate only those tenderers who have the required contractor grading designations.

Step 5:

Confirm that the tenderer has specific capabilities, if any, and the necessary capacity to perform the works.

Step 6:

Confirm that the tenderer is on the register and is in possession of the required contractor grading designation immediately prior to the award of the contract.

Tenders:

The procedure in relation to the invitation of tenders is as follows:

The same procurement procedures are applicable as with normal procurement (formal bidding process above R500 000).

The following are additional requirements in terms of construction procurement:

Step 1:

Identify preferably one, but not more than two class (es) of construction works that best describe the works to be performed.

Step 2:

Estimate the tender value including value added tax and identify the tender value range designation within which this value falls. Where the estimated value is not more than 20 percent above the lower limit of a tender value range, base the designation on the tender value range immediately below the tender value range within which the estimate falls.()²

The contractor grading designations for construction works taking place over an agreed number of years may be based on the annual value where such work is:

¹ There are situations in which more than one class of construction works may aptly describe a contract, e.g. fencing, which may fall under *General Building* or *Civil Engineering Works* or a steel bridge, which may fall under *Structural Steelwork Fabrication and Erection* or *Civil Engineering Works*. The calling for a single class in these circumstances may prejudice qualified contractors. The calling for an alternative class of work addresses this concern. It must be stressed that the regulations only permit alternatives and not dual classes. For example, the requirement may be for a 1GB or 1CE, but not a 1GB and 1CE.

² Invitations to tenderers should indicate as accurately as possible the registration requirements and not be misleading; hence the requirement in the regulations to base the estimate on the lower designation in borderline circumstances.

- On an “as and when required” basis e.g. pipelines;
- Of a routine nature e.g. road maintenance; or
- Grouped into identifiable and similar components where commencement of the next component is dependent on the completion of the previous one e.g. the building of a limited number of class room blocks where a block is substantially complete before embarking on the construction of a subsequent block. ()3

Step 3:

Determine the approximate contractor grading designation and, where applicable, the alternative designation, based on the class (es) of construction works selected in step 1 and the tender value range identified in step 2. Where the employer has a targeted development programme in place that provides the necessary support to enable the contractor to successfully execute the contract, expand the requirements to those contractors who are registered as potentially emerging contractors in one designation lower than required.

Step 4:

State the requirements for contractor grading designation in the Tender Data in the form of eligibility criteria in using the wording prescribed in the Standard for Uniformity in Construction Procurement.

Step 5:

Notify tenderers of the approximate contractor grading designation requirements in the Tender Notice and Invitation to tender using the wording prescribed in the Standard for Uniformity in Construction Procurement.

Step 6:

Look up each tenderer’s contractor grading designation on the CIDB register (www.cidb.org.za) and evaluate only those tenderers who have not tendered an amount which exceeds the tender value range associated with their respective contractor grading designations, except where the tendered sum is just above the upper limit of a tenderer’s tender value range.

Step 7:

Declare as non-responsive all tenders received from:

- Registered contractors who tender above their designated tender value range, except where the margin by which the tender value range is exceeded is reasonable; or
- Unregistered contractors who are not considered as being capable of being registered in the required contractor grading designation prior to the evaluation of tenders⁴.

Step 8:

Decide in the case of a tenderer who tenders above his tender value range if ⁵ :

³ Regulation 25(1B) states:

Where a contract involves construction works over an agreed number of years -

- on an “as and when required” basis;*
- of a routine nature; or*
- grouped into identifiable and similar components where an instruction to proceed to the construction of the next component is conditional on the successful completion of the previous component, the value of that contract may for the purpose of subregulation (1), be taken at its annual value.*

⁴ Regulation 25(1A) introduces a relaxation in criteria by introducing the term “capable of being registered” when deciding if a tender offer or expression of interest may be evaluated. This regulation intends only to allow a relaxation if a contractor is not yet registered, but complies with all the legal requirements to be registered in the category required by the tender invitation. Simply put, an employer may evaluate a tender received from an unregistered tenderer, only if such a tenderer satisfies all the requirements for registration in a particular grade.

Evaluation commences with the reduction of tender offers to a comparative basis to perform comparisons (see F.3.11.1 of the CIDB Standard Conditions of Tender). This means that one first has to determine whether all contractors who submitted tender offers are registered or are capable of being registered in the required category, before evaluation commences.

The liability to prove whether or not the contractor is capable to be so registered lies with the contractor and the employer and not with the CIDB. If the contractor concerned has submitted a full copy of his/her application for registration to the employer, the employer will be able to evaluate whether or not the contractor has met the requirements for registration in the required category.

⁵ Regulation 25(7A) states:

An organ of state may subject to its procurement policy and notwithstanding anything to the contrary contained in this regulation, evaluate and award a tender offer from a tenderer who is registered but who tendered outside of his or her tender value range as contemplated in regulation 17, provided that –

- the margin with which the tenderer exceeded his or her tender value range contemplated in regulation 17, is reasonable;*
- the award of the contract does not pose undue risk to the organ of state;*
- the tender offer in all other aspects comply with these Regulations; and*
- the report referred to in regulation 21 or 38(5) and (6), indicates whether this sub regulation was applied in the award of the tender.*

- a) The amount by which the tendered sum exceeds the tender value range is reasonable; and
- b) The award of a contract to such a contractor does not impose any undue risk.

Step 9:

Confirm that the tenderer has specific capabilities, if relevant, and the necessary capacity to perform the works.

Step 10:

Confirm that the tenderer is on the register and is in possession of the required contractor grading designation immediately prior to the award of the contract.

4.36 DEVELOPMENT OF REGISTERED CONTRACTORS

The Register of Projects is designed to manage risk in the tendering process, reduce the administrative burden associated with the award of contracts and reduce tendering costs to both clients and contractors. The Register of Projects, on the other hand, gathers information on the nature, value and distribution of projects. These registers pave the way for the introduction of a best practice contractor recognition scheme and a best practice project assessment scheme. They provide the framework necessary for enterprise development as they record information not only relating to the profile of contractors, but also to the broad capabilities of contractors and information relating to the award of contracts.

This information stored in the registers may be used to identify where gaps in contracting capacity exist within a geographic region or where an unsustainable supply of contractors within a segment of the market occurs. It also enables employers to match the supply of work with transformation and industry development imperatives. As such, the registers not only provide market intelligence, but also facilitate the appropriate targeting and integration of development initiatives involving training, mentoring and finance to specific categories of contractors.

In support of industry development, the employers, wherever appropriate, promotes the participation and development of **registered contractors** by means of one or more of the following:

- Unbundling projects into smaller contracts;
- Offering preferences to contractors who undertake to enter into joint ventures with or subcontract portions of the works to such contractors;
- Implementing targeted development programmes to support potentially emerging contractors in accordance with the provisions of the Construction Industry Development Regulations;
- Requiring a prime contractor to subcontract defined portions of the works to contractors in accordance with the provisions of Annexure I of the Standard for Uniformity for Construction Procurement; and
- Offering preferences in terms of a preferential procurement policy to a contractor registered in particular contractor grading designations.

These interventions provide registered contractors with increased levels of work opportunities so that they can improve their contractor grading designations.

(See CIDB Best Practice Guideline A8: *Procurement measures to develop registered contractors* for further particulars and examples)

4.37 TERMINOLOGY IN CONSTRUCTION PROCUREMENT - “Bid” versus “Tender”

The CIDB has adopted the terms “tender” and “tenderer” in preference to “bid” and “bidder”. The rationale for this is as follows:

A. Accepted English usage:

The New Shorter Oxford Dictionary contains the following definitions:

Bidder: A person who bids, especially at an auction or at cards.

Bid: The offer of a price, especially at an auction; an offer made at a stated price, a tender.

Tender: A formal offer made by one party to another; specifically an offer of money etc. made to discharge a debt or liability. An offer of anything for acceptance.
A written offer made by one party to another to supply goods or carry out work at a set price or rate.

Tenderer: person who tenders or makes a formal offer, especially for a proposed contract.

B. Common international usage of procurement terms:

The World Bank is the only major international organization that uses the terms “bid” and “bidder” in a procurement context. (See Table below).

Table: International usage of the terms “bid” and “tender”

Organization	Publication	Terms used
United Nations Commission on International Trade Law	Model law on procurement of goods, construction and services (1994)	<i>“Bidding to do Government work” used once only. The terms bid and bidders are not encountered. Tender and tendering used throughout the document</i>
World Trade Organisation	Agreement on Government Procurement	<i>The terms “bid, bidder or bidding” is not found in the agreement whatsoever. The terms tender, tenderer and tendering found throughout the document.</i>
European Union	COUNCIL DIRECTIVE 93/36/EEC (Rules for Supplies)	<i>The terms “tender, tenderer and tendering” are found throughout the document. The term “bidder” is found once in the document. The terms “bid and bidding” is not encountered.</i>
	DIRECTIVE 2004/18/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 31 March 2004	<i>“Tender and tenderer” is used throughout the document. The term “bid and bidder” is only used in the context of electronic auctions.</i>
Federation Internationale des Ingenieurs-Conseils (FIDIC)	Conditions of contract for construction for building and engineering works designed by the employer.	<i>The term “tender” is used.</i>

The traditional usage of terms in the South African construction industry:

The term “tender” has historically been used in industry standard documents published by both the public and private sector. The national standards for construction procurement published by Standards South Africa uses the term “tender”. The term “bid” is not encountered.

Consistency

The term “bid” does not sit comfortably with non-competitive selection procedures such as the negotiation procedure.

Most national laws governing procurement use the term “tender”. The Municipal Finance Management Act (Act 56 of 2003) and the Prevention and Combating of Corrupt Activities Act (Act 12 of 2004), however, use both these “bid” and “tender”. The Municipal Finance Management uses both terms even in the same sentence. The Prevention and Combating of Corrupt Activities Act uses the term “bid” in relation to auctions and “tender” in relation to the process that results in a contract or an agreement being made. This Act also makes reference to a Register of Tender Defaulters.

National Treasury have standardized on the term “bid” in the Supply Chain Management Practice Notes. Although, the Regulations for the Framework for Supply Chain Management issued in terms of Public Finance Management Act generally makes reference to the term “bid”, it still refers to a “tender process” and the “Government Tender Bulletin.”

When compiling construction procurement documents in accordance with the Standard, the term tender must be used throughout the documents. Organisations must refrain from changing terms such as “Tender Data” to “Bid Data” as this will necessitate the retyping of the Standard Conditions of Tender and result in inconsistencies in documents. This defeats the objective of having a uniform procurement documents.

“Quality” versus “functionality”

The Standard for Uniformity in Construction Procurement defines quality as:

“The totality of features and characteristics of a product or service that bear on its ability to satisfy stated or implied needs”

This definition is consistent with that used by the International Standards Organisation and Standards South Africa. The Standard uses the term “quality” in a wide context and not just in a tender evaluation context.

The World Bank for the Selection and Employment of Consultants and the European Union Directives (2004) make reference to the evaluation of tenders on the basis of quality. The Regulations issued in terms of the Preferential Procurement Policy Framework Act (Act 5 of 2000) use the term “functionality” and not “quality” in the evaluation of tender offers. This term is not defined and is not encountered in any of the international literature.

In procurement documents compiled in accordance with the Standard, the term “functionality” must not be substituted for “quality” in procurement documents to describe processes surrounding the evaluation of tenders as this defeats the objective of having a uniform procurement documents.

4.38 BEST PRACTICES GUIDELINES

Further guidance on various aspects relating to procurement documents may be found in the following best practice guidelines:

Best practice guidelines published by the Construction Industry Development Board (CIDB):

- **CIDB Best Practice Guideline C1: Preparing Procurement Documents**

This practice guide identifies the various types of procurement documents and provides a uniform format for the drafting and compilation of these documents. It also establishes a practical approach to uniformity and standardization of procurement documents within an organization and makes recommendations regarding the forms of contracts which should be used. It also contains a number of pro-forma component documents to facilitate a uniform approach.

- **CIDB Best Practice Guideline C2: Choosing an appropriate Form of Contract for Engineering and Construction Works**

This practice guide presents the fundamental considerations in the selection of a form of contract for engineering and construction works. It presents an overview of four different series of forms of contracts and provides practical guidance of the selection of appropriate forms of contract for an organization or for use in selected pricing and contracting strategies

- **CIDB Best Practice Guideline C3: Adjudication**

This practice guide provides an overview of what adjudication is, presents the principles underpinning adjudication, reviews the provisions for adjudication in standard forms of contract (NEC, FIDIC and CIDB), outlines an approach for the selection and use of adjudicators, and provides sample clauses and pro-forma agreements to be included in procurement documents.

- **CIDB Best Practice Guideline A8: Procurement measures to develop registered contractors**

This practice guide outlines the principles for sustainable growth and a number of strategies to promote the participation of smaller registered contractors in public contracts so that they can grow and develop. The strengths and weaknesses of each of these strategies are discussed.

Standards published by Standards South Africa:

- **SANS 294, Construction procurement processes, methods and procedures**

This standard provides processes, methods and procedures for the establishment within an organization of a procurement system that is fair, equitable, transparent, competitive and cost effective. It:

- a) Describes generic procurement processes around which an organization may develop its procurement system;
- b) Establishes minimum requirements for the conduct of an organization's employees, agents, board members and office bearers when engaging in procurement;
- c) Establishes the framework for the development of an organization's procurement policy including any preferential procurement policy;
- d) Establishes generic methods and procedures for procurements including those pertaining to disposals; and
- e) Provides standard conditions of tender and conditions for the calling for expressions of interest.

- **SANS 10403, Formatting and Compilation of Construction Procurement Documents**

This standard establishes at both prime and subcontract level:

- a) A uniform format for the compilation of procurement documents for supplies, services and engineering and construction works contracts; and
- b) The general principles for compiling procurement documents in respect of supplies, services and engineering and construction works.

Practice Manuals published by the South African Institution of Civil Engineering:

- **Practice Manual 1: The use of South African National Standards in Construction Procurement**

This practice manual provides insights into and guidance in the use of the following construction procurement South African National Standards:

SANS 294: *Construction procurement processes, methods and systems.*

SANS 10403:	Formatting and compiling of construction procurement documents
SANS 10396:	Implementing preferential procurement policies using targeted procurement procedures
SANS 1914:	Family of standards for targeted procurement
SANS 1921:	Family of standards for construction and management requirements for works contracts
SANS 2001:	Family of standards for construction works

- **Practice Manual 2: Delivering construction projects using the design by employer contracting strategy**

- This practice manual, which was developed in association with the CIDB, presents an overview of the different types of contracting strategies associated with engineering and construction contracts and the delivery of projects using the design by employer contracting strategy. It thereafter describes the principal actions associated with activities within the project initiation, project implementation and project completion processes and identifies the input and output to these actions and their dependencies.
- The manual also provides information on the administration of design by employer contracts in accordance with the provisions of GCC 2004, the JBCC Series 2000, FIDIC (1999) and NEC forms of contract and tools and techniques associated with project management.

Acts which impact on the content of procurement documents

The Acts outlined in the table below have a direct bearing on aspects of contract documents.

Act	Pertinent provisions
The Conventional Penalties Act (Act 15 of 1962)	This Act provides for the enforceability of penalty stipulations, including stipulations based on pre-estimates of damage.
Arbitration Act (Act 42 of 1965)	This Act provides for the settlement of disputes by arbitration tribunals in terms of written arbitration agreements and for the reinforcement of the awards of such tribunals.
Reconstruction and Development Programme Fund Act (Act 7 of 1994)	"The money of the fund shall be utilised in accordance with the relevant technical assistance agreement." (Should such an agreement contain requirements to use specific procurement documents or contain specific provisions for procurement documents, the requirements must be adhered to).

All contractors who undertake construction work for the public sector must register on the National Register for Contractors- and must be categorised accordance with their capabilities as prescribed by the CIDB. The register must support risk management and reduce the administrative burden associated with the award of contracts. All projects above a prescribed value must be registered on the National Register of Projects.

CIDB REGISTRATION FORM MUST BE SUBMITTED WITH THE BIDDING DOCUMENT ON CLOSING DATE AND TIME.

4.39 DEFINITIONS – CONSTRUCTION PROCUREMENT

For the purposes of this policy and standing procedures the following definitions apply:

- **"Construction management"** means a contracting strategy similar to a management contract, the main difference being that the trade contracts are between the employer and the various trade contractors;

- **“Construction procurement”** means procurement in the construction industry, including the invitation, award and management of contracts;
- **“Design and build”** means a contracting strategy in terms of which the contractor undertakes most of the design and all construction in accordance with the employer's brief and his detailed tender submission, usually for a lump sum price.
- **“Develop and construct”** means a contracting strategy similar to design and build, except that the employer issues a concept design on which tenders are based;
- **“Disposal”** means the divestiture of assets, including intellectual property, and other rights and goodwill by any means, including sale, rental, lease, license, tenancy, franchise, auction or any combination thereof;
- **“Engineering and construction works contract”** means a contract for the provision of a combination of supplies and services, arranged for the development, extension, installation, repair, maintenance, renewal, removal, renovation, alteration, dismantling or demolition of structures, including building and engineering infrastructures;
- **“Form of offer and acceptance”** means the documents that formalize the legal process of offer and acceptance;
- **“Management contract”** means a contracting strategy in term of which a management contractor is appointed to engage and manage a number of trade contractors to carry out construction on the basis of designs issued by the employer, as and when they are completed with the trade contracts being between the management contractor and the various trade contractors.
- **“Quality”** means the totality of features and characteristics of a product or service that bear on its ability to satisfy stated or implied needs
- **“Services contract”** means the contract for the provision of labour or work, including knowledge-based expertise, carried out by hand, or with the assistance of equipment and plant.
- **“Supplies contract”** means a contract for the provision of materials or commodities made available for purchase.
- **“Tender data”** means the document that establishes the tenderer's obligations in submitting a tender and the employer's undertakings in administering the tender process and evaluating tender offers.

4.40 REGULATION OF CONSTRUCTION PROCUREMENT

Construction procurement, apart from being regulated in terms of general legislation governing public procurement, is also regulated through the following prescripts of the Construction Industry Development Board which have been issued in terms of the Construction Industry Development Board Act, 2000 (Act no. 38 of 2000):

- **CIDB Code of Conduct** for the Parties engaged in Construction Procurement published in terms of the Construction Industry Development Board Act (Act 38 of 2000)²; and
- **CIDB Standard for Uniformity** in Construction Procurement published in terms of the Construction Industry Development Regulations of the Construction Industry Development.

4.40.1 The CIDB Code of Conduct

The CIDB Code of Conduct for the Parties engaged in Construction Procurement requires that the parties in any public or private construction-related procurement should in their dealings with each other:

- 1) Behave equitably, honestly and transparently.
- 2) Discharge duties and obligations timeously and with integrity.
- 3) Comply with all applicable legislation and associated regulations.
- 4) Satisfy all relevant requirements established in procurement documents.
- 5) Avoid conflicts of interest.
- 6) Not maliciously or recklessly injure or attempt to injure the reputation of another party.

4.40.2 The CIDB Standard for Uniformity

The CIDB Standard for Uniformity in Construction Procurement establishes requirements for construction procurement which are aimed at bringing about standardisation and uniformity in procurement documentation, practices and procedures. It establishes minimum requirements for uniformity in construction procurement and is based on Construction Procurement Best Practices published by the Board. (**See Procurement Toolbox on www.cidb.org.za**)

This standard establishes minimum requirements which are consistent with the provisions of the regulatory framework for public procurement. As such, it provides the overarching framework for the solicitation of tender offers and the compilation of procurement documents. Organs of state which engage in construction procurement need to align their construction procurement procedures and methods to comply with this standard.

It should be noted, however, that the procedures and methods embodied in the CIDB Standard for Uniformity in Construction Procurement are the same as those contained in the voluntary standard SANS 294, *Construction Procurement Processes, Methods and Procedures*, which in turn is compatible with South Africa's Regulatory requirements. It is therefore recommended that either compliance with the provisions of SANS 294 be made a requirement in an organization's procurement system or SANS 294 be used as a base document for the development of an organization's procurement system.

4.40.3 Precedence of Documents

Requirements contained in this Procurement Policy and Standard Procedures shall take precedence in the interpretation of any ambiguity or inconsistency between it and SANS 294: 2004, *Construction procurement processes, methods and procedures*, published by Standards South Africa (hereinafter "SANS 294").

4.40.4 General Requirements

1. Procurement shall be undertaken in accordance with the requirements of the National Treasury's Supply Chain Management Directives and SANS 294.
2. Construction procurement shall be undertaken in accordance with the provisions of:
 - a. The CIDB Code of Conduct for all parties engaged in Construction Procurement; and
 - b. The CIDB Standard for Uniformity in Construction Procurement.
3. The College Construction Procurement processes together with the allocation of responsibilities associated with each main activity are as stated in the Table 1 below.
4. The Accounting Officer or his / their delegate will, in the event of only one tender being received, determine whether or not fresh tenders will be called for.
5. Only disputed amounts and retention monies, if applicable, may be withheld from payments due to contractors in accordance with the provisions of the contract.

Table 1: The Construction Procurement Processes

Activity		Steps		Persons responsible for performing activity				
No	Description	Inputs	Procedural Milestone (Control Point)	Supplies	Non Professional Services	Professional Services	Engineering and Construction Works	Disposals
1	Establish what is to be procured	1.1 Prepare broad scope of work/TOR for procurement		*	*	*	*	*
		1.2 Estimate financial value of proposed procurement						
		1.3 Obtain permission to start with the procurement process		*	*	*	*	*
2	Decide on procurement strategies	2.1 Establish applicable preferential procurement policy		*	*	*	*	*
		2.2 Establish contract and pricing strategy						
		2.3 Establish targeting strategy						
		2.4 Establish procurement procedure						
		2.5 Obtain approval for procurement strategies that are to be adopted		AO or AO delegate	AO or AO delegate	AO or AO delegate	AO or AO delegate	AO or AO delegate
3	Solicit tender offers	3.1 Prepare procurement documents		*	*	*	*	*
		3.2 Obtain approval for procurement documents		*	*	*	*	*
		3.3 Confirm that budgets are in place		CFO or SCMU	CFO or SCMU	CFO or SCMU	CFO or SCMU	CFO or SCMU

		3.4 Invite contractors to submit tender offers or expressions of interest		SCMU	SCMU	SCMU	SCMU	SCMU
		3.5 Receive tender offers or expressions of interest		*	*	*	*	*
		3.6 Evaluate expressions of interests		*	*	*	*	*
		3.7 Prepare evaluation report on short listing process		*	*	*	*	*
		3.8 Confirm shortlist		TC	TC	TC	TC	TC
		3.9 Invite tender offers from shortlist		SCMU	SCMU	SCMU	SCMU	SCMU
4	Evaluate tender offers	4.1 Open and record tender offers received		SCMU	SCMU	SCMU	SCMU	SCMU
		4.2 Determine whether or not tenders offers are complete		SCMU	SCMU	SCMU	SCMU	SCMU
		4.3 Determine whether or not tender offers are responsive		*	*	*	*	*
		4.4 Evaluate tender submissions		*	*	*	*	*
		4.5 Perform a risk analysis		*	*	*	*	*
		4.6 Prepare a tender evaluation report		*	*	*	*	
		4.7 Confirm recommendation contained in the tender evaluation report.		TC	TC	TC	TC	TC

5	Award contract	5.1 Notify successful tenderer and unsuccessful tenderers of outcome		*	*	*	*	*
		5.2 Compile contract document		*	*	*	*	*
		5.3 Formally accept tender offer		AO or AO delegate	AO or AO delegate	AO or AO delegate	AO or AO delegate	AO or AO delegate
		5.4 Capture contract award data		SCMU	SCMU	SCMU	SCMU	SCMU
6	Administer contracts and confirm Compliance with requirements	6.1 Administer contract in accordance with the terms and provisions of the contract		*	*	*	*	*
		6.2 Ensure compliance with requirements		*	*	*	*	*
		6.3 Capture contract completion / termination data		SCMU	SCMU	SCMU	SCMU	SCMU

Abbreviations: AO = Accounting Officer; AA= Accounting Authority; CFO= Chief Financial Officer; TC = Tender Committee; SCMU = Supply Chain Management Unit

1. Contracts relating to information technology shall be prepared in accordance with the State Information Technology Act, 1998 (Act No. 88 of 1998), and any regulations made in terms of that Act.
2. The details set out in sub-clause 6.7.7 of SANS 294 shall be published in the Government Gazette within 30 calendar days of the signing of the acceptance portion of the Form of Offer and Acceptance in respect of any contract awarded in terms of the open, qualified and proposal procedure.
3. The details set out in sub-clause 6.7.7 of SANS 294 shall be included in the notification issued to all unsuccessful tenders sent in terms of sub-clause 6.7.5 of SANS 294. Such notifications shall be sent within two weeks after the date that the signing of the acceptance portion of the Form of Offer and Acceptance.
4. The Accounting Officer will be responsible for providing written reasons for any administrative action that is taken.
5. The tender data may state that a no-refundable deposit for tender documents must be paid if and when necessary, provided that:
 - 5.1.1. The fee is reasonable and reflects only the cost of printing and delivery to prospective tenderers; and
6. Tender evaluation reports shall be prepared in accordance with the provisions of sub-clause 6.6.7 of SANS 294, using the proforma evaluation forms contained in the CIDB Best Practice Procurement Guideline A3, *Evaluating tender offers*.

Conduct of officials

Officials involved in procurement shall, in addition to complying with the requirements of sub-clause 4.2.1 of SANS 294 and the CIDB Code of Conduct for all parties engaged in Construction Procurement, observe the ethical standards set out in the Supply Chain Management Directives.

Solicitation of tender offers

Tender offers shall be solicited using one of the standard procurement procedures and tender evaluation methods provided for in Tables 1 and 3 of SANS 294.

- As a general rule, engineering and construction works, supplies and services other than professional services shall be solicited using a standard method in accordance with the provisions of Table 2 below.
- Subject to the procurement procedures that is adopted being within the thresholds established in Table 3 below.

Table 2: The Standard methods for procuring different categories of contracts	
Table 2.1: Category of contract: Engineering and Construction Works	
Type of procurement	Standard Method
Design by employer (normal)*	PP2B Open Procedure with Method 1 or Method 2
Design and build** / develop and construct*	PP2E Proposal Procedure using two-stage system with Method 1, 2, 3 or 4; or
Management contractor*/ Construction Management*	PP2C Qualified Procedure with Method 1 or 2 and eligibility criteria framed around the attainment of a minimum quality score or requirements; or PP2C Qualified Procedure with Method 3 or 4; or
Works which require exceptional quality or where it is desirable to invite a limited number of tenders who are of a similar capability and size	PP3A Restricted Competitive Negotiation Procedure; or PP3B Open Competitive Negotiation Procedure

Estimated value less than one fifth of the threshold for quotations provided for in Table 3.	PP1 Negotiation Procedure with Method 1
Estimated value does not exceed the threshold provided for in Table 3.	PP2D Quotation Procedure with Method 1 or 2
The works are largely identical to works previously executed and it is not in the organization's interest to solicit other offers or cannot be technically or economically separated from a previous contract.	PP1 Negotiation Procedure with Method 1
Simple works designed by the employer where the value of the contract does not exceed the threshold provided for in Table 3.	PP2A Nominated Procedure with Method 1 or Method 2

Table 2.2: Category of contract: Supplies

Type of procurement	Standard Method
Purchase of readily available supplies where the value of the contract does not exceed the threshold provided for in Table 3.	PP2G Shopping Procedure with Method 1
Estimated value does not exceed the threshold provided for in Table 3.	PP2D Quotation Procedure with Method 1 or 2
Normal	PP2B Open Procedure with Method 1 or 2
Supplies which require exceptional quality or where it is desirable to invite a limited number of tenderers who are of a similar capability and size	PP2C Qualified Procedure with Method 1 or 2 and eligibility criteria framed around minimum quality requirements; or PP3A Restricted Competitive Negotiation Procedure; or PP3B Open Competitive Negotiation Procedure
Only one supplier has the required product or the supplies cannot be separated from a previous contract	PP1 Negotiation Procedure with Method 1
Supplies which are readily available and which are frequently required where the estimated value does not exceed threshold provided for in Table 3.	PP2A Nominated Procedure with Method 1 or Method 2

Table 2.3: Category of contract: Services other than professional services

Type of procurement	Standard Method
Estimated value does not exceed the threshold provided for in Table 3.	PP2D Quotation Procedure with Method 1 or 2
Normal	PP2B Open Procedure with Method 1 or 2
Services which require exceptional quality or where it is desirable to invite a limited number of tenderers who are of a similar capability and size	PP2C Qualified Procedure with Method 1 or 2 and eligibility criteria framed around minimum quality requirements; or PP3A Restricted Competitive Negotiation Procedure; or PP3B Open Competitive Negotiation Procedure
Only one service provider has the required product or the supplies cannot be separated from another previous contract	PP1 Negotiation Procedure with Method 1
Services which are readily available and which are frequently required where the estimated value does not exceed the threshold provided for in Table 3.	PP2A Nominated Procedure with Method 1 or Method 2

- Professional services shall be solicited using a standard method in accordance with the provisions of Table 4, subject to the procurement procedures that are adopted being within the thresholds established in Table 3.

Table 3: Thresholds applicable to certain procurement procedures

Procedure	Threshold
Negotiated procedure	(Specific requirements as indicated in Tables 2 and 4)
Nominated procedure	Up to an estimated value inclusive of Value Added Tax of R 100 000 in respect of supplies. Up to an estimated value inclusive of Value Added Tax of R 250 000 in respect of services including professional services and engineering and construction works.
Open procedure	-
Qualified procedure	-
Quotation procedure	Up to an estimated value inclusive of Value Added Tax of R 100 000.
Proposal procedure using the two envelope system	-
Proposal procedure using the two-stage system	-
Shopping procedure	Up to a value of R 5 000 inclusive of Value Added Tax.

Table 4: Standard methods for procuring professional services*

Type of procurement	Standard method
In most cases, except in the case of complex or highly specialised assignments or those that invite innovations on the basis of quality alone.	PP2A Nominated Procedure which identifies a short list of not less than 5 tenderers to submit tenders; or PP2B Open, PP2C Qualified or PP2D Quotation Procedure; or PP2E Proposal Procedure using the two envelope system with either: • Methods 3 or 4; or • Methods 1 and 2 with eligibility criteria framed around the attainment of a minimum quality score or quality related requirements
A complex or highly specialised assignment, for which it is difficult to define the precise scope of work and tenderers are expected to demonstrate innovation in their proposals. An assignment that has a high downstream impact and requires the best available experts. An assignment could be carried out in substantially different ways, hence proposals will not be comparable.	PP2B Open or PP2E Proposal Procedure using the two envelope system with either Method 3 or 4; or PP2F Proposal Procedure using the two stage tendering system with Method 1 or 2 and eligibility criteria framed around the rejection of unacceptable proposals and quality related requirements; or PP2F Proposal Procedure using the two stage tendering system with Method 3 or 4; or PP3A Restricted Competitive Negotiation Procedure; or PP3B Open Competitive Negotiation Procedure
A standard or routine assignment where well established practices and standards exist and in which the contract amount is small.	PP2E Proposal Procedure using the two envelope system with Method 1 or 2 and eligibility criteria framed around minimum quality related requirements
An assignment that represents a natural continuation of previous work carried out by the firm. A rapid selection is essential (e.g. in an emergency operation). Estimated value less than one third of the threshold for quotations provided for in Table 3. An assignment where only one firm is qualified or has the experience of exceptional worth for the assignment.	PP1 Negotiation Procedure with Method 1

Estimated value within the threshold provided for in Table 3.	PP2D Quotation Procedure with Method 1 or Method 2; or PP2A Nominated Procedure which identifies a short list of not less than 3 tenderers to submit tenders
A relatively small assignment which does not justify the preparation and evaluation of competitive proposals where the estimated value does not exceed the threshold provided for in Table 3.	PP2A Nominated Procedure to nominate a sole tenderer.
A simple assignment which is precisely defined and the budget fixed.	PP2F Proposal Procedure using the two stage tendering system with Method 3 or 4.

- Delete any options that are not applicable
 - The “Guide for Hourly Fee Rates for Consultants” issued by the Department of Public Service and Administration or, where available and appropriate, any guideline fee determined by an institute, association or statutory council in accordance with legislation, shall be used to evaluate the reasonableness of fees that are negotiated in the negotiated procedure, or proposal procedure using the two stage system.
 - Applications for admission to a data base developed for the purpose of using the quotation procedure shall be advertised in local newspapers or other suitable media every three months. Such data base shall be updated at least every three months.
 - Projects shall not be subdivided to reduce the estimated tender value to fall within a threshold applicable to a specific procurement procedure.

4.40.5 Recording and Reporting:

The reasons for the following shall be recorded and forwarded to the Accounting Officer for acceptance and compliance auditing purposes:

- a) A departure is made from the provisions of this Procurement Policy and Standing Procedures.
- b) Less than five tenderers are short-listed in the nominated procedure, except where the estimated value of the tender inclusive of Value Added Tax is within the threshold provided in Table 3 for the quotation procedure and not less than three tenderers are short-listed.
- c) Less than three tenderers are invited to submit quotations in the quotation procedure or in the nominated procedure where the estimated value of the tender inclusive of Value Added Tax is within the limits provided in Table 3 for the quotation procedure.
- d) Less than five tenderers are short-listed in the qualified procedure.
- e) The negotiated procedure is used to solicit a tender offer from a sole source provider.
- f) The minimum time frames provided for the solicitation of tender offers in SANS 294 or in 8.1 of this Schedule are reduced.
- g) Departures are made from the requirements of 5 for the solicitation of tender offers due to the presence of, or imminent risk of, extreme or emergency situations arising from one or more of the events outlined in clause 6.3.1.2 of SANS 294.
- h) Selecting a particular disposal procedure provided for in sub-clause 6.3.10 of SANS 294.

The reasons for departing from the following shall be recorded and forwarded to the Accounting Officer or his delegate for approval and compliance auditing purposes:

- a) The percentage score allocated to the financial offer where Method 3 or Method 4 (see Table 3 of SANS 294) is less than 40% (i.e. the percentage score for quality exceeds 60%).
- b) The quantum of work is such that it is necessary to increase the work or to perform additional work within the broad scope of the contract such that the final contract amount, excluding any price adjustment, is more than the following percentages higher than the contract amount at the time that the contract was awarded:

- i) Services and supplies: 15%
- ii) Engineering and construction works: 30%

The supply chain management unit will be responsible for keeping records of all procurements and for submitting a quarterly report to the Accounting Officer.

The supply chain management unit must present an annual report on all procurement to the Accounting Officer within six weeks of the financial year end which shall report on a range of key performance indicators including those associated with a preferential procurement policy.

4.40.6 Functioning and Composition of Tender Evaluation Committee

1. The Accounting Officer or his / her delegate shall establish a Tender Evaluation Committee (TEC) comprising not less than three members:
 - a. At least two officials from the College requiring the goods and services; and
 - b. At least one supply chain management practitioner.
2. Members of a Tender Evaluation Committee shall be cleared at the level of "CONFIDENTIAL".
3. Tender Evaluation Committee members shall not act as panel members for the evaluation and scoring of quality in submissions.
4. The Tender Evaluation Committee shall review all proposals for the short listing of tenderers and tender evaluation reports and, as appropriate, make recommendations for:
 - a. The award of a tender including the acceptance of proposals made by a tenderer in the process of offer and acceptance;
 - b. Commencing with the negotiations with a preferred tenderer in a two stage tendering process; and
 - c. The acceptance of the shortlist prepared for a procurement.
5. The Tender Evaluation Committee may co-opt independent experts to participate as advisors in the workings of the committee provided that such persons undertake to abide by the same ethical standards that apply to officials.
6. The tender committees may award all tenders solicited using the quotation and nominated procedure. All other contracts shall be awarded by the Accounting Officer or his / her delegate.
7. The quorum for a tender committee shall not be less than 3 members, provided that one of the members present is a supply chain functionary.

4.40.7 Advertisements

1. All calls for expressions of interest and invitations for tender offers using the open, qualified and proposal procedure shall be advertised in the Government Tender Bulletin, local media and optional the College website, at least 30 days before the closing date for tenders and, if deemed necessary by the Accounting Officer or his / their delegate, in order to ensure greater exposure to potential tenderers, in other appropriate media.
2. All procurement documents shall be made available on the publication date of the advertisement.
3. Advertisements for admission to data bases shall be published in the Government Tender Bulletin, local media and optional the College websites.

4.40.8 Procurement Documents

1. All procurement documents shall be drafted strictly in accordance with the provisions of the CIDB Standard for Uniformity in Construction Procurement and SANS 294.
2. The standard forms of contract listed in Table 5 shall be used in respect of the different categories and subcategories of contracts.

Table 5: Standard Forms Of Contract*

Category of contract	Subcategory	Standard Form of Contract
Supplies	<ul style="list-style-type: none"> Simple, regional purchase of readily available materials or commodities; Requires almost no management of the buying and delivery process and may only need simple cross border formalities; Minimal testing, installation and commissioning on delivery. 	Contract for the Supply and Delivery of Goods as published by the Construction Industry Development Board; or General conditions of purchase as published by the Construction Industry Development Board; or Supply of Goods (Short Contract) as published by the Construction Industry Development Board.
	Other than above	The Supply Contract as published by the Construction Industry Development Board.
Services	Professional services i.e. knowledge-based expertise provided on the basis of trust	NEC Professional Services Contract 2 nd Edition June 1998 (PSC2) as published by the Institution of Civil Engineers; or Standard Professional Services Contract as published by the Construction Industry Development Board.
	Facilities i.e. operation and / or maintenance of an existing facility, structure or system.	NEC Term services contract (1st Edition) as published by the Institution of Civil Engineers
Engineering and Construction works	<ul style="list-style-type: none"> Straightforward or repetitive work, for short duration; Almost no requirement for sophisticated management techniques; Imposes only low risks on both the procuring department and the contractor; and the Design of the works is almost complete when construction starts. 	JBCC series 2000 Minor Works Agreement as published by the Joint Building Contracts Committee; or Short Form of Contract ("Green Book") (1999) as published by the International Federation of Consulting Engineers (FIDIC); or NEC Engineering and Construction Short Contract 1st Edition 1999 (ECSC1) as published by the Institution of Civil Engineers.
	Other than above	Conditions of Contract for Construction for Building and Engineering Works designed by the Employer ("Red Book") (1999) as published by the International Federation of Consulting Engineers (FIDIC); or Conditions of Contract for Plant and Design-Build for Electrical and Mechanical Plant and for Building and Engineering Works, designed by the Contractor ("Yellow Book") (1999) as published by the International Federation of Consulting Engineers (FIDIC); or General Conditions of Contract for Construction Works (2004) as published by the South African Institution of Civil Engineering; or JBCC series 2000 Principal Building Agreement as published by the Joint Building Contracts Committee. NEC Engineering and Construction 2 nd Edition 1995 (ECC2) as published by the Institution of Civil Engineers.

- Delete any options that are not applicable:

Guarantees, which guarantee performance with a stated financial benefit in the event of non-performance should, as a general rule, not be required in service, professional service and supply contracts. Guarantees of an insurance company or bank and retention monies required in engineering and construction contracts shall be in accordance with the provisions of the CIDB Standard for Uniformity in Construction Procurement and Table 6.

Table 6: Minimum levels of securities generally provided for in engineering and construction contracts

DESCRIPTION	MINIMUM VALUE OF SECURITY
Contracts having an estimated contract value inclusive of value added tax not exceeding R100,000 where the works are straightforward or repetitive work and of short duration, there are almost no requirement for sophisticated management techniques; the risks imposed on both the institution and the contractor are low; and the design of the works is substantially complete when construction starts.	Nil
Contracts having an estimated contract value excluding value added tax not exceeding R 750 000 where the works are straightforward or repetitive work and of short duration, there are almost no requirement for sophisticated management techniques; the risks imposed on both the institution and the contractor are low; and the design of the works is substantially complete when construction starts.	<ul style="list-style-type: none"> • 2,5% if estimated contract value excluding VAT is less than or equal to R 375 000; or • 5% if estimated contract value excluding VAT is greater than R 750 000.
Contracts which comprise works which are not straightforward or repetitive work and of short duration, there are requirement for sophisticated management techniques; the risks imposed on both the institution and the contractor are not low; and the design of the works is substantially incomplete when construction starts.	<ul style="list-style-type: none"> • 10% where retention monies are fixed at 5%; or • 7,5% where retention monies start at 10% and are subject to a limit of 5%.
Contracts in which third party management support is provided in accordance with the provisions of SANS 1921-4 (Third party management support in works contracts).	Nil if the third party management support provides professional indemnity insurance in an amount not less than one and a half times the construction cost.

- Tender securities, which fall away once the tenderer commences with the contract, will only be called for in exceptional circumstances.
- Interest on late payments will be at a level that approximates commercial rates of interest or as provided for in a standard form of contract.
- As a general rule, no advance payments shall be made to contractors. Contractors should only be paid for amounts due for work completed or partially completed in terms of their contract.
- Professional service appointments shall as a general rule be subject proof of current professional indemnity insurance being submitted in an amount not less than that set out below with a first amount payable not exceeding 5% of the limit of indemnity:

Consulting Engineering Firms	R1,000,000
Others	R 500,000

- Penalties that are applied for late completion shall as a general rule be set at a level that covers all the College's direct costs.
- Payment to professional service providers should wherever possible be made on the basis of activities satisfactorily completed or on the basis of milestones achieved.
- The contractor will be required to take out all construction insurances.

4.40.9 Applying the CIDB Register of Contractors in Engineering and Construction Works Contracts

The CIDB Register of Contractors shall be applied to engineering and construction works contracts in accordance with the provisions of the CIDB Standard for Uniformity in Construction Procurement and the Construction Industry Development Regulations issued in terms of the Construction Industry Development Board Act.

Award of contracts

- No contract may be entered into, other than an engineering and construction works contract where the CIDB Register of Contractors is applied, with tenderers who are not in possession of an **original tax clearance certificate**. The supply chain management unit shall, except in the case of engineering and construction works where the Register of Contractors is applied, forward for audit purposes the contractor's original tax clearance certificate together with a copy of the completed Form of Offer and Acceptance to:
 - The Commissioner
South African Revenue Services
Private Bag X923
Pretoria
0001

Tel: 012-422 4444
Fax:012-422 6843
- No contract may be entered into with a contractor whose company or principals are listed on National Treasury's database as being prohibited from doing business with the public sector.
- No engineering and construction works contract may be entered into with a contractor that is not appropriately registered with the Construction Industry Development Board.
- Only the Accounting Officer or his / their delegate may commit an institution to a contract, except where the quotation or nominated procedure is used, where the tender committee may do so.
- The Accounting Officer or his / her delegate, as appropriate, shall:
 - a) Reject a proposal for the award of a contract if the recommended tenderer has committed a corrupt or fraudulent act in competing for the particular contract; or
 - b) Cancel a contract awarded to contractor if:
 - i) The contractor committed any corrupt or fraudulent act during the tender process or the execution of that contract; or
 - ii) Any official or other role player committed any corrupt or fraudulent act during the tender process or the execution of that contract that benefited that contractor.

- The tender committee may disregard the tender of any tenderer who has failed to perform on any previous contract.
- Professional service providers who are commissioned to prepare a scope of work for a particular procurement (i.e. a document that specifies and describes the supplies, services, or engineering and construction works which are to be provided and any other requirements and constraints relating to the manner in which the contract work is to be performed) shall as a general rule be precluded from submitting tender offers for that procurement.

4.40.10 Preferencing Arrangements

- Preferences shall be dealt with in accordance with the provisions of the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000)
- No tendered, respondent or contractor shall be obliged to attain specific goals, including the forming of joint ventures, relating to a preferential procurement policy in order to be eligible to submit tenders or to be considered responsive for the award of a contract.
- Specific goals relating to a preferential procurement policy shall only be implemented through tender evaluation methods or accelerated rates of rotation on an electronic data base in accordance with the provisions of SANS 294.

4.41 (A) Standard Procurement Procedures (provided in the CIDB Standard for Uniformity in Construction Procurement*)

Procedure		Description	
PP1	Negotiation procedure*	A tender offer is solicited from a single tenderer.	
PP2	Competitive selection procedure*	Any procurement procedure in which the contract is normally awarded to the contractor who submits the lowest financial offer or obtains the highest number of tender evaluation points.	
	PP2A	Nominated procedure	Tenderers that satisfy prescribed criteria are admitted to an electronic data base. Tenderers are invited to submit tender offers based on search criteria and their position on the data base. Tenderers are repositioned on the data base upon appointment or upon the submission of a tender offer.
	PP2B	Open procedure	Tenderers may submit tender offers in response to an advertisement by the organization to do so.
	PP2C	Qualified procedure	A call for expressions of interest is advertised and thereafter only those tenderers, who have expressed interest, satisfy objective criteria and who are selected to submit tender offers, are invited to do so.
	PP2D	Quotation procedure	Tender offers are solicited from not less than three tenderers in any manner the organization chooses, subject to the procedures being fair, equitable, transparent, competitive and cost effective.
	PP2E	Proposal procedure using the two envelope system	Tenderers submit technical and financial proposals in two envelopes. The financial proposal is only opened should the technical proposal be found to be acceptable.
	PP2F	P7 Proposal procedure using the two-stage system	Non-financial proposal are called for. Tender offers are then invited from those tenderers that submit acceptable proposals based on revised procurement documents. Alternatively, a contract is negotiated with the tenderer scoring the highest number of evaluation points.
PP2G	Shopping procedure	Written or verbal offers are solicited in respect of readily available supplies obtained from three sources. The supplies are purchased from the source providing the lowest price once it is confirmed in writing.	
PP3	Competitive negotiation Procedure	A procurement procedure which reduces the number of tenderers competing for the contract through a series of negotiations until the remaining tenderers are invited to submit final offers.	
	PP3A	Restricted competitive negotiations	A call for expressions of interest is advertised and thereafter only those tenderers, who have expressed interest, satisfy objective criteria and who are selected to submit tender offers, are invited to do so. The employer evaluates the offers and determines who may enter into competitive negotiations.
	PP3B	Open competitive negotiations	Tenderers may submit tender offers in response to an advertisement by the organization to do so. The employer evaluates the offers and determines who may enter into competitive negotiations.

- These procedures are identical to those provided in SANS 294, Construction procurement processes, procedures and methods

4.41(B) Standard Tender Evaluation Methods (provided in the CIDB Standard for Uniformity in Construction Procurement*)

Method	Procedure
Method 1:	1) Rank tender offers from the most favourable to the least favourable Method 1: comparative offer.

Financial offer	2) Recommend highest ranked tenderer for the award of the contract, unless there are compelling and justifiable reasons not to do so.
Method 2: Financial offer and preferences	1) Score tender evaluation points for financial offer.
	2) Confirm that tenderers are eligible for the preferences claimed and if so, score tender evaluation points for preferencing
	3) Calculate total tender evaluation points.
	4) Rank tender offers from the highest number of tender evaluation points to the lowest.
	5) Recommend tenderer with the highest number of tender evaluation points for the award of the contract, unless there are compelling and justifiable reasons not to do so.
Method 3: Financial offer and quality	1) Score quality, rejecting all tender offers that fail to score the minimum number of points for quality stated in the Tender data.
	2) Score tender evaluation points for financial offer.
	3) Calculate total tender evaluation points.
	4) Rank tender offers from the highest number of tender evaluation points to the lowest.
	5) Recommend tenderer with the highest number of tender evaluation points for the award of the contract, unless there are compelling and justifiable reasons not to do so.
Method 4: Financial offer, quality and Preferences	1) Score quality, rejecting all tender offers that fail to score the minimum number of points for quality stated in the Tender data.
	2) Score tender evaluation points for financial offer.
	3) Confirm that tenderers are eligible for the preferences claimed, and if so, score tender evaluation points for preferencing.
	4) Calculate total tender evaluation points.
	5) Rank tender offers from the highest number of tender evaluation points to the lowest.
	6) Recommend tenderer with the highest number of tender evaluation points for the award of the contract, unless there are compelling and justifiable reasons not to do so.

- These procedures are identical to those provided in SANS 294, Construction procurement processes, procedures and methods

4.42 TENDER EVALUATION COMMITTEE (TEC)

A Tender Evaluation Committee will be appointed in order to evaluate tenders for recommendation to the Tender Adjudication Committee.

A Supply Chain Practitioner must be a member of the evaluation committee to give guidance to the committee on supply chain matters.

All bids must be evaluated on a comparative basis on the criteria as determined and set out in the bid documents. Evaluation criteria may not be changed after the closing of a bid.

All decisions must be minuted and the recommendation submitted in submission format to the Tender Adjudication Committee for adjudication.

No Professional Consultant will evaluate construction tenders on behalf of the College.

The Professional Consultants role is merely to ensure that unit prices are checked and to certify that the prices are indeed correct and market related. Thereafter an evaluation report must be submitted to the evaluation committee for recommendation to the Tender Adjudication Committee.

The calculation of points claimed must be done by the bid section who will also prepare the submission to the Tender Adjudication Committee.

4.43 BID EVALUATION PANEL

In respect of functionality, the Accounting Officer should evaluate each technical bid/proposal using an evaluation panel of three or more specialists in that field of expertise.

In view of impartiality, members of any tender committees should not also act as panel members.

4.44 TENDER ADJUDICATION COMMITTEE

Tender Adjudication Committees will be appointed by the Accounting Officer to adjudicate all bids on behalf of the College.

A Tender Adjudication Committee must consist of a minimum of 3 senior managers which must include:

- i. The Chief Financial Officer or, if the Chief Financial Officer is not available, another senior manager;
- ii. At least two senior supply chain management practitioners who are officials; and if applicable
- iii. A technical expert in the relevant field who is an official, if the College has such an expert. (engineer etc),

Members to be appointed in writing by the Accounting Officer.

The Tender Adjudication Committee must regulate supply chain in an honest, fair, impartial, transparent, cost effective and accountable manner in accordance with the delegated powers.

Committees must 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 of Tender Adjudication Committees must be cleared to the level of "CONFIDENTIAL" and are required to declare their financial interest annually.

4.44.1 Adjudication of Tenders by the Tender Adjudication Committee: Delegations of Power

In terms of the principals contained in Sections 44 and 56 of the PFMA, empower the Accounting Officer of a College to delegate decision-making powers to officials. The following should apply to acquisition of goods and/or services and the disposal and letting of assets:

- All delegations must be in writing to the individual officials;
- The Accounting Officer should decide whether he/she delegates decision making powers regarding the final award of bids to the Tender Adjudication Committee and what the threshold values in this regard should be;
- Should the Accounting Officer resolve that the Tender Adjudication Committee awards bids only up to a specified threshold value, bids above that threshold value should be referred to the Accounting Officer for finality. **(Not applicable to tenders above R500, 000).**

Note: No advisor/consultant may, however, form part of the final decision-making process regarding the award of bids, as this will counter the principle of vesting accountability with the Accounting Officer.

The Accounting Officer cannot delegate decision-making authority to a person other than an official.

The 90 or 80 points must represent the price and functionality and the 10 or 20 points is for equity goals. The percentages obtained for functionality should be added to the percentage obtained for price to obtain a percentage out of 100 which in turn should be converted to points out of 80 or 90 in terms of regulation 8 of the Preferential Procurement Regulations.

Points scored for specified goals as contemplated by the PPPFA and its Regulations are then calculated separately and added to the points scored for price and functionality in order to obtain a final point.

The bidder then highest on points must be awarded the bid.

No bidder will have a second chance to rectify, submit or change any information after the closing of a bid. All decisions by the Tender Adjudication Committee must be minuted for audit purposes.

PART 5: ANCILLARY MATTERS

5.1 PREPARATION OF TERMS OF REFERENCE

The TOR must be prepared by an expert within the acquisition management process. The TOR must be compatible with the available budget. The TOR must define as clearly as possible the scope, goals and the objectives of the assignment including background information to assist the service provider in the preparation of their proposal. As part of the specification the TOR must allow the consultant/service provider to propose their own methodology.

The TOR must include policy objectives to be achieved as well as the following:

- Scope of the work;
- Methodology;
- Skills transfer;
- Time frames;
- Preference point system;
- Evaluation process to be followed;
- Evaluation criteria; and
- Validity period.

The TOR must form part of the standard bidding documentation.

5.2 TRAINING OF SCM PRACTITIONERS

Training and continuous development of the SCM staff compliment should be prioritized by the Head of SCM and the Accounting Officer. All officials involved in Supply Chain Management function should be subjected to training in SCM with SAQA accredited institutions and issued with a certificate for competency in the training completed. This includes heads of offices, campus heads, responsibility managers, financial managers etc.

All nominations must be submitted to the Supply Chain Unit which will then handle it further. The costs for training will be for the account of the College and needs to be budgeted for.

The following priority level for training be identified:

- Accounting Officer, CFO, Finance Senior and SCM staff;
- BAC Committee members;
- BEC Committee members; and
- Council.

5.3 CODE OF CONDUCT FOR SUPPLY CHAIN MANAGEMENT PRACTITIONERS AND BID COMMITTEE MEMBERS

In accordance with the Framework of Supply Chain Management that was promulgated in Government Gazette Number 25767 on 5 December 2003 as Treasury Regulations, National Treasury is required to issue a Code of Conduct for Supply Chain Management Practitioners that should be adhered to by all officials and other role players involved in supply chain management.

5.3.1 General Principles

The Government of South Africa commits itself to a policy of fair dealing and integrity in the conducting of its business.

- The position of a supply chain management (SCM) practitioner is, therefore, a position of trust, implying a duty to act in the public interest. Practitioners should not perform their duties to unlawfully gain any form of compensation, payment or gratuities from any person, or supplier/contractor for themselves, their family or their friends.
- Practitioners should ensure that they perform their duties efficiently, effectively and with integrity, in accordance with the principals adopted by the Colleges as stated in the relevant legislation and Regulations including the Public Service Regulations issued by the Department of Public Service and Administration, National Treasury Regulations and Practice Notes and directives issued by Accounting Officers. They should ensure that public resources are administered responsibly.
- Practitioners 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.
- Practitioners should comply with the Code of Conduct for the Public Service as contained in Chapter 2 of the Public Service Regulations, 2001 especially items C4.5 to C4.12 and C5.3 to C5.4 thereof.

5.3.2 Conflict Of Interest

- An employee of the College may not, without approval of the Accounting Officer, undertake work outside her or his official duties or use of office equipment for such work.
- SCM practitioners, to the extent required by their position, should declare any business, commercial and financial interests or activities undertaken for financial gain that may raise a possible conflict of interest.
- These declarations should be submitted to the Accounting Officer and should be recorded by the SCM unit.
- Declarations should be updated bi-annually.
- They should not place themselves under any financial or other obligation to outside individuals or organizations that might seek to influence them in the performance of their official duties.
- Practitioners should not take improper advantage of their previous office after leaving their official position.
- Colleges may not enter into contact with a former employee for a period of one year after the employee vacates office.

5.3.3 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 the government to any transaction 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.

5.3.4 Openness

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

5.3.5 Confidentiality

- Any information that is the property of the government or its suppliers 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 confidential nature in the possession of supply chain practitioners should be kept confidential unless legislation, the performance of duty or the provisions of law requires otherwise. Such restrictions should also apply after separation from service.

5.3.6 Observance of Ethical Standards

Accounting Officers as well as bidders/suppliers/persons must observe the highest standard of ethics during the procurement process and execution of contracts. In pursuance of this policy, the following definitions will be applicable:

- **“corrupt practice”** means the offering, giving, receiving, or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution; and
- **“fraudulent practice”** means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the municipality or municipal entity, and includes collusive practices among bidders (prior to or after bid submission) designed to establish bid prices at artificial, non-competitive levels and to deprive the municipality or municipal entity of the benefit of free and open competition.

5.3.7 The Accounting Officer

- Must reject a proposal for award if he/she determines that the service supplier recommended for award, has engaged in corrupt or fraudulent activities in competing for the contract in question;
- May insist that a provision is included in the contract agreement with the contractor, requiring contractors to permit the Accounting Officer to inspect their accounts and records relating to the performance of the contract and to have them audited by auditors appointed by the Accounting Officer.
- Where evidence in support of corrupt, fraudulent practices or criminal offences are reported and substantiated, the Accounting Officer is to initiate criminal proceedings against such business entity, official or other role player, and inform the relevant Treasury of such measures.
- Must consult the National Treasury's Register for Tender Defaulters before awarding of contracts. Refer to Circular dated 19/02/2008.

5.4 OBJECTION / APPEAL PROCESS

The Accounting Officer may formulate an Objection Committee that will be responsible to manage any inquiries received or objections raised by unsuccessful bidders.

This Committee should consist of a minimum of 2 members and may comprise members of the Bid Evaluation Committee (BEC). The following should be noted by the Objection Committee:

Confidentiality:

- Bids are not available for perusal by the public;
- The Colleges should, only when requested in writing by the bidders, provide them with the reasons why his/her own bid was not successful;
- The reasons why another bidder's bid was unsuccessful should not be supplied, as this may contain privileged information (e.g. a negative banking report);
- No itemized prices other than the formal contract prices of the successful bidder(s) should be supplied to competitors; and
- According to the prescripts of section 36 of the Promotion of Access to Information Act, No. 2 of 2000, no information may be revealed that will prejudice a third party in commercial competition. Revealing itemized prices of unsuccessful bidders may reveal their trade secrets, strategies and no such information should be revealed without the written consent of the relevant bidder(s).

5.5 RETENTION FEES

To strive towards uniformity, all contracts must be based on the General Conditions of Contracts (GCC) issued by National Treasury. Any aspect not covered can be dealt with in the special conditions of contract. These conditions should form an integral part of the bidding documents.

The Special Conditions of Contract applicable to each bid must be approved by the Accounting Officer or his/her delegate (Bid Adjudication Committee) before included in the bidding documents.

As a special condition to the contract, a maximum retention fee of 10% may be approved by the Accounting Authority for each individual contract.

5.6 INDUCEMENTS, REWARDS, GIFTS AND FAVOURS TO COLLEGES, OFFICIALS AND OTHER ROLE PLAYERS

As per the College Code of Conduct, SCM officials must not:

- Seek or accept a bribe or other improper inducement;
- Seek gifts or benefits of any kind;
- Accept any gift or benefit that may create a sense of obligation or may be perceived to be intended or likely to influence the officials during the execution of public duty;
- Accept any gift or benefit of more than R350; and
- Accept an offer of money, regardless of the amount.

All gifts or benefits should be recorded in the gifts register. Any gifts or benefits received of more than R350 that cannot be reasonably refused or returned, must be disclosed to the head of the SCM Unit.

Gifts or benefits exceeding R350 must be surrendered to the College Council, unless the nature of the gift or benefit makes this impractical. SCM officials must avoid situations giving rise to the appearance that a person or body, through the provision of gifts, benefits or hospitality of any kind, is attempting to secure favourable treatment from the SCM Unit or the College council.

A standard declaration form should be completed by all officials in relation to gifts, benefits or hospitality of any kind, received/offered.

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

- a. Any inducement or reward to the College for or in connection with the award of a contract or
- b. any reward, gift, favour or hospitality to:
 - i. any official; or
 - i. any other role player involved in the implementation of this Policy.

The Accounting Officer must promptly report any alleged contravention as stated above 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.

This process does not apply to gifts less than R350 in value.

5.7 WHISTLE BLOWING CONTACT DETAIL

National Treasury whistle blowing contact number: 0800-701-701 (Toll free)

5.8 ANNUAL REVISION OF POLICY

This policy will subject to an annual review by the Department of Higher Education and Training (DHET). Colleges should forward and inputs and recommendations to the VCET Branch of DHET for possible consideration during the annual review process.

Any recommended changes to the SCM policy should be presented to the College Council for approval and adoption.