7.1 INTRODUCTION

The policy and procedures described in chapter 6 were implemented by the RAU and the policy, procedures, and standard documents were successful in ensuring formal, organized, transparent and well-governed procurement.

However, a number of changes at the RAU, changes in procurement science and wider procurement reform initiatives in South Africa, necessitated the writing of a number of amendments.

The purpose of this chapter is to explain why the changes had to be initiated and to support the actions taken.

7.2 TRANSNET v GOODMAN BROTHERS (PTY) LTD

The case Transnet v Goodman Brothers (Pty) Ltd that was heard in the Supreme Court of Appeal of South Africa in November 2000, has had a profound effect on the way that tenders are administered and the way in which records of tender committee proceedings are kept by all privatized limited state-owned companies and other organizations charged with the provision of a general service to the public.
The transcript of the case will be included in Part B of this thesis.

In order to fully understand the impact of the case on the RAU, legal opinion was obtained from advocate A Botha as explained in chapter 4 of this thesis. Based on the legal opinion obtained from advocate Botha, read with the verdict in the Transnet case, the RAU certainly had to take the verdict of the case into consideration in tender documents and during tender procedures.

In light of the Transnet case, measures to address issues relating to the RAU tender process was presented to and accepted by the management committee on 5 May 2001. The measures adopted and facts highlighted at that time are set out below:

- The clause in the RAU tender document and short-form tender document stating that reasons will not be provided for the awarding or not of tenders, was deleted with immediate effect;
- The fact that organs of state and those performing a public function were obliged to provide information if so requested by tenderers, irrespective of whether the tenderer was successful or not, was highlighted;
- The type of information that would need to be documented carefully in relation to tenders was set out clearly, being:
  - Reasons why a tender was not awarded to a particular tenderer and/or awarded to a tenderer;
  - A comprehensive list of all the documents relating to a tender;
  - The procedures followed in the awarding of a tender;
  - Copies of all of the tender documents received;
  - A schedule of dates when tenders were received or opened;
  - Documents detailing the appointment and functioning of the tender committee;
  - Details relating to the selection of tender committee members; and
  - Copies of all relevant memorandums, minutes and submissions made to the tender committee;
- The fact that the tender process and procedures cannot be held in secret was highlighted;
- The fact that all of the procurement actions of the RAU were probably “administrative actions” in terms of the Constitution of South Africa; and
Any clause in a tender document stating that reasons for the awarding or not of tenders would not be provided, was probably unconstitutional (Voogt, 2001a:2).

Since May 2001, greater attention has been given to the comprehensive documentation of facts relating to the awarding of tenders. To date, no additional risks relating to the implications of the Transnet case has come to the fore.

In order to ensure that the facts above have been dealt with in the policies and procedures of the RAU, the following have been incorporated in the final purchasing policy presented in Part B of this thesis:

- Deleting all clauses relating to the secrecy of the tender process or tender information or the confidentiality of information;
- The different types of information to be documented in respect of tenders; and
- Procedures to be followed should a tenderer ask for information relating to the tender process.

The provision of information to outside parties is a topic in itself. Whatever measures are put in place to provide parties outside the RAU with information when requested to do so, has to comply with set policies on the matter and should consider the provisions in the Promotion of Access to Information Act, Act no. 2 of 2000.

The vice rector (management and support systems) issued a proposed new information policy for the RAU in September 2001. The proposed policy suggests the process that should be in place to deal with external information requests from databases (RAU, 2001:3):

“If the need for such information does not arise from a staff member (as in the case of a press inquiry for information), a motivated request must be submitted to the Coordinator of SAPSE and Statistics, containing the following:

i. Fully specified request
ii. Name of the person requesting the data
iii. Reason for the request
iv. Date by which the information must be provided
v. Envisaged utilisation of data
vi. A confidentiality undertaking, if applicable.
The Coordinator of SAPSE and Statistics will then retrieve the information and make it available to the person requesting it. Depending on the nature of the information, the matter will first be submitted to a member of the Management committee for approval. The Coordinator of SAPSE and Statistics will also keep a record of all information released in this way in order to ensure that uniform statistics are published by the University.”

This proposed policy document can certainly be applied to information contained in the database of approved suppliers once the list has been established by June of 2002. However, it is imperative that requests for financial information be submitted to the Registrar (Finance) before information is released.

In respect of other procurement information that may not form part of the databases of RAU, the stipulations of the Promotion of Access to Information Act should apply.

The purpose of this Act is to give effect to the constitutional right of access to any information held by the state and any information held by another person that is required for the exercise or protection of any rights, in order to foster a culture of transparency and accountability and to actively promote a society in which South Africans have effective access to information to enable them to more fully exercise and protect all of their rights (South Africa, 2000:Preamble).

Part 2 of this Act, dealing with access to records of public bodies, applies to the RAU (also in light of the legal opinion obtained) as the RAU is defined as a “public body”.

A public body is (South Africa, 2000:s 1):

“(a) any department of state or administration in the national or provincial sphere of government or any municipality in the local sphere of government; or

(b) any other functionary or institution when –

(i) exercising a power or performing a duty in terms of the Constitution or a provincial constitution; or

(ii) exercising a public power or performing a public function in terms of any legislation”.

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Broadly speaking, this Act requires that a requester of information must be given access to a record of a public body if the requester complies with all the procedural requirements in the Act. The facilitator of the process must be an information officer or deputy information officers appointed in terms of the Act (South Africa, 2000:17). In terms of the Act there are fees payable for information so requested (South Africa, 2000:s 22) and all reasonable steps must be taken to inform a third party to whom or which the record relates of the request (South Africa, 2000:s 47).

In this regard, lead will be taken from the management committee, as a process is currently under way to set the necessary procedures in place to ensure the orderly application of this Act. Indeed, a policy document with the necessary forms was discussed by the management committee in October 2001 at which time this author made a presentation on the effects of the Act on the finance section and indeed how procurement actions may be affected.

7.3 LEGAL OPINION OBTAINED

In addition to the legal opinion obtained in respect of the implications of the Transnet case on the RAU, legal opinion was also obtained from advocate Botha in respect of other matters relating to the procurement process of RAU.

The scope of the legal opinion obtained is set out below (Voogt, 2001b:2):

“REQUEST 1

During the early part of 2000, the Preferential Procurement Policy Framework Act was published.

You are requested to:

a. provide opinion on whether and if so, to what extent, the Act is applicable to the RAU.
REQUEST 2
The tender procedures of the RAU and the practical application thereof reflects the fact that the RAU has limited resources available for the administration, evaluation and scheduling of tenders via open or public advertisement. The procedures followed by the RAU are that project leaders will advance a list of at least five prospective tenderers to the Tender Committee. The names may be sourced from external consultants such as quantity surveyors involved in a project or may be selected by the internal RAU project leader. The Tender Committee then makes a decision (based mainly on the advice of the project leader or external consultants) on whether the prospective tenderers may be contacted and asked whether they would like to tender. The Tender Committee may also add names or ask that additional names be sourced either by the project leader, consultants or purchasing section. The process is therefore rather subjective, but allows for the successful administration of tenders at the RAU given limited manpower. This closed system of tendering is a well accepted principle in procurement and one of the strategies that may be followed by an organization. The RAU will only opt for an open or public advertisement for tenders if no prospective tenderers have come to the attention of the RAU or if the Tender Committee deems that an open tender is appropriate.

You are requested to:

a. provide opinion on the closed tender system used at the RAU in light of the Preferential Procurement Policy Framework Act; and

b. provide opinion on the closed tender system used at the RAU in light of section 217 of the Constitution of South Africa.

REQUEST 3
Attached, please find a copy of the tender procedures in use at the RAU as at 30/06/2001. In light of the issues that have been raised above, and the matters that you have highlighted in your opinion, please provide comment on the legality and correctness of these procedures.”

The opinion (dated 4 September 2001) has been included in Part B of this thesis.
The most important issues raised or confirmed by advocate Botha are:

- RAU is a public institution;
- All procurement actions are regarded as administrative actions;
- Any administrative action that is defective or flawed or perceived to be so can be subjected to review;
- A tenderer is entitled to ask for reasons for a particular decision by virtue of the right contained in section 33 (2) of the Constitution;
- RAU can be classified as “an organ of state” based on the definition in section 239 of the Constitution;
- The Preferential Procurement Policy Framework Act is applicable to RAU;
- The Preferential Procurement Policy Framework Act has been promulgated but has not come into operation; *(Note: The situation has subsequently changed; refer discussion in chapter 8 of this thesis.)*
- The necessary procedures, policies and systems should be put in place in anticipation of the law coming into operation;
- Any point system used during the awarding of tenders must be communicated to prospective tenderers;
- Section 217 of the Constitution is applicable to RAU; and
- The current tender procedures and policies of RAU that makes use of a system where prospective tenderers are forwarded to the Tender committee for consideration and, when authorized, targeted in a limited tender, are legal.

Based on the legal opinion obtained, a number of issues were incorporated in the policies and procedures set out in Part B of this thesis:

- Guidelines on the implementation of the Preferential Procurement Policy Framework Act;
- The process to be followed should a procurement transaction that may be termed as an administrative action be questioned; and
- The manner in which preferential procurement will be administered and communicated to prospective tenderers.
7.4 POLICY DOCUMENT VERSUS PROCEDURES
MANUALS

The document entitled “Purchasing policy, tender procedures and related issues” that constituted the first three versions that were discussed in chapter 6 of this thesis is a combination of a policy document and procedures manual.

The final version of the policy and procedures manual attempts to create a clearer distinction between policy issues and procedural issues.

In future, changes to policy will be referred up to council level, whilst procedural changes will be presented for approval to the management committee.

7.5 PRINCIPLES APPLIED DURING THE PROCUREMENT PROCESS

The policy document discussed in chapter 6 of this thesis is comprehensive in explaining what procedures should be followed during procurement, but does not address the principles that should be applied to any procurement process.

Although there are a number of sources in literature that may be used as a basis for the principles that should be followed during a procurement process, cognizance should be taken of the fact that the RAU finds itself in the public sector and that the principles of the King Code on corporate governance have been accepted and implemented by the university.

IFAC has done substantial research into corporate governance in the public sector to address, on a co-ordinated worldwide basis, the needs of those involved in public sector financial reporting, accounting and auditing (IFAC, 2000:Preface).

As far back as 1995, the Nolan report issued by the International Federation of Accountants concluded that there are seven principles that should underpin public life and that should be
incorporated into codes of conduct. These seven principles of public life as also explained in paragraph 4.5.5 of this thesis are (IFAC, 2000:par. 059):

- Selflessness;
- Integrity;
- Objectivity;
- Accountability;
- Openness;
- Honesty; and
- Leadership.

Of the principles set out above, there are three that also featured in the Cadbury report on corporate governance and which have been incorporated in the public sector corporate governance document of IFAC (2000:par. 060). The three are openness, integrity and accountability.

“Openness” is required to ensure that stakeholders can have confidence in the decision-making processes and actions of public sector entities, in the management of their activities, and in the individuals within them. Being open through meaningful consultation with stakeholders and communication of full, accurate and clear information leads to effective and timely action and stands up to necessary scrutiny” (IFAC, 2000:par. 060).

“Integrity” comprises both straightforward dealing and completeness. It is based upon honesty and objectivity, and high standards of propriety and probity in the stewardship of public funds and resources, and management of an entity’s affairs. It is dependent on the effectiveness of the control framework and on the personal standards and professionalism of the individuals within the entity. It is reflected both in the entity’s decision-making procedures and in the quality of its financial performance reporting” (IFAC, 2000:par. 060).

“Accountability” is the process whereby public sector entities, and the individuals within them, are responsible for their decisions and actions, including their stewardship of public funds and all aspects of performance, and submit themselves to appropriate external scrutiny. It is achieved by all parties having a clear understanding of those responsibilities, and having clearly defined roles through a robust structure. In effect, accountability is the obligation to
answer for responsibility conferred” (IFAC, 2000:par .060).

In South Africa, the first King Code on corporate governance did not contain similar principles. However, King 2 does contain information regarding seven primary characteristics of good corporate governance (IODSA, 2001:13-14).

King 2 states that the seven primary characteristics of good corporate governance as explained in paragraph 4.5.5 are (IODSA, 2001:13-14):

- Discipline;
- Transparency;
- Independence;
- Accountability;
- Responsibility;
- Fairness; and
- Social responsibility.

Should one compare the principles in the IFAC report to that set out in King 2, there are distinct similarities. Indeed, openness may be equated with transparency. Clearly accountability is a very important principle, and integrity relates to discipline and to some extent independence as also explained in chapter 4 of this thesis.
King 2 defines the relevant terms as follows as set out in Table 7.1:

<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transparency</td>
<td>The ease with which an outsider is able to make meaningful analysis of a company’s actions, its economic fundamentals and the non-financial aspects pertinent to that business. This is a measure of how good management is at making necessary information available in a candid, accurate and timely manner – not only the audit data but also general reports and press releases. It reflects whether investors obtain a true picture of what is happening inside the company (IODSA, 2001:par 18.2).</td>
</tr>
<tr>
<td>Accountability</td>
<td>Individuals or groups in a company who make decisions and take actions on specific issues need to be accountable for their decisions and actions. Mechanisms must exist and be effective to allow for accountability. This provides investors with the means to query and assess the actions of the board and its committees (IODSA, 2001:par 18.4).</td>
</tr>
<tr>
<td>Discipline</td>
<td>Corporate discipline is a commitment by a company’s senior management to adhere to behavior that is universally recognized and accepted and proper. This encompasses a company’s awareness and commitment to the underlying principles of good governance, particularly at senior management level (IODSA, 2001:par 18.1).</td>
</tr>
<tr>
<td>Independence</td>
<td>Independence is the extent to which mechanisms have been put in place to minimize or avoid potential conflicts of interest that may exist, such as dominance by a strong chief executive or large shareowner. These mechanisms range from the composition of the board, to appointments in committees of the board, and of external parties such as the auditors. The decisions made, and internal processes established, should be objective and not allow for undue influence (IODSA, 2001:par 18.4).</td>
</tr>
</tbody>
</table>

**TABLE 7.1– KING CODE DEFINITIONS**

For purposes of the final amendments to the RAU purchasing policy, openness, accountability and integrity will be defined as follows:
Openness
The ease with which stakeholders is able to make meaningful analysis of the financial and non-financial actions of RAU to ensure that stakeholders have confidence in the decision-making processes and actions of RAU, in the management of activities and in the individuals within RAU. Openness encompasses meaningful consultation with stakeholders and the communication of full, accurate and clear information within the relevant frameworks, policy and legislation.

Accountability
The process whereby RAU and the individuals within it, are responsible for their decisions and actions, including their stewardship of public funds and all aspects of performance including appropriate internal and external scrutiny of actions taken.

Integrity
Integrity refers to straightforward dealing and completeness, honesty and objectivity. Having high standards of propriety and probity in the stewardship of public funds and resources, high personal standards, professionalism of the individuals within RAU, avoiding potential conflicts of interests, not allowing for undue influence and disclosing related party transactions.

It is interesting to note that there are a number of procurement principles enshrined in the Constitution of South Africa. Given the legal opinion obtained as discussed earlier, it is evident that these principles, being fairness, equity, transparency, competitiveness and cost-effectiveness (South Africa, 1996a:s 217) should also be incorporated in the procurement principles.

Although the Constitution does not define any of these principles, it is safe to say that fairness and transparency will be covered by accountability, integrity and openness. Equity in the context of the Preferential Procurement Policy Framework Act relates to redress of past inequities as well as equity in itself. Competitiveness and cost-effectiveness has less than maximum application in the context of the Preferential Procurement Policy Framework Act and the Black Economic Empowerment Commission Report, but should always be in the forefront during decision-making processes.
7.6 LESSONS LEARNT FROM THE TENDER PROCESS

During 2000 and 2001, the tender process within the RAU was conducted effectively and efficiently. However, a number of refinements, particularly in relation to the procedures followed by the tender committee dealing with low value tender transactions have been incorporated in the final policy document.

During 2001, tenders were opened that were called or referred to as “Requests of proposals”. As the effect of a tender is to procure goods or services, the classification of a tender as a request for proposal or request for information does not change the nature of the administrative action as the RAU is not obliged to award a tender if one is opened. The final policy document includes a broad definition of transactions or actions that will be subjected to the tender procedures.

This change will be in line with the Preferential Procurement Regulations. Section 1 (o) of the regulations define tenders to mean a written offer or bid in a prescribed stipulated form in response to an invitation by an organ of state. In addition, although part two of the regulations relate to tenders as stated in the heading of that part, the detailed sections make reference to tenders or procurement so as not to limit the application of the regulations (Department of Trade and Industry, 2001).

Since the introduction of the comprehensive tender policies at the RAU, it has been up to the project leaders to consider the information obtained about tenderers. Project leaders are then obliged to alert the tender committee in cases where the RAU tender documents have not been completed in detail or the necessary documents have not been handed in. Experience has shown that not enough attention has been paid to this requirement. Given the important role that comprehensive information plays in the whole process (particularly in light of price preferencing that will be discussed in chapter 8 of this thesis), it is now appropriate that a person appointed by the Registrar (Finance) should inspect the tender documents received in detail and report on matters therein.
7.7 **COMPOSITION OF THE TENDER COMMITTEE**

The position of chairperson of the tender committee (in respect of tenders with a value over R250 000) rotates annually between the Registrar (Finance) and the Registrar (Operations) as explained in chapter 6 of this thesis. This situation relates to a time past when a number of the employees involved in procurement reported to the Registrar (Operations). However, given the changes in the personnel structures in the offices of the two Registrars over the past 18 months, where all finance personnel now report to the Registrar (Finance) (including all purchasing personnel), as well as the specialized financial nature of procurement, it is fitting at this time to specify that the Registrar (Finance) should be the chairperson of the tender committee.

However, the Registrar (Operations) should still be a member of the tender committee given the large number of tenders emanating from this division and the specialist knowledge involved in those tenders.

In addition, it was decided at a recent meeting of the tender committee that another voting member should be added to the tender committee (in respect of tenders with a value over R250 000). In terms of the charter of the tender committee there are only currently four voting members on the tender committee being the Registrar (Finance), Registrar (Operations), representative of the audit committee and representative of the Faculty of Law. The current quorum of this tender committee is:

- The Registrar (Finance) or Registrar (Operations); and
- Representative of the audit committee (or his/her secundus); and
- Representative of the Faculty of Law (or his/her secundus).

Considering the technical nature of very many of the tenders presented to the tender committee, the committee will be strengthened by a member from the Faculty of Engineering.

In accordance with the current charter of the tender committee, there are essentially two tender committees with different membership make-ups. The committee dealing with tenders under R250 001 is essentially a procurement committee that does not have membership independent from the finance section and for the sake of clarity is to be referred to as the
Part A
Chapter 7 – The writing of the final version of the purchasing policy and procedures

procurement committee in future. Tenders above R250 000 will be dealt with by the tender committee.

However, in order to keep the necessary governance and control in place, the distinction in names will not affect the functions of the committees.

The tasks of the procurement committee will be limited to lower value procurement transactions. Experience has shown that the procurement committee deals mostly with printing type tenders and essentially oversees "large orders".

Tenders for procurement above R250 000, all tenders for the sale, use and letting of assets as well as requests for information and requests for proposals will be referred to the tender committee. In other words preferential procurement in respect of tenders will fall within the domain of the tender committee. As tenders submitted to the tender committee will be evaluated in terms of the tender evaluation regulations, specific expertise is required on this committee and an independent make-up of the committee is essential to a transparent procurement process. Although enterprises owned or managed by historically disadvantaged individuals will be invited to tender for tenders submitted to the procurement committee, the tender evaluation regulations will not apply to these tenders.

If one considers the composition of the tender committee it is important to note that individuals with specific expertise make up the committee and that the composition of the committee is independent of the finance section. Thus mirroring the idea that non-executive members sit on council and the audit committee.

The composition of the tender committee and the detailed procedures to be followed will also aid in preventing fruitless and wasteful expenditure as transactions are scrutinized in detail, also in respect of budgetary authorization.

As can be seen from the charters of the two committees, a transparent and clear process is in place in respect of the composition of and appointment to the two committees in question.

The proposed changes to the charter of the tender committee and the proposed charter of the procurement committee will be presented in Part B of this thesis.
Both the tender committee and procurement committee may ask the advice of experts in adjudicating tenders. In addition, specialists are involved in the writing of the tender specifications or the scrutinizing thereof.

The tender committee and procurement committee meets regularly and the secretaries of the two committees have the responsibility to set and communicate the date of meetings and deadlines for the receipt of tender information university wide, annually in advance.

It is essential to the process that members of the two committees receive comprehensive information about matters to be discussed. Detailed agendas and minutes are kept in this regard.

The secretaries of the two committees play an important role in the success of the committees. The secretaries support the chairpersons of the committees, advise members on their responsibilities and ensure that proper governance is in place.

7.8 THE SALE AND/OR USE OF THE ASSETS OF RAU

From time to time, the assets of the RAU are either sold or used in some way in order to generate income or to limit expenditure. To date, there have been no formal procedures in place to deal with these types of transactions and uncertainty existed on how the best possible advantage for the RAU could be realized. If one considers the land development and availability agreements in place that were referred to in the foreword to this study, it is imperative that the risk is managed as far as possible.

The same principles of openness, transparency, stamping out of nepotism, declaration and authorization of related party transactions etc. must also be applied to these transactions. Given the openness, transparency and established and tested modus operandi of the tender committee, the structures of the tender committee are well suited to deal with transactions that may not necessarily fall within the strict definition of procurement, but affects the assets of RAU. As can be seen from the relevant changes to the purchasing policy presented in Part B of this thesis, these transactions are addressed with little difficulty through the tender
procedures, whilst proper governance is gained. The advantage of course is that there is uniformity in procedures that limits uncertainty and leaves very few gaps for improper dealings.

The inclusion of income type transactions in the fold of the tender procedures is also entirely in line with the Preferential Procurement Regulations. Sections 5 and 6 of the regulations make the 80/20 and 90/10 tender point systems applicable to the sale and letting of assets (Department of Trade and Industry, 2001).

One of the most valuable assets of the RAU is the database of students and alumni. When the use or release or availability of the database is under discussion, the policy relating to student information must be applied strictly.

As agreed with the Registrar (Finance), all transactions related to the transactions targeted in this section must be referred to council for final approval.

7.9 UNSOLICITED BIDS OR PROPOSALS

From time to time, the RAU is the target of unsolicited project proposals. The question that arises is whether an unsolicited bid should be considered or whether the broad terms of the unsolicited bid should be put out as a tender/request for proposal/request for information to other suppliers.

In the context of the public sector, the Treasury Regulations dictate that departments need to ensure that such proposals make strategic sense, offer value for money and are affordable. Moreover, such proposals must also be subject to open and competitive bidding before the department selects the service provider and enters into a legally binding commitment for the project (Department of Finance, 2000:41). In other words, the proposal is not simply entered into.

The guidelines issued by the Department of Finance to deal with unsolicited bids are clear in that Government Departments should only consider unsolicited proposals where these have
genuine merit or valid intellectual property, based for example on:

- A comprehensive and relevant project feasibility study that has established a clear business case;
- An innovative design;
- An innovative approach to management;
- A new and cost-effective method of service delivery; or
- A new and effective approach to bundling services or to processes re-engineering (Department of Finance, 2000:41).

The guidelines summarize the position of unsolicited bids very effectively by stating (Department of Finance, 2000:44):

“Unsolicited proposals pose various difficulties, necessitating open and transparent dealings that focus on value for money. While the Treasury Regulations allow the use of rewards and a preference for a genuinely innovative proposal, most unsolicited proposals fail this test. Simply being the first party to propose a project on an unsolicited basis does not constitute sufficient grounds for any preference or reward. Genuine effort, reasoned analysis and a demonstrated appreciation of the requirements of the Treasury Regulations should be the minimum considerations before a department even entertains an unsolicited proposal, let alone provides any rewards or incentives.”

In the spirit of good governance, it is essential that unsolicited bids are reviewed centrally. In this respect, full and rapid communication of bids received, is critical to the process.

Unsolicited bids must be investigated thoroughly, but particularly in respect of financial and business risk aspects. Depending on the nature of the bid, a multi-disciplinary approach may be required.

The rector, vice-rector or registrar to who the targeted section or department reports, should be made aware of the unsolicited bid as soon as it is received. The section or department in question should then document the bid, the circumstances in which it was received and any other relevant information. No further negotiations should be entertained at that time between the RAU and the party making the bid or offer. The particular member of the management committee should then, in consultation with the Registrar (Finance), have the risks, financial
implications, feasibility of the bid/project, effect thereof and possible intellectual property rights examined. Thereafter, a report on the matter should be submitted to the management committee for a decision to be made. Should there be merit in the project, specifications should be written for a tender/request for proposal/request for information, whilst taking cognizance of intellectual property rights inherent in the bid (if any exists). Unsolicited bids should only be entertained if a genuine innovative proposal is received.

7.10 STAFF CHANGES

The appointment of a chartered accountant as executive director (finance) in the office of the Registrar (Finance) as set out in chapter 5 of this thesis has created greater possibilities for delegation of duties in respect of contracts, tenders and procurement in general.

In addition, the responsibility line for central purchasing has also changed, as the director operational finance now has line responsibility for procurement.

In addition, as the risk manager did not renew her contract and the Faculty of Law representative on the tender committee, who have responsibility for reviewing contracts will be away on study leave during 2002, and alternative arrangements had to be made in respect of work on contracts and tender specifications.

The necessary policy amendments have been incorporated in Part B of this thesis.

7.11 TENDER DOCUMENT, SHORT-FORM TENDER DOCUMENT AND APPLICATION FORM FOR THE APPROVED SUPPLIER LIST

Numerous factors contained in this chapter and chapter 8 and 9 of this thesis, as well as a constant review process in consultation with the representative of the Faculty of Law that sits on the tender committee has necessitated some changes to the abovementioned documents.
The only material change in comparison to the original versions discussed in chapter 6 is that the original financial information requested was basically removed from the documents. Financial information requested is now specifically intended to classify suppliers as small, medium, micro and very small enterprises for purposes of the preferential procurement strategy explained in chapter 8 of this thesis. In addition, for the same reason, information is sought relating to the involvement of historically disadvantaged individuals in supplier organizations.

### 7.12 TOPICAL PROCUREMENT ISSUES

Some of the very topical procurement issues that have also been incorporated in Part B of this thesis, but will be expanded on later, include:

- The application of the Preferential Procurement Policy Framework Act and accompanying regulations;
- Appropriate actions to empower small, medium, very small and micro enterprises; and
- Appropriate actions to promote Black Economic Empowerment through procurement reform.

### 7.13 SUMMARY

The final version of the policy document, procedures manual and supporting documentation that will be presented in Part B of this thesis is the culmination of a long process that has had to take a vast range of matters into consideration.

At the same time, the final product had to be easy to understand and easy to implement.

The remaining chapters of the thesis will present the process that will be followed to ensure preferential treatment of historically disadvantaged individuals in the procurement process as well as systemic procurement reform in line with procurement reform in the public sector.

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