

OVERBERG

DISTRICT MUNICIPALITY

SUPPLY CHAIN MANAGEMENT

POLICY

Reviewed: 30 March 2017



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1. BACKGROUND

- 1.1 The accounting officer of the municipality must in terms of section 62(1)(f)(iv) of the MFMA, take all reasonable steps to ensure that the municipality has and implements this supply chain management policy.
- 1.2 The Supply Chain Management Regulations, requires that a Supply Chain Management system contains the following six elements:
- Demand management
 - Acquisition management
 - Logistics management
 - Disposal management
 - Risk management
 - Regular assessment of Supply Chain performance

2. PURPOSE OF THE POLICY

- 2.1 This Policy shall give effect to the legislation as applied to the supply chain management environment at the municipality.

3. TERMINOLOGY

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

“**Accounting Officer**” means the municipal manager referred to in section 60 of the MFMA;

“**bid**” means any person submitting a competitive bid or quotation;

“**bidder**” means any person submitting a competitive bid or quotation;

“**competitive bidding process**” means a competitive bidding process referred to in paragraph 9.10 of this policy;

“competitive bid” means a bid in terms of a competitive bidding process;

“contract” means the agreement which is concluded when the municipality accepts, in writing, a competitive bid or quotation submitted by a supplier;

“disposal” in relation to capital assets means –

- (a) The demolition, dismantling or destruction of the capital asset; or
- (b) Any other process applied to a capital asset which results in loss of ownership of the capital asset otherwise than by way of transfer of ownership;

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

“formal written price quotation” means quotations referred to in paragraph 9.8 of this policy;

“Head of Department” means a senior manager as defined in the MFMA, Act 56 of 2003, and who is responsible for a vote as assigned by the Accounting Officer;

“in the service of the state” means to be –

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

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

“long term nature” means a contract with a duration period exceeding three years;

“list of accredited prospective providers” means the list of accredited prospective providers which a municipality or municipal entity must keep in terms of paragraph 9.5 of this policy;

“Municipality” means Overberg District Municipality or any person(s) or committee delegated with the authority to act on its behalf.

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

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

“Regulation” means the Local Government: Municipal Finance Management Act, 2003 Municipal Supply Chain Management Regulations;

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

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

“written or verbal quotations” means quotations referred to in paragraph 9.7 of this policy.

4. LEGISLATIVE ENVIRONMENT

4.1 The Municipality is committed to adhering to and applying the prescribed legislative environment as it affects SCM.

4.2 THE CONSTITUTION

The Constitution of the Republic of South Africa, Act No 108 of 1996, as amended, regulates procurement through Section 217 and determines that:

(1) - When an Organ of State in the national, provincial or local sphere of Government, or any other institution identified in national legislation, contracts for goods or services, it must do so in accordance with a system which is fair, equitable, transparent, competitive and cost-effective.

(2) - Subsection (1) does not prevent the Organs of State or institutions referred to in that subsection from implementing a procurement policy providing for –

- Categories of preference in the allocation of contracts; and
- The protection or advancement of persons, or categories of persons, disadvantaged by unfair discrimination

(3) - National legislation must prescribe a framework within which the policy referred to in subsection (2) must be implemented.”

4.3 THE MUNICIPAL FINANCE MANAGEMENT ACT (MFMA)

The MFMA, Act No 56 of 2003, gives effect to and reiterates the Constitutional requirements of Section 217 quoted above and is primary in the regulation of Financial Management. It sets out broadly the requirements for the procurement and provisioning system to be in place and allocates responsibilities attached thereto.

The MFMA stipulates that in contracting for goods and services, and the disposal and letting of state assets, including the disposal of goods no longer required, the Accounting Officer will develop and implement a system, which is fair, equitable, transparent, competitive and cost-effective.

4.3.1 Section (111 and 112), Chapter 11 of the MFMA determines inter alia that:

Each Municipality and each municipal entity must have and implement a Supply Chain Management Policy which gives effect to the provisions of in supply chain regulations promulgated on the 30 May 2005 for Local Government must comply with the prescribed framework.

The Supply Chain Management policy of a municipality or municipal entity must be fair, equitable, transparent, competitive and cost effective.

4.3.2 TREASURY REGULATIONS ISSUED IN TERMS OF THE MFMA

The Municipality shall apply Chapter 16 (A) 4.3 of Treasury Regulations 2005 issued in terms of the MFMA as it pertains to Supply Chain Management. It serves as a formal requirement for municipalities, to ensure the establishment and implementation of an effective and efficient SCM system.

- **Public Private Partnerships**

The Accounting Officer must ensure that Supply Chain Management Policy is in compliance with when goods or services are procured through public private partnerships or as part of a public private partnership.

- **Supply Chain Management**

The Accounting Officer must ensure that the supply chain policy is in compliance with when dealing with Supply Chain Management to ensure the establishment and implementation of an effective and efficient Supply Chain Management Unit within the office of the Director Management Services/CFO, as an integral part of their financial system.

The SCM system implemented must be fair, equitable, transparent, competitive and cost effective; be consistent with the PPPFA and BBBEE Act and must provide at least for the following:

- Demand management
- Acquisition management
- Logistics management
- Disposal management
- Risk Assessment
- Regular assessment of Supply Chain performance.

4.4 MUNICIPAL SYSTEMS ACT 32 OF 2000, CHAPTER 8 SECTION 83(1),(2),(3) &(4)

If the municipality decides to provide a municipal service through a service delivery agreement it must select the service provider through a selection which is competitive, fair, transparent equitable and cost effective.

4.5 POLICY TO GUIDE UNIFORMITY IN PROCUREMENT REFORM PROCESSES IN GOVERNMENT

The Policy to Guide Uniformity in Procurement Reform Processes in Government was approved by Cabinet 10 September 2003 and promulgated on 05 December 2003.

The policy strategy has, as a goal, the uniform implementation of Government's procurement reform initiatives and compliance with minimum norms and standards in such a manner that the principles of cooperative governance are observed.

In terms of this policy strategy, Accounting Officers are required to establish and implement a Supply Chain Management function that promotes sound financial management and uniformity in all spheres of Government.

Regarding insurance, organs of State should either insure for procurement related physical risks, establish risk management programmes or make advance provision for losses associated with such risks, within the scope of the provisions of the Treasury Regulations. Suitable arrangements should also be made to ensure that insurance related excesses do not cause the failure of SMME's.

4.6 NATIONAL TREASURY CIRCULARS

All documents relevant to SCM are available electronically on National Treasury's web page [http://www.treasury.gov.za /MFMA/regulations/circulars](http://www.treasury.gov.za/MFMA/regulations/circulars).

The SCM regulations in terms of the MFMA empower National Treasury to issue circulars to ensure minimum norms and standards within Local Government.

All circulars issued from time to time must be accepted by council to make it a binding document.

4.7 THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT

The Preferential Procurement Policy Framework Act (PPPFA), Act No 5 of 2000, was promulgated to give effect to Section 217(3) of the Constitution by providing a framework for the implementation of the procurement policy contemplated in Section 217(2) of the Constitution.

The Act provides for the implementation of a preference system in the allocation of contracts for categories of service providers and the promotion of goals, including socio-economic goals, to advance the interest of persons disadvantaged by unfair discrimination on the basis of race, gender or disability and implementing the programmes of the Reconstruction and Development Programme.

The Act also regulates that the evaluation processes are conducted in a fair, justifiable and transparent manner.

There is currently a process underway to ensure that the PPPFA and the BBBEE Act is aligned which will ultimately culminate to a Balance Score Card that mitigates and strengthen some weaknesses identified on PPPFA No 5 of 2000.

Subsequent to the above, Preference Procurement Regulations 2011 has been promulgated on 7 December 2011 whereby all suppliers are classified according to levels by verifying agents that have been approved by SANAS. Additional regulations for preferential procurement were promulgated on 20 January 2017 to clarify and update the preference point system, designated sector, pre-qualification criteria, objective criteria and subcontracting.

4.7 THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT REGULATIONS AS AMENDED BY PREFERENTIAL PROCUREMENT REGULATIONS 2011 AND 2017

This is the enabling mechanism of the PPPFA mentioned above. It sets out the formulas for the points system and stipulates the rules and procedures governing the preferences that might be claimed in terms of this Act as per verification agents approved by SANAS, as well as the designated sector, pre-qualification criteria and subcontracting.

4.8 BROAD BASED BLACK ECONOMIC EMPOWERMENT ACT

The Broad Based Black Economic Empowerment Act (BBBEE Act), Act No 53 of 2003, provides the framework for the promotion of black economic empowerment, the establishment of a balanced scorecard and the publication of transformation charters. A supporting strategy has also been published. Draft codes of good practice have also been issued for comment. These codes could include qualification criteria for preferential procurement and other economic activities.

The Municipality will adhere to the directives contained in the Broad Based Black Economic Empowerment Act as it affects the procurement process.

Economic transformation will be promoted through preferential procurement in order to promote meaningful participation of black people including women, workers, youth and people with disabilities and people living in rural areas, in the economy.

Transformation will achieve a change in the racial composition of ownership and management structures of existing and new enterprises.

4.9 THE PREVENTION AND COMBATING OF CORRUPT ACTIVITIES ACT

The Municipality will adhere to the directives contained in the Prevention and Combating of Corrupt Activities Act, Act 12 of 2004 as it affects the Supply Chain process.

The Act regulates offences in respect of corrupt activities relating to contracts, activities pertaining to acceptance or offering of any gratification and the improper influence of another person as well as offences in respect of corrupt activities relating to procuring and withdrawal of tenders and auctions.

The Act provides for miscellaneous offences relating to possible conflict of interest and other unacceptable conduct such as acquisition of private interest in contract, agreement or investment of a public body.

National Treasury has established a register for tender defaulters and this used when awarding quotations and tenders to suppliers

4.10 THE KING REPORT ON CORPORATE GOVERNANCE FOR SOUTH AFRICA

The Municipality will subscribe to the Code of Corporate Practices Conduct in all material respects as it affects procurement.

The Report concludes that successful governance requires companies to adopt an inclusive approach and there must be greater emphasis on the sustainable or non-financial aspects of its performance.

The tests of fairness, accountability, responsibility and transparency to all acts or omissions, and be accountable to the Municipality, but also responsive and responsible towards the Municipality's stakeholders must be applied.

The Report describes the principles of risk management, ethical conduct, black economic empowerment and social investment prioritisation and spending.

4.11 INTEGRATED DEVELOP PLAN

The Integrated Development Plan (IDP), which set out all the objectives to be achieved by Municipality.

The IDP provides for a number of quantified targets for growth and development in the Municipality for a five-year period.

These targets must be incorporated into the municipalities and departments strategic goals and objectives.

4.12 STATE INFORMATION TECHNOLOGY AGENCY ACT

In terms of Section 31 of the Supply Chain Regulations the municipality may request the assistance of the State Information Technology Agency with regards to the acquisition of IT related goods and services.

4.13 THE NATIONAL SMALL BUSINESS ACT

The National Small Business Act, Act No 102 of 1996, as amended, establishes the National Small Business Council (NSBC) and also the Ntsika Enterprise Promotion Agency (Ntsika).

The main functions of Ntsika are inter alia: to consult with any organ of government, the NSBC or a service provider in order to inter alia:

- Facilitate national market access for products and services of small business.

- Generally strengthen the capacity of service providers to support small business and small business to compete successfully in the economy.
- To enable small businesses to compete successfully in the economy, the procurement policies and practices influence the economic behaviour of small businesses, and therefore during the procurement process, it is important to implement guidelines to promote small businesses.

4.14 OTHER RELEVANT ACTS

Cognizance must be taken of the following legislation that will impact on the Supply Chain environment:

- Public Service Act, Act No 23 of 1994.
- Promotion of Administrative Justice Act, Act No 3 of 2000.
- Promotion of Access to Information Act, Act No 2 of 2000.
- Protected Disclosure Act, Act No 26 of 2000.
- The Competition Act, Act No 89 of 1998

5. SCOPE FOR APPLICATION

5.1 This policy applies to activities the demand management in terms of the supply chain management system and policies of the municipality.

5.2 The Municipality resolves in terms of section 111 of the MFMA to have and implement a supply chain management policy that –

- (a) gives effect to –
 - (i) section 217 of the Constitution; and
 - (ii) Part 1 of Chapter 11 and other applicable provisions of the MFMA;
- (b) is fair, equitable, transparent, competitive and cost effective;

- (c) complies with –
 - (i) the regulatory framework prescribed in Chapter 2 of the Regulations; and
 - (ii) any minimum norms and standards that may be prescribed in terms of section 168 of the MFMA;
- (d) is consistent with other applicable legislation;
- (e) does not undermine the objective for uniformity in supply chain management systems between organs of state in all spheres; and
- (f) is consistent with national economic policy concerning the promotion of investments and doing business with the public sector.

5.3 The municipality may not act otherwise than in accordance with this supply chain management policy when –

- (a) procuring goods or services;
- (b) disposing of goods no longer needed;
- (c) selecting contractors to provide assistance in the provision of municipal services otherwise than in circumstances where Chapter 8 of the Municipal Systems Act applies; or
- (d) in the case of a municipality, selecting external mechanisms referred to in section 80 (1) (b) of the Municipal Systems Act for the provision of municipal services in circumstances contemplated in section 83 of that Act.
- (e) 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.

5.4 Subparagraphs 5.2 and 5.3 of this policy, except where specifically provided otherwise, do not apply in the circumstances described in section 110 (2) of the MFMA, including –

- (a) Water from the Department of Water Affairs or a public entity, another municipality or a municipal entity; and
- (b) Electricity from Eskom or another public entity, another municipality or a municipal entity.
- (c) services from Telkom and Post Office

6. SUPPLY CHAIN MANAGEMENT UNIT

6.1 The accounting officer must establish a supply chain management unit to implement this supply chain management policy.

6.2 The supply chain management unit must, where possible, operate under the direct supervision of the chief financial officer or an official to whom this duty has been delegated in terms of section 82 of the MFMA.

6.3. The training of officials involved in implementing the supply chain management policy should be in accordance with any Treasury guidelines on supply chain management training and must be incorporated in the skills development plan of the Overberg District Municipality.

7. DELEGATION OF SUPPLY CHAIN MANAGEMENT POWERS AND DUTIES

7.1 The council hereby delegates such additional powers and duties to the accounting officer so as to enable the accounting officer –

- (a) to discharge the supply chain management responsibilities conferred on accounting officers in terms of –
 - (i) Chapter 8 or 10 of the MFMA; and

- (ii) the supply chain management policy;
- (b) to maximise administrative and operational efficiency in the implementation of the supply chain management policy;
- (c) to enforce reasonable cost-effective measures for the prevention of fraud, corruption, favouritism and unfair and irregular practices in the implementation of the supply chain management policy; and
- (d) to comply with his or her responsibilities in terms of section 115 and other applicable provisions of the MFMA.

7.2 Sections 79 and 106 of the MFMA apply to the sub-delegation of powers and duties delegated to an accounting officer in terms of subparagraph 7.1 of this policy.

7.3 The council or accounting officer may not delegate or sub-delegate any supply chain management powers or duties to a person who is not an official of the municipality or to a committee which is not exclusively composed of officials of the municipality;

7.4 This paragraph may not be read as permitting an official to whom the power to make final awards has been delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in paragraph 9 of this policy.

7.5 Sub-delegations

7.5.1 The accounting officer may in terms of section 79 or 106 of the MFMA sub-delegate any supply chain management powers and duties, including those delegated to the accounting officer in terms of this policy, but any such sub-delegation must be consistent with subparagraph (7.5.2) and paragraph 7.5.4 of this policy.

7.5.2 The power to make a final award –

- (a) above R10 million (VAT included) may not be sub-delegated by the accounting officer;
- (b) above R2 million (VAT included), but not exceeding R10 million (VAT included), may be sub-delegated but only to –
 - (i) the chief financial officer;
 - (ii) a Head of Department; or
 - (iii) a bid adjudication committee of which the chief financial officer or a head of department is a member; or
- (c) not exceeding R2 million (VAT included) may be sub-delegated but only to–
 - (i) the chief financial officer;
 - (ii) a Head of Department;
 - (iii) a manager directly accountable to the chief financial officer or a head of department as indicated in the Council system of delegations; or
 - (iv) a bid adjudication committee.

7.5.3 An official or bid adjudication committee to which the power to make final awards has been sub-delegated in accordance with subparagraph 7.5.2 of this policy must within five days of the end of each month submit to the official referred to in subparagraph (7.5.4) of this policy a written report containing particulars of each final award made by such official or committee during that month, including–

- (a) the amount of the award;
- (b) the name of the person to whom the award was made; and
- (c) the reason why the award was made to that person.

7.5.4 A written report referred to in subparagraph (7.5.3) of this policy must be submitted –

- (a) to the accounting officer, in the case of an award by –
 - (i) the chief financial officer;
 - (ii) a Head of Department; or
 - (iii) a bid adjudication committee of which the chief financial officer or a head of department is a member; or
- (b) to the chief financial officer or the senior manager responsible for the relevant bid, in the case of an award by –
 - (i) a manager referred to in subparagraph (7.5.2)(c)(iii) of this policy; or
 - (ii) a bid adjudication committee of which the chief financial officer or a head of department is not a member.

7.5.5 Subparagraphs (7.5.3) and (7.5.4) of this policy do not apply to procurements out of petty cash.

7.5.6 This paragraph may not be interpreted as permitting an official to whom the power to make final awards has been sub-delegated, to make a final award in a competitive bidding process providing for in paragraph 9.10 otherwise than through the committee system provided for in paragraph 9.19 of this policy.

7.5.7 No supply chain management decision-making powers may be delegated to an advisor or consultant.

7.6 Oversight role of council

7.6.1 The council must maintain oversight over the implementation of this supply chain management policy.

7.6.2 For the purposes of such oversight the accounting officer must –

- (a) within 30 days of the end of each financial year, submit a report on the implementation of the supply chain management policy of the municipality and of any municipal entity under its sole or shared control, to the council of the municipality,
- (b) whenever there are serious and material problems in the implementation of the supply chain management policy, immediately submit a report to the Council.

7.6.3 The accounting officer must, within 10 days of the end of each quarter, submit a report on the implementation of the supply chain management policy to the mayor

7.6.4 The reports must be made public in accordance with section 21A of the Municipal Systems Act.

8. FRAMEWORK FOR SUPPLY CHAIN MANAGEMENT

8.1 This supply chain management policy provides systems for –

- (i) demand management;
- (ii) acquisition management;
- (iii) logistics management;
- (iv) disposal management;
- (v) risk management; and
- (vi) performance management.

8.2 System of demand management

8.2.1 The accounting officer must establish and implement an appropriate demand management system in order to ensure that the resources required by the municipality support its operational commitments and its strategic goals outlined in the Integrated Development Plan.

8.2.2 The demand management system must:-

- (a) include timely planning and management processes to ensure that all goods and services required by the Overberg District Municipality are quantified, budgeted for and timely and effectively delivered at the right locations and at the critical delivery dates, and are of appropriate quality and quantity at a fair cost;
- (b) take into account any benefits of economies of scale that may be derived in the case of acquisitions of a repetitive nature;
- (c) provide for the compilation of the required specifications to ensure that its needs are met; and
- (d) provide for an appropriate industry analysis and research to ensure that innovations and technological benefits are maximised.

8.3 System of acquisition management

8.3.1 The accounting officer must establish, through operational procedures, an effective system of acquisition management in order to ensure –

- (a) that goods and services are procured by the municipality or municipal entity in accordance with authorised processes only;
- (b) that expenditure on goods and services is incurred in terms of an approved budget in terms of section 15 of the MFMA;
- (c) that the threshold values for the different procurement processes are complied with;

- (d) that bid documentation, evaluation and adjudication criteria, and general conditions of a contract, are in accordance with any applicable legislation; and
- e) that any Treasury guidelines on acquisition management are properly taken into account.

8.3.2 This supply chain management policy, except where provided otherwise in the policy, does not apply in respect of the procurement of goods and services contemplated in section 110(2) of the MFMA, including –

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

8.3.3 The following information must be made public wherever goods or services contemplated in section 110(2) of the MFMA are procured other than through the supply chain management system –

- (a) the kind of goods or services; and
- (b) the name of the supplier.

8.3.4 The Accounting Officer may on motivation of a Director extend the bid closing date, if circumstances justify the action, provided that the closing dates may not be extended unless a notice is published by the Manager: Supply Chain Management in the same newspapers as the original advertisement as well as the website, prior to the original bid closing date. All prospective bidders must also be informed in writing by the relevant Director of the extension of the bid closing date.

8.3.5 Unless otherwise indicated in the bid documents, the municipality shall not be liable for any expenses incurred in the preparation and / or submission of a bid or quotation.

8.4 Logistics management

8.4.1 The accounting officer must establish an effective system of logistics management in order to provide for the setting of inventory levels, placing of orders, receiving and distribution of goods, stores and warehouse management, expediting orders, transport management, vendor performance, maintenance and contract administration, which must include:

- (a) Placing of orders
 - (i) Purchase orders will be created with reference to requisitions where the supply source is either bids or quotations.

- (b) Receiving of goods
 - (i) Goods received must be captured on the municipality's financial system with reference to the relevant purchase order number.
 - (ii) Deliveries of goods may not exceed the order quantity.

- (c) Stores / Warehouse management
 - (i) Stock is valued at the weighted average costing method per item and is VAT exclusive.
 - (ii) Regular monitoring of spending patterns on types or classes of goods must be performed, where practical.
 - (iii) Each item must have a unique stock item number;
 - (iv) Each stock item must have a minimum, maximum and re-order level;
 - (v) before payment is approved , certification by the responsible officer that the goods and services are received or rendered on time and is in accordance with the order, the general conditions of

- contract and specifications where applicable and that the price charged is as quoted in terms of a contract;
- (vi) the storekeeper must ensure that appropriate standards of internal control and warehouse management are adhere to, to ensure that goods placed in stores are secure, safe and only used for the purpose for which they were purchased;
- (d) regular checking to ensure that all assets including official vehicles are properly managed, appropriately maintained and only used for official purposes; and
- (e) monitoring and review of the supply vendor performance to ensure compliance with specifications and contract conditions for particular goods or services.

8.5 Disposal management

8.5.1 The accounting officer must establish an effective system of disposal management for the disposal or letting of assets, including unserviceable, redundant or obsolete assets, subject to sections 14 and 90 of the MFMA.

8.5.2 The disposal of assets must be done as determined by the asset management policy and / or the management and administration of immovable assets policy.

8.6 Risk management

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

8.6.2 Risk management must include –

- (a) the identification of risks on a case-by-case basis;
- (b) the allocation of risks to the party best suited to manage such risks;
- (c) acceptance of the cost of the risk where the cost of transferring the risk is greater than that of retaining it;
- (d) the management of risks in a pro-active manner and the provision of adequate cover for residual risks; and
- (e) the assignment of relative risks to the contracting parties through clear and unambiguous contract documentation.

8.7 Contract and Performance management

8.7.1 Contract Management

- (a) Contract administration includes all administrative duties associated with a contract that has arisen through the acquisition/procurement processes described in this policy.
- (b) All contracts must be administered by a contract manager, who will be an internal official assigned to ensure the effective administration of the contract.
- (c) The contract manager will typically be the internal project manager assigned to the project as a whole, but may also be a cost center owner or other responsible official.
- (d) A contract manager must be assigned to each contract and, where possible, should be involved from the earliest stages of the acquisition process.

- (e) The contract manager's duties and powers shall be governed by the conditions of contract and the general law.
- (f) In administering a contract, the contract manager will be required to form opinions and make decisions which, while in the Municipality's best interests, must be fair to all parties concerned.
- (g) Directors shall be responsible for ensuring that contract managers are:
 - (i) assigned to all contracts within the Director's area of responsibility; and
 - (ii) adequately trained so that they can exercise the necessary level of responsibility in the performance of their duties.
- (h) The contract manager must:
 - (i) ensure that all the necessary formalities in signing up the contract and/or issuing the purchase order(s) are adhered to;
 - (ii) ensure that purchase order are captured on the municipality's financial system in the form in accordance with the pricing schedule;
 - (iii) ensure that all original contract documentation is lodged with Archives for record purposes;
 - (iv) where necessary, take appropriate action where a service provider is underperforming or is in default or breach of the contract and to report such failures promptly to the accounting officer;
 - (v) contract variation or change procedures are approved by the accounting officer in writing which must be in line with the applicable general conditions of contract and this policy;
 - (vii) administer disputes, in consultation with the Supply Chain Management Unit, in terms of this policy and the applicable conditions of contract;

- (viii) conduct, as appropriate, post contract reviews;
- (ix) inform the Asset Management section of the location of newly procured assets for asset register and insurance purposes; and
- (x) provide contract information to the Supply Chain Management Unit, as determined by the unit, after a contract has ended.

8.7.2 Performance Management

The accounting officer must establish an effective internal monitoring system in order to determine, on the basis of a retrospective analysis, whether the authorised supply chain management processes were followed and whether the desired objectives were achieved.

9. RANGE OF PROCUREMENT PROCESSES

9.1 The procurement of goods and services through this policy is provided by way of:

- (a) petty cash purchases, up to a transaction value of R2 000 (VAT included);
- (b) written or verbal quotations for procurements of a transaction value over R2 000 up to R10 000 (VAT included);
- (c) formal written price quotations for procurements of a transaction value over R10 000 up to R200 000 (VAT included); and
- (d) a competitive bidding process for–
 - (i) procurements above a transaction value of R200 000 (VAT included); and
 - (ii) the procurement of long term contracts.

9.2 The accounting officer may, in writing; -

- (a) lower, but not increase, the different threshold values specified in subparagraph 9.1 or
- (b) direct that –
 - (i) written or verbal quotations be obtained for any specific procurement of a transaction value lower than R2 000;
 - (ii) formal written price quotations be obtained for any specific procurement of a transaction value lower than R10 000; or
 - (iii) a competitive bidding process be followed for any specific procurement of a transaction value lower than R200 000.

9.3 Goods or services may not deliberately be split into parts or item of a lesser value merely to avoid complying with the requirements of the policy. When determining transaction values, a requirement for goods or services consisting of different parts or items must as far as possible be treated and dealt with as a single transaction.

9.4 General preconditions for consideration of written quotations or bids

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

- (a) has furnished that provider's –
 - (i) full name;
 - (ii) identification number or company or other registration number; and
 - (iii) tax reference number and VAT registration number, if any;
- (b) has authorised the municipality to obtain a tax clearance from the South African Revenue Services that the provider's tax matters are in order; and

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

9.5 List of accredited prospective providers

9.5.1 The accounting officer must –

- (a) keep a list of accredited prospective providers of goods and services that may be used for the procurement requirements through written or verbal quotations and formal written price quotations synchronised with the National Treasury Supplier Database; and
- (b) use the National Treasury Central Supplier Database supplier number starting with “MAAA” which is auto generated by the central database system after successful registration and validation of the prospective service provider as mandatory requirement as part of listing criteria for accrediting prospective service provider in line with Section 14(1)(b) of the Municipal Supply Chain Management Regulations

- (c) at least once a year through newspapers commonly circulating locally, the website and any other appropriate ways, invite prospective providers of goods or services to apply for evaluation and listing as accredited prospective providers;
- (d) specify the listing criteria for accredited prospective providers; and
- (e) disallow the listing of any prospective provider whose name appears on the National Treasury's database as a person prohibited from doing business with the public sector.

9.5.2 The list must be updated at least quarterly to include any additional prospective providers and any new commodities or types of services. Prospective providers must be allowed to submit applications for listing at any time.

9.5.3 The list must be compiled per commodity and per type of service.

9.6 Petty cash purchases

9.6.1 The accounting officer must establish the conditions for the procurement of goods by means of petty cash purchases, which must include conditions –

- (a) determining the terms on which a manager may delegate responsibility for petty cash to an official reporting to the manager;
- (b) excluding any types of expenditure from petty cash purchases, where this is considered necessary; and
- (c) requiring monthly reconciliation reports from each manager to the chief financial officer, including –

- (i) the total amount of petty cash purchases for that month;
and
- (ii) receipts and appropriate documents for each purchase.

9.7 Written or verbal quotations

9.7.1 The accounting officer must establish the conditions for the procurement of goods or services through written or verbal quotations, which must include conditions stating –

- (a) that quotations must be obtained from at least three different providers preferably from, but not limited to, providers whose names appear on the list of accredited prospective providers of the municipality or municipal entity, provided that if quotations are obtained from providers who are not listed, such providers must meet the listing criteria in the supply chain management policy required by 9.5.1(b) and (c) of this policy;
- (b) Where no suitable providers are available from the list of accredited prospective providers, quotations may be obtained from other possible providers;
- (c) that, to the extent feasible, providers must be requested to submit such quotations in writing;
- (d) that if it is not possible to obtain at least three quotations, the reasons must be recorded and reported quarterly to the accounting officer or another official designated by the accounting officer and be dealt with in terms of S36(1)(a)(iv) of the Supply Chain Management Regulations;
- (e) that the accounting officer must record the names of the potential providers requested to provide such quotations with their quoted prices; and

- (f) that if a quotation was submitted verbally, the order may be placed only against written confirmation by the selected provider.

9.8 Formal written price quotations

9.8.1 The accounting officer must establish the conditions for the procurement of goods or services through formal written price quotations, which must include conditions stating–

- (a) that quotations must be obtained in writing from at least three different providers whose names appear on the list of accredited prospective providers of the municipality or municipal entity;
- (b) that quotations may be obtained from providers who are not listed, provided that such providers meet the listing criteria in the supply chain management policy required by paragraph 9.5;
- (c) that if it is not possible to obtain at least three quotations, the reasons must be recorded and approved by the chief financial officer or an official designated by the chief financial officer and be dealt with in terms of S36(1)(a)(iv) of the Supply Chain Management Regulations; and
- (d) that the accounting officer must record the names of the potential providers and their written quotations.

9.8.2 A designated official referred to in subparagraph (9.8.1)(c) must within three days of the end of each month report to the chief financial officer on any approvals given during that month by that official in terms of that subparagraph.

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

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

- (a) that all requirements in excess of R30 000 (VAT included) that are to be procured by means of formal written price quotations must, in addition to the requirements of paragraph 9.8, be advertised for at least seven days on the website and an official notice board of the municipality or municipal entity;
- (b) that when using the list of accredited prospective providers the accounting officer must promote ongoing competition amongst providers, including by inviting providers to submit quotations on a rotation basis;
- (c) offers received must be evaluated on a competitive basis taking into account unconditional discounts
- (d) Offers below R30 000 (VAT included) must be awarded based on compliance to specifications and conditions of contract, ability and capability to deliver the goods or services and the lowest price;
- (e) acceptable offers above R30 000 (VAT included) are subjected the preference points system and must be awarded to the bidder with the highest points;
- (f) that 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;

- (g) that the accounting officer or chief financial officer must on a monthly basis be notified in writing of all written or verbal quotations and formal written price quotations accepted by an official acting in terms of a sub-delegation, and;
- (h) requirements for proper record keeping
 - (i) original/legal copies of written or formal written price quotation should be kept in a secure place for reference purposes
 - (ii) notwithstanding the above requirements for consideration a written and formal written price quotation may not be accepted.

9.10 Competitive bidding process

- 9.10.1 Goods or services above a transaction value of R200 000 (VAT included) and long term contracts may only be procured through a competitive bidding process, subject to paragraph 5.4 of this policy; and
- 9.10.2 No requirement for goods or services above an estimated transaction value of R200 000 (VAT included), may deliberately be split into parts or items of lesser value merely for the sake of procuring the goods or services otherwise than through a competitive bidding process.

9.11 Process for competitive bidding

- 9.11.1 The accounting officer must establish 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 of contracts; and
- (h) proper record keeping.

9.12 Bid documentation for competitive bids

9.12.1 The accounting officer must establish the criteria to which bid documentation for a competitive bidding process must comply, which in addition to paragraph 9.4 of this policy, the bid documentation must –

- (a) take into account –
 - (i) the general conditions of contract;
 - (ii) any Treasury guidelines on bid documentation; and
 - (iii) the requirements of the Construction Industry Development Board, in the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure and the General Conditions of Contract;
- (b) When the requirements of the Construction Industry Development Board applies, the following are the minimum requirements should be met:
 - i. The verification of contractor registration and grading on the CIDB website.
 - ii. Utilization of contractors registered with the CIDB.
 - iii. Ensuring that the prescribed CIDB (uniformity standard bid documents) bid documents for construction related are utilized.

- iv. Assessing bidders' documents against the prescribed CIDB contractor requirements.
 - v. Registration of every project approved by the municipality, consisting of construction works contract with the CIDB.
 - vi. The advertising of construction contracts on the CIDB i tender system.
 - vii. The updating the record on completion of contracts registered on the i-tender system.
 - viii. Issuing of dates in respect of completion certificates, renewals, terminations or cancellations, the settlement of all amounts owing to contractors in accordance with contracts and the submission of status reports to the CIDB.
 - ix. The placing of registered contractors under any restriction to participate in public procurement as contemplated in the CIDB Regulations.
 - x. Suspension and deregistration of contractors as contemplated in the CIDB Regulations.
 - xi. Dealing with complaints and grievances lodged in respect of actions taken in terms of the CIDB Regulations.
 - xii. Failure to comply with the CIDB Regulations.
 - xiii. Construction contracts arranged by consultants at adhere to all of the above mentioned requirements and CIDB Regulations.
 - xiv. Consultants' remuneration is aligned to the CIDB's guidance.
 - xv. Consultants providing consulting service for construction related contracts and any of their affiliates be disqualified from subsequently providing of works or services related to the project.
 - i. Subcontracting arrangements and joint-venture initiatives to be aligned to CIDB guidelines and requirements.
- (c) include evaluation and adjudication criteria, including any criteria required by other applicable legislation;

- (d) compel bidders to declare any conflict of interest they may have in the transaction for which the bid is submitted;
- (e) if the value of the transaction is expected to exceed R10 million (VAT included), require bidders to furnish–
- (i) if the bidder is required by law to prepare annual financial statements for auditing, their audited annual financial statements –
 - for the past three years; or
 - since their establishment if established during the past three years;
 - (ii) a certificate signed by the bidder certifying that the bidder has no undisputed commitments for municipal services towards a municipality or other service provider in respect of which payment is overdue for more than 30 days;
 - (iii) particulars of any contracts awarded to the bidder by an organ of state during the past five years, including particulars of any material noncompliance or dispute concerning the execution of such contract;
 - (iv) a statement indicating whether any portion of the goods or services are expected to be sourced from outside the Republic, and, if so, what portion and whether any portion of payment from the municipality or municipal entity is expected to be transferred out of the Republic; and
- (f) 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.

9.13 Public invitation for competitive bids

- 9.13.1 The accounting officer must determine the procedure for the invitation of competitive bids, which must stipulate that:

- (a) On completion of the bid specification process the municipality shall publicly invite bids.
- (b) Any invitation to prospective providers to submit bids must be by means of a public advertisement in newspapers commonly circulating locally, the website of the municipality or municipal entity or any other appropriate ways (which may include an advertisement in the Government Tender Bulletin); and
- (c) The notice may require a payment of a non-refundable bid fee by bidders who require bid documents.
- (d) the information contained in a public advertisement, must include –
 - (i) the title of the proposed bid
 - (ii) the bid number;
 - (iii) the date, time and location of any proposed site meetings or bid clarification meeting and whether such meetings are compulsory;
 - (iv) Whether functionality is required;
 - (v) The place where the bid documentation is available for collection and the times between which bid documents may be collected;
 - (vi) The bid documentation fee;
 - (vii) The place where bids must be submitted;
 - (viii) The closure date and time for the submission of bids;
 - (vix) The required CIDB contractor grading for construction work, if applicable;
- (e) the closure date for the submission of bids, which may not be less than 30 days in the case of transactions over R10 million (VAT included), or which are of a long term nature, or 14 days in any other case, from the date on which the advertisement is placed in a newspaper, subject to subparagraph (19.3.2) of this policy; and

- (f) a statement that bids may only be submitted on the bid documentation provided by the municipality or municipal entity; and

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

9.13.3 Bids submitted must be sealed and must clearly indicate the bid number and title for which the bid is being submitted.

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

9.13.5 The accounting officer of the municipality is required to advertise all bids on the eTender Publication Portal. The bid advertised must contain at least the following information:

- (a) Bid description
- (b) Bid number
- (c) Name of the municipality
- (d) The physical location where the goods, services or works specified in the bid are required;
- (e) The closing date and time of the bid;
- (f) The municipality's contact details (postal and physical address, telephone number, e-mail address, etc.);

- (g) The physical location where hard copies of the bids can be collected; and
- (h) The bid documents (MBDs, Terms of reference, General contracting conditions and other relevant documents)

9.14 Site meetings / bid clarification meetings

- 9.14.1 Site meetings/ bid clarification meetings will, in general, not be compulsory. In exceptional circumstances however, a site meeting/ bid clarification meeting may be made compulsory with the approval of the relevant director.
- 9.14.2 If site meetings/ bid clarification meeting are to be held, full details must be included in the bid notice and the bid document, including whether or not the site meeting/ bid clarification meeting is compulsory.
- 9.14.3 Where site meetings/ bid clarification meetings are made compulsory, the date for the site meetings/ bid clarification meeting shall be not less than 7 (seven) days after the bid has been advertised.
- 9.14.4 Site meetings/ bid clarification meeting will be chaired by a duly authorised representative from the Supply Chain Management Unit. The relevant line manager responsible for a specific bid or the duly appointed consulting engineering firm employee must be present at the site meetings/ bid clarification meeting in order to provide technical information and to answer technical related questions that might arise from the prospective bidders.
- 9.14.5 The chairperson of the site meeting/ clarification meeting must explain the way how the site meetings/ bid clarification will be conducted and must exclude prospective bidders that arrive after the meeting has been opened.

- 9.14.6 Prospective bidders present at the site meetings/ bid clarification meeting, will be required to confirm their attendance by signing the attendance register as provided by the Supply Chain Management Unit.
- 9.14.7 In instances where bid documentation provides for an attendance certificate, such a certificate must be signed by the representative of the Supply Chain Management Unit who was present at the site meetings/ bid clarification meeting and submitted with the bid document.
- 9.14.8 If at a site meetings/ bid clarification meeting, any additional information is provided or clarification of vague points is given, such additional information or clarification must be conveyed to all bidders in writing within a time frame as determined by the municipality, but not later than 7(seven) days before the bid closing date.
- 9.14.9 Drawings and other supplements to bid documents may be provided to prospective bidders at the site meetings/ bid clarification meeting.
- 9.14.10 A bidder who failed to attend a compulsory site meeting/ bid clarification meeting will be disqualified from the bidding process.

9.15 Submission of bids and samples

- 9.15.1 Bids must be submitted before the closing time, at the address and in accordance with the directives in the bid documents.
- 9.15.2 Each bid must be in writing using non-erasable ink and must be submitted on the official Form of Bid/Offer issued with the bid documents.
- 9.15.3 The bid must be submitted in a separate sealed envelope with the name and address of the bidder, the bid number and title, the bid box number (where applicable), and the closing date indicated on the envelope. The

envelope may not contain documents relating to any bid other than that shown on the envelope. Only sealed bids will be accepted.

- 9.15.4 The onus shall be on the bidder to place the sealed envelope in the official, marked and locked bid box provided for this purpose, at the designated venue, not later than the closing date and time specified in the bid notice.
- 9.15.5 No bids forwarded by telegram, facsimile or similar apparatus shall be considered.
- 9.15.6 A bid is late if it is not placed in the relevant bid box by the closing time and date of such bid.
- 9.15.7 A late bid shall not be admitted for consideration and shall be returned unopened (where feasible) to the bidder with the reason for the return thereof endorsed on the envelope.
- 9.15.8 Bid documents may require samples that must be submitted.
- 9.15.9 Where samples are called for in the bid documents, samples (marked with the bid and item number as well as the bidder's name and address) shall be delivered separately (to the bid) to the Supply Chain Management representative mentioned in the bid document before the bid closing date.
- 9.15.10 A register will be kept by the Supply Chain Management representative of samples received from prospective bidders. An acknowledgement of receipt shall be issued to the prospective bidder as proof of delivery.
- 9.15.11 Bids may not be included in parcels containing samples.
- 9.15.12 If samples are not submitted as required in the bid documents then the bid concerned must be declared non-responsive.

9.15.13 Samples shall be supplied by a bidder at his/her own expense and risk. The municipality shall not be obliged to pay for such samples or compensate for the loss thereof, unless otherwise specified in the bid documents.

9.15.14 If a bid is accepted for the supply of goods according to a sample submitted by the bidder, that sample will become the contract sample. All goods/materials supplied shall comply in all respects to that contract sample. If not, it might be deemed as a breach in contract.

9.15.15 The municipality reserves the right not to return the contract sample and may dispose of it at its own discretion.

9.16 Procedure for handling, opening and recording of bids

9.16.1 At least two officials, of which one must be the delegated Supply Chain Management representative, must at all times administer the opening of bids.

9.16.2 The accounting officer must determine the procedures for the handling, opening and recording of bids, which must stipulate that:

(a) Bids–

- (i) must 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; and
- (iii) bids received after closing time must not be considered and must be returned unopened immediately; and

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

- (c) No information, relating to bid other than one in sub-paragraph (b) may be disclosed to bidders or other persons until an official award is made; and
- (d) The accounting officer must –
 - (i) record in a register all bids received in time;
 - (ii) make the register available for public inspection; and
 - (iii) publish the entries in the register and the bid results on the website.

9.16.3 The procedure for the opening of bids where a two envelope system is used is as follows:

- (a) If a two envelope system is followed, only the technical proposal will be opened at the bid opening.
- (b) The unopened envelope containing the financial proposal shall be stamped and endorsed with the opening official's signature, and be retained by him/her for safekeeping.
- (c) Technical proposals shall be opened by the opening officials in accordance with paragraph 9.16.1.
- (d) All bidders who submitted responsive technical proposals must be invited to attend the opening of the financial offers/bids.
- (e) Envelopes containing financial offers/bids corresponding to non-responsive technical proposals shall be returned unopened along with the notification of the decision of the Bid Adjudication Committee in this regard.

9.17 Negotiations with preferred bidders

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

(a) does not allow any preferred bidder a second or unfair opportunity;

(b) is not to the detriment of any other bidder; and

(c) does not lead to a higher price than the bid as submitted.

9.17.2 Direct negotiations may be embarked on with existing tenants to permanently dispose of the property where Council is of the opinion that public competition would not serve a useful purpose and that the disposal or that renewal is aligned with Council's strategic objectives and in the interest of the Community, subject to such renewal being advertised calling for public comment.

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

9.18 Two-stage bidding process

9.18.1 A two-stage bidding process is allowed for –

(a) large complex projects;

(b) projects where it may be undesirable to prepare complete detailed technical specifications; or

(c) long term projects with a duration period exceeding three years.

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

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

9.19 Committee system for competitive bids

9.19.1 The accounting officer is required to –

- (a) establish a committee system for competitive bids consisting of at least –
 - (i) a bid specification committee;
 - (ii) a bid evaluation committee; and
 - (iii) a bid adjudication committee;
- (b) appoint the members of each committee, taking into account section 117 of the MFMA; and
- (c) provide for an attendance or oversight process by a neutral or independent observer, appointed by the accounting officer, when this is appropriate for ensuring fairness and promoting transparency.

9.19.2 The committee system must be consistent with –

- (a) paragraph 9.20, 9.21 and 9.23 of this policy; and
- (b) any other applicable legislation.

9.19.3 The accounting officer may apply the committee system to formal written price quotations.

9.19.4 The persons appointed in writing as technical advisors and subject matter experts may attend any committee meeting

- 9.19.5 Committee decisions shall as far as possible be based on the consensus principle i.e. the general agreement characterised by the lack of sustained opposition to substantial issues.
- 9.19.6 Committees shall record their decisions in writing. Such decisions shall be kept in a secured environment for a period of not less than five years after the completion or cancellation of the contract unless otherwise determined in terms of the National Archives and Record Services Act of 1996.
- 9.19.7 Committees may make decisions at meetings or, subject to the committee chairperson's approval, on the basis of responses to documents circulated to committee members provided that not less than sixty percent of the members are present or respond to the request for responses.
- 9.19.8 Where the committee chairperson is absent from the meeting, the members of the committee who are present shall elect a chairperson from one of them to preside at the meeting.

9.20 Bid specification committees

- 9.20.1 The bid specification committee must compile the specifications for each procurement of goods or services by the municipality or municipal entity.
- 9.20.2 Specifications –
- (a) must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services;
 - (b) must take account of any accepted standards such as those issued by Standards South Africa, the International Standards Organisation, or an authority accredited or recognised by the South African National Accreditation System with which the equipment or material or workmanship should comply;

- (c) 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 indicate the points system to be utilised for which points may be awarded in terms of the Preferential Procurement Regulations 2001; and
- (g) must be approved by the accounting officer prior to publication of the invitation for bids in terms of paragraph 9.13 of this policy.

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

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

9.21 Bid evaluation committees

- 9.21.1 The bid evaluation committee must –
- (a) evaluate bids in accordance with –

- (i) the specifications for a specific procurement; and
 - (ii) the points system set out in terms of paragraph 9.20.2(f).
- (b) evaluate each bidder's ability to execute the contract;
 - (c) check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not in arrears, and;
 - (d) submit to the adjudication committee a report and recommendations regarding the award of the bid or any other related matter.

9.21.2 The bid evaluation committee must as far as possible be composed of–

- (a) officials from departments requiring the goods or services; and
- (b) at least one supply chain management practitioner of the municipality.

9.22 Bid adjudication committees

9.22.1 The bid adjudication committee must –

- (a) consider the report and recommendations of the bid evaluation committee; and
- (b) either –
 - (i) depending on its delegations, make a final award or a recommendation to the accounting officer to make the final award; or
 - (ii) make another recommendation to the accounting officer how to proceed with the relevant procurement.

9.22.2 The bid adjudication committee must consist of at least four senior managers of the municipality or municipal entity which must include –

- (a) the chief financial officer or, if the chief financial officer is not available, another manager in the budget and treasury office reporting directly to the chief financial officer and designated by the chief financial officer; and

- (b) at least one senior supply chain management practitioner who is an official of the municipality; and
- (c) a technical expert in the relevant field who is an official, if such an expert exists.

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

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

- 9.22.5 (a) If the bid adjudication committee decides to award a bid other than the one recommended by the bid evaluation committee, the bid adjudication committee must prior to awarding the bid –
- (i) check in respect of the preferred bidder whether that bidder's municipal rates and taxes and municipal service charges are not in arrears, and;
 - (ii) notify the accounting officer.
- (b) The accounting officer may –
- (i) after due consideration of the reasons for the deviation, ratify or reject the decision of the bid adjudication committee referred to in paragraph (a); and
 - (ii) if the decision of the bid adjudication committee is rejected, refer the decision of the adjudication committee back to that committee for reconsideration.

9.22.6 The accounting officer may at any stage of a bidding process, refer any recommendation made by the evaluation committee or the adjudication committee back to that committee for reconsideration of the recommendation.

9.22.7 The accounting officer must comply with section 114 of the MFMA within 10 working days

9.23 Procurement of banking services

9.23.1 Banking services –

- (a) must be procured through competitive bids;
- (b) must be consistent with section 7 or 85 of the MFMA; and
- (c) may not be for a period of more than five years at a time.

9.23.2 The process for procuring a contract for banking services must commence at least nine months before the end of an existing contract.

9.23.3 The closure date for the submission of bids may not be less than 60 days from the date on which the advertisement is placed in a newspaper in terms of paragraph 9.13.1. Bids must be restricted to banks registered in terms of the Banks Act, 1990 (Act No. 94 of 1990).

9.24 Procurement of IT related goods or services

- 9.24.1 The accounting officer may request the State Information Technology Agency (SITA) to assist with the acquisition of IT related goods or services through a competitive bidding process.
- 9.24.2 Both parties must enter into a written agreement to regulate the services rendered by, and the payments to be made to, SITA.
- 9.24.3 The accounting officer must notify SITA together with a motivation of the IT needs if –
- (a) the transaction value of IT related goods or services required in any financial year will exceed R50 million (VAT included); or
 - (b) the transaction value of a contract to be procured whether for one or more years exceeds R50 million (VAT included).
- 9.24.4 If a SITA comment on the submission and the municipality disagrees with such comments, the comments and the reasons for rejecting or not following such comments must be submitted to the council, the National Treasury, the relevant provincial treasury and the Auditor General.
- 9.24.5 No IT related goods or services must be procured without the written consent or knowledge of the IT department.

9.25 Procurement of goods and services under contracts secured by other organs of state

- 9.25.1 The accounting officer may procure goods or services under a contract secured by another organ of state, but only if –
- (a) the contract has been secured by that other organ of state by means of a competitive bidding process applicable to that organ of state;

- (b) there is no reason to believe that such contract was not validly procured;
- (c) there are demonstrable discounts or benefits to do so; and
- (d) that other organ of state and the provider have consented to such procurement in writing.

9.25.2 Subparagraph (9.25.1)(c) and (d) do not apply if –

- (a) a municipal entity procures goods or services through a contract secured by its parent municipality; or
- (b) a municipality procures goods or services through a contract secured by a municipal entity of which it is the parent municipality.

9.26 Procurement of goods necessitating special safety arrangements

9.26.1 The acquisition and storage of goods in bulk (other than water) which necessitate special safety arrangements, including gasses and fuel, should be avoided where ever possible.

9.26.2 Where the storage of goods in bulk is justified, such justification must be based on sound reasons, including the total cost of ownership, cost advantages and environmental impact and must be approved by the accounting officer.

9.27 Proudly SA Campaign

9.27.1 The accounting officer must determine internal operating procedures supporting the Proudly SA Campaign to the extent that, all things being equal, preference is given to procuring local goods and services from:

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

9.28 Appointment of consultants

- 9.28.1 The accounting officer may procure consulting services provided that any Treasury guidelines in respect of consulting services are taken into account when such procurements are made.
- 9.28.2 Consultancy services must be procured through competitive bids if –
- (a) the value of the contract exceeds R200 000 (VAT included); or
 - (b) the duration period of the contract exceeds one year.
- 9.28.3 In addition to any requirements prescribed by this policy for competitive bids, bidders must furnish particulars of –
- (a) all consultancy services provided to an organ of state in the last five years; and
 - (b) any similar consultancy services provided to an organ of state in the last five years.
- 9.28.4 The accounting officer must ensure that copyright in any document produced, and the patent rights or ownership in any plant, machinery, thing, system or process designed or devised, by a consultant in the course of the consultancy service is vested in the municipality.

9.29 Deviation from, and ratification of minor breaches of, procurement processes

9.29.1 The accounting officer may –

- (a) dispense with the official procurement processes established by this policy and to procure any required goods or services through any convenient process, which may include direct negotiations, but only –
 - (i) in an emergency;
 - (ii) if such goods or services are produced or available from a single provider only;
 - (iii) for the acquisition of special works of art or historical objects where specifications are difficult to compile;
 - (iv) acquisition of animals for zoos and/or nature and game reserves; or
 - (v) in any other exceptional case where it is impractical or impossible to follow the official procurement processes; and
- (b) ratify any minor breaches of the procurement processes by an official or committee acting in terms of delegated powers or duties which are purely of a technical nature.

9.29.2 The accounting officer must record the reasons for any deviations in terms of subparagraphs (9.29.1)(a) and (b) of this policy and report them to the next meeting of the council and include as a note to the annual financial statements.

9.29.3 Subparagraph (9.29.2) does not apply to the procurement of goods and services contemplated in paragraph 5.4 of this policy.

9.30 Unsolicited bids

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

9.30.2 The accounting officer may decide in terms of section 113(2) of the MFMA to consider an unsolicited bid, only if –

- (a) the product or service offered in terms of the bid is a demonstrably or proven unique innovative concept;
- (b) the product or service will be exceptionally beneficial to, or have exceptional cost advantages;
- (c) the person who made the bid is the sole provider of the product or service; and
- (d) the reasons for not going through the normal bidding processes are found to be sound by the accounting officer.

9.30.3 If the accounting officer decides to consider an unsolicited bid that complies with subparagraph (9.30.2) of this policy, the decision must be made public in accordance with section 21A of the Municipal Systems Act, together with –

- (a) reasons as to why the bid should not be open to other competitors;
- (b) an explanation of the potential benefits if the unsolicited bid were accepted; and
- (c) an invitation to the public or other potential suppliers to submit their comments within 30 days of the notice.

9.30.4 All written comments received pursuant to subparagraph (9.30.3), including any responses from the unsolicited bidder, must be submitted to the National Treasury and the relevant provincial treasury for comment.

- 9.30.5 The adjudication committee must consider the unsolicited bid and may award the bid or make a recommendation to the accounting officer, depending on its delegations.
- 9.30.6 A meeting of the adjudication committee to consider an unsolicited bid must be open to the public.
- 9.30.7 When considering the matter, the adjudication committee must take into account –
- (a) any comments submitted by the public; and
 - (b) any written comments and recommendations of the National Treasury or the relevant provincial treasury.
- 9.30.8 If any recommendations of the National Treasury or provincial treasury are rejected or not followed, the accounting officer must submit to the Auditor General, the relevant provincial treasury and the National Treasury the reasons for rejecting or not following those recommendations.
- 9.30.9 Such submission must be made within seven days after the decision on the award of the unsolicited bid is taken, but no contract committing the municipality to the bid may be entered into or signed within 30 days of the submission.

9.31 Publication of notices of bid awards, cancellations, deviations, variations and extensions on the eTender publication portal

- 9.31.1 The advertisement of bids and publication of awards on the eTender Publication Portal is additional to the requirement specified in the SCM Regulation 22(1)(a). This initiative supports government's drive to improve access to government business opportunities, reduce red tape and duplication of administrative effort in doing business with the state

designed to improve the use of technology across all spheres of government.

9.31.2 The municipality should ensure that closing dates of bids advertised in the Government Tender Bulletin and other mediums are the same as for those bids that are advertised on the eTender publication portal.

9.31.3 The accounting officer of the municipality is required to publish the awards of all competitive bids on the eTender publication portal -

9.31.4 The municipality should publish the following information on successful bids within seven working days of awarding the bids:

(a) Names of the successful bidder(s) and preference points claimed;

(b) Contract price(s)

(c) Contract period

(d) Contract details

(e) Names of Directors; and

(f) Date of completion / award

9.31.5 The municipality should publish the following information on unsuccessful bids within seven working days of awarding the bids:

(a) Names of the unsuccessful bidder(s)

(b) Date of completion / award

9.31.6 Notice of a cancelled bid must be published on the same day, or at the latest, the day after the municipality decided to cancel a bid.

9.31.7 Notice of all awards to suppliers through deviations from competitive bidding procedures must be published on the eTender Publication Portal within seven working days after the award was made.

9.31.8 Notice of awards through variations and extensions of existing contracts must be published on the eTender Publication Portal within seven working days after the award was made.

10. COMBATING OF ABUSE OF SUPPLY CHAIN MANAGEMENT SYSTEM

10.1 The accounting officer must establish measures for the combating of abuse of the supply chain management system, which must stipulate the following:

10.1.1 The accounting officer must–

- (a) take all reasonable steps to prevent abuse of the supply chain management system;
- (b) investigate any allegations against an official or other role player of fraud, corruption, favouritism, unfair or irregular practices or failure to comply with this supply chain management policy, and when justified –
 - (i) take appropriate steps against such official or other role player;
or
 - (ii) report any alleged criminal conduct to the South African Police Service;
- (c) check the National Treasury's database prior to awarding any contract to ensure that no recommended bidder, or any of its directors, is listed as a person prohibited from doing business with the public sector;
- (d) reject any bid from a bidder–

- (i) if any municipal rates and taxes or municipal service charges owed by that bidder or any of its directors to the municipality, or to any other municipality or municipal entity, are in arrears for more than three months; or
 - (ii) who during the last five years has failed to perform satisfactorily on a previous contract with the municipality or any other organ of state after written notice was given to that bidder that performance was unsatisfactory;
- (e) reject a recommendation for the award of a contract if the recommended bidder, or any of its directors, has committed a corrupt or fraudulent act in competing for the particular contract;
- (f) cancel a contract awarded to a person if –
 - (i) the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract; or
 - (ii) an official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of the contract that benefited that person; and
- (g) reject the bid of any bidder if that bidder or any of its directors –
 - (i) has abused the supply chain management system of the municipality or has committed any improper conduct in relation to such system;
 - (ii) has been convicted for fraud or corruption during the past five years;
 - (iii) has willfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
 - (iv) has been listed in the Register for Tender Defaulters In terms section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004).

- 10.2 The accounting officer must inform the National Treasury and relevant provincial treasury in writing of any actions taken in terms of subparagraphs (10.1.1)(b)(ii), (e) or (f) of this policy.

11. PROHIBITION ON AWARDS TO PERSONS WHOSE TAX MATTERS ARE NOT IN ORDER

- 11.1 The accounting officer must ensure that, irrespective of the procurement process followed, no award above R30 000 is given to a person whose tax matters have not been declared by the South African Revenue Service to be in order.
- 11.2 Before making an award to a person the accounting officer must first check with SARS whether that person's tax matters are in order.
- 11.3 If SARS does not respond within 7 days such person's tax matters may for purposes of subparagraph (11.1) be presumed to be in order.
- 11.4 It is the supplier's responsibility to provide the municipality with a valid and original tax clearance certificate.

12. PROHIBITION ON AWARDS TO PERSONS IN THE SERVICE OF THE STATE

- 12.1 The accounting officer must ensure that irrespective of the procurement process followed, no award may be given to a person –
- (a) who is in the service of the state; or
 - (b) if that person is not a natural person, of which any director, manager, principal shareholder or stakeholder is a person in the service of the state; or
 - (c) a person who is an advisor or consultant contracted with the municipality.

12.2 In the case of a false declaration of interest –

- (a) the contract must be suspended immediately and a Section 32 investigation needs to be done
- (b) criminal charges may be laid with the SA Police for further investigation
- (c) must be reported to the chief financial officer

12.3 The municipality may utilize mechanisms at its disposal to determine whether a person is in the service of the state.

13. AWARDS TO CLOSE FAMILY MEMBERS OF PERSONS IN THE SERVICE OF THE STATE

13.1 The notes to the annual financial statements must disclose particulars of any award of more than R2000 to a person who is a spouse, child or parent of a person in the service of the state, or has been in the service of the state in the previous twelve months, including –

- (a) the name of that person;
- (b) the capacity in which that person is in the service of the state; and
- (c) the amount of the award.

14. ETHICAL STANDARDS

14.1 A code of ethical standards is hereby established, in accordance with subparagraph (14.2), for officials and other role players in the supply chain management system in order to promote –

- (a) mutual trust and respect; and
- (b) an environment where business can be conducted with integrity and in a fair and reasonable manner.

14.2 An official or other role player involved in the implementation of the supply chain management policy –

- (a) must treat all providers and potential providers equitably;
- (b) may not use his or her position for private gain or to improperly benefit another person;
- (c) may not accept any reward, gift, favour, hospitality or other benefit directly or indirectly, including to any close family member, partner or associate of that person, of a value more than R350;
- (d) notwithstanding subparagraph (14.2)(c), must declare to the accounting officer details of any reward, gift, favour, hospitality or other benefit promised, offered or granted to that person or to any close family member, partner or associate of that person;
- (e) must declare to the accounting officer details of any private or business interest which that person, or any close family member, partner or associate, may have in any proposed procurement or disposal process of, or in any award of a contract by, the municipality;
- (f) must immediately withdraw from participating in any manner whatsoever in a procurement or disposal process or in the award of a contract in which that person, or any close family member, partner or associate, has any private or business interest;
- (g) must be scrupulous in his or her use of property belonging to the municipality;
- (h) must assist the accounting officer in combating fraud, corruption, favouritism and unfair and irregular practices in the supply chain management system;
and

- (i) must report to the accounting officer any alleged irregular conduct in the supply chain management system which that person may become aware of, including
 - (i) any alleged fraud, corruption, favouritism or unfair conduct;
 - (ii) any alleged contravention of paragraph 15 of this policy; or
 - (iii) any alleged breach of this code of ethical standards.

14.3 Declarations in terms of subparagraphs (14.2)(d) and (e) -

- (a) must be recorded in a register which the accounting officer must keep for this purpose;
- (b) by the accounting officer must be made to the mayor of the municipality who must ensure that such declarations are recorded in the register.

14.4 The National Treasury's code of conduct must also be taken into account by supply chain management practitioners and other role players involved in supply chain management.

14.5 It is recommended that the municipality or municipal entity adopt the National Treasury's code of conduct for supply chain management practitioners and other role players involved in supply chain management. When adopted, such code of conduct becomes binding on all officials and other role players involved in the implementation of the supply chain management policy of the municipality or municipal entity. A copy of the National Treasury code of conduct is available on the website www.treasury.gov.za/mfma located under "legislation". This code of conduct must be adopted by council.

14.6 A breach of the code of conduct adopted by the municipality must be dealt with in accordance with schedule 2 of the Systems Act.

15. INDUCEMENTS, REWARDS, GIFTS AND FAVOURS TO MUNICIPALITIES, OFFICIALS AND OTHER ROLE PLAYERS

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

(a) any inducement or reward to the municipality for or in connection with the award of a contract; or

(b) any reward, gift, favour or hospitality to –

(i) any official; or

(ii) any other role player involved in the implementation of the supply chain management policy.

15.2 The accounting officer must promptly report any alleged contravention of subparagraph (15.1) to the National Treasury for considering whether the offending person, and any representative or intermediary through which such person is alleged to have acted, should be listed in the National Treasury's database of persons prohibited from doing business with the public sector.

15.3 Subparagraph (15.1) does not apply to gifts less than R350 in value.

16. SPONSORSHIPS

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

(a) a provider or prospective provider of goods or services; or

(b) a recipient or prospective recipient of goods disposed or to be disposed.

17. OBJECTIONS AND COMPLAINTS

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

18. RESOLUTION OF DISPUTES, OBJECTIONS, COMPLAINTS AND QUERIES

- 18.1 The accounting officer must appoint an independent and impartial person, not directly involved in the supply chain management processes –
- (a) to assist in the resolution of disputes between the municipality and other persons regarding –
 - (i) any decisions or actions taken in the implementation of the supply chain management system; or
 - (ii) any matter arising from a contract awarded in the course of the supply chain management system; or
 - (b) to deal with objections, complaints or queries regarding any such decisions or actions or any matters arising from such contract.
- 18.2 The accounting officer, or another official designated by the accounting officer, is responsible for assisting the appointed person to perform his or her functions effectively.
- 18.3 The person appointed must –
- (a) strive to resolve promptly all disputes, objections, complaints or queries received; and
 - (b) submit monthly reports to the accounting officer on all disputes, objections, complaints or queries received, attended to or resolved.

18.4 A dispute, objection, complaint or query may be referred to the relevant provincial treasury if –

(a) the dispute, objection, complaint or query is not resolved within 60 days; or

(b) no response is forthcoming within 60 days.

18.5 If the provincial treasury does not or cannot resolve the matter, the dispute, objection, complaint or query may be referred to the National Treasury for resolution.

18.6 This paragraph must not be read as affecting a person's rights to approach a court at any time.

19. CONTRACTS PROVIDING FOR COMPENSATION BASED ON TURNOVER

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

(a) a cap on the compensation payable to the service provider; and

(b) that such compensation must be performance based.

20. EXPANSION OF VARIATION OF ORDERS AGAINST ORIGINAL CONTRACT VALUES

20.1 Contracts may be expanded or varied by not more than 20% for construction related goods and infrastructure projects and 15% for all other goods and/or services of the original value of the contract;

20.2 Anything beyond the abovementioned thresholds must be reported to Council and dealt with in terms of the provision of section 116(3) of the MFMA Act 56 of 2003, will be regarded as an amendment to the contract.

21. RELATED DOCUMENTS

21.1 The following documents are related to this policy:

21.1.1 Demand Management policy

21.1.2 Asset management policy

21.1.3 Management and administration of immovable assets policy

21.1.4 Integrated development plan

21.1.5 Infrastructure procurement and delivery management policy

21.1.6 Preferential procurement framework policy

22. REVIEW

22.1 This Policy shall be reviewed at least annually during the annual budget process or when Legislation requires immediate amendment to the policy.

22.2 Where the National Treasury and the Provincial Treasury issue amendments, those instructions, must also be taken into account in the execution of the Supply Chain Management in addition to the Policy and the Policy amended at the earliest convenient opportunity.

22.3 When necessary, recommendations for amendments to the Policy deemed must be submitted to the council committees for consideration and approval.

22.4 The accounting officer must –

- (a) at least annually review the implementation of this policy; and
- (b) when the accounting officer considers it necessary, submit proposals for the amendment of this policy to the council.

- 22.5 If the accounting officer submits proposed amendments to the Council that differs from the model policy issued by National Treasury, the accounting officer must –
- (a) ensure that such proposed amendments complies with the Regulations;
and
 - (b) report any deviation from the model policy to the National Treasury and the relevant provincial treasury.
- 22.6 When amending this supply chain management policy the need for uniformity in supply chain practices, procedures and forms between organs of state in all spheres, particularly to promote accessibility of supply chain management systems for small businesses must be taken into account.

23. EFFECTIVE DATE

- 23.1 This policy shall come into effect on 01 July 2017 and shall remain in full force and effect until it is reviewed, revoked or amended by Council.