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# GREATER GIYANI MUNICIPALITY

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## SUPPLY CHAIN MANAGEMENT POLICY

Council Resolution CR96–27/05/22SP

### **Object**

To give effect to section 111 of the Local Government: Municipal Finance Management Act, No. 56 of 2003 and the Municipal Supply Chain Management Regulations, Notice 868 of 30 May 2005.

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## 1. DEFINITIONS

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

“**MFMA**” mean the No. 56 of 2003: Local Government: Municipal Finance Management Act, 2003.

“**Accounting Officer**” means a person appointed by the Municipality in terms of Section 82 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998) and who is the head of administration and also the Municipal Manager for the Municipality

“**CFO**” means Chief Financial Officer of the Municipality;

“**PPFA**” means the Preferential Procurement Policy Framework Act, 2000: Preferential Procurement Regulations, 2017

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

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

“**Delegation**” in relation to a duty, includes an instruction a request to perform or to assist in performing the duty.

“**Emergency**” an emergency is an unforeseeable and sudden event with harmful or potentially harmful consequences for the municipality which requires urgent action to address.

“**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 12(1)(b) of this policy;

“**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) a member of the accounting authority of any national or provincial public entity; or
- (f) an employee of Parliament or a provincial legislature;

“**Financial interest**” means where a municipal staff member is a close family member of a person who is the owner, partner, principal shareholder or member, manager or who serves on the board of directors, etc of a tendering enterprise

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

“**List of accredited prospective providers**” means the list of accredited prospective providers which the municipality must keep in terms of paragraph 14 of this Policy;

“**Single provider**” Sole supplier- One and Only (Alone of its kind) Supplier (Oxford Dictionary). If such goods or services are produced or available from a single provider only. There is no competition and only one provider exists in South Africa (for example, sole distribution rights);

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

- (a) the Constitution of the Republic of South Africa Act, 1996 (Act No 108 of 1996);
- (b) the Preferential Procurement Policy Framework Act, 2000 (Act No 5 of 2000) and Preferential Procurement Regulations, 2011 pertaining to the PPPFA No. 5 of 2000.
- (c) the Broad-Based Black Economic Empowerment Act, 2003 (Act No 53 of 2003);
- (d) the Construction Industry Development Board Act, 2000 (Act No 38 of 2000); and
- (e) the Prevention and Combating of Corrupt Activities Act, 2004 (Act No 12 of 2004);

“**Regulations**” 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 Act;

“**The Act**” means the Local Government: Municipal Finance Management Act, 2003 (Act No 56 of 2003); and

“**Informal written quotations**” means quotations referred to in paragraph 12(1)(b) of this Policy.

“**B-BBEE**” means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;

“**B-BBEE status level of contributor**” means the B-BBEE status of an entity in terms of a code of good practice on black economic empowerment issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;

“**Black designated groups**” has the meaning assigned to it in the codes of good practice issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;

“**Black people**” has the meaning assigned to it in section 1 of the Broad-Based Black Economic Empowerment Act;

“**Broad-Based Black Economic Empowerment Act**” means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);

“**Co-operative**” means a co-operative registered in terms of section 7 of the Cooperatives Act, 2005 (Act No. 14 of 2005);

“**Designated group**” means

- (a) black designated groups;
- (b) black people;
- (c) women;
- (d) people with disabilities; or
- (e) small enterprises, as defined in section 1 of the National Small Enterprise Act, 1996 (Act No. 102 of 1996);

“**Designated sector**” means a sector, sub-sector or industry or product designated in terms of regulation 8(1)(a);

“**EME**” means an exempted micro enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;

“**Functionality**” means the ability of a tenderer to provide goods or services in accordance with specifications as set out in the tender documents;

“**Military veteran**” has the meaning assigned to it in section 1 of the Military Veterans Act, 2011 (Act No. 18 of 2011);

**“National Treasury”** has the meaning assigned to it in section 1 of the Public Finance Management Act, 1999 (Act No. 1 of 1999); **“people with disabilities”** has the meaning assigned to it in section 1 of the Employment Equity Act, 1998 (Act No. 55 of 1998);

**“Price”** includes all applicable taxes less all unconditional discounts;

**“Proof of B-BBEE status level of contributor”** means

- (a) the B-BBEE status level certificate issued by an authorised body or person;
- (b) a sworn affidavit as prescribed by the B-BBEE Codes of Good Practice; or
- (c) any other requirement prescribed in terms of the Broad-Based Black Economic Empowerment Act;

**“QSE”** means a qualifying small business enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;

**“Rand value”** means the total estimated value of a contract in Rand, calculated at the time of the tender invitation;

**“Rural area”** means

- (a) a sparsely populated area in which people farm or depend on natural resources, including villages and small towns that are dispersed through the area; or
- (b) an area including a large settlement which depends on migratory labour and remittances and government social grants for survival, and may have a traditional land tenure system;

**“Stipulated minimum threshold”** means the minimum threshold stipulated in terms of regulation 8(1)(b);

**“The Act”** or **“MFMA”** means the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000);

**“Township”** means an urban living area that any time from the late 19th century until 27 April 1994, was reserved for black people, including areas developed for historically disadvantaged individuals post 27 April 1994;

**“Treasury”** has the meaning assigned to it in section 1 of the Public Finance Management Act, 1999 (Act No. 1 of 1999); and

**“Youth”** has the meaning assigned to it in section 1 of the National Youth Development Agency Act, 2008 (Act No. 54 of 2008).

# **ESTABLISHMENT AND IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT**

## **2. PRINCIPLES AND PLEDGES**

- (1) All officials and other role players in the Supply Chain Management system of the Greater Giyani Municipality must implement this policy in a way that –
  - (a) gives effect to –
    - (i) section 217 of the Constitution; and
    - (ii) Part 1 of Chapter 11 and other applicable provisions of the Act;
  - (b) is fair, equitable, transparent, competitive and cost effective;
  - (c) complies with –
    - (i) the Regulations; and
    - (ii) any minimum norms and standards that may be prescribed in terms of section 168 of the Act;
  - (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.
  
- (2) The policy give effect to effective and efficient service delivery by acquiring goods and services of optimum value through best purchasing practices. In addition to the above, this municipality will pursue the following four main aims:
  - (a) the promotion of the Interdivisional Support Policy;
  - (b) the promotion, development and support of business from previously disadvantaged communities;
  - (c) the promotion of local, provincial and national suppliers and agents before considering international suppliers; and
  - (d) the development, promotion and support of moral values that underpin the above in terms of the municipality's Ethical Code.
  
- (3) The municipality further supports the creation and maintenance of a good, sound business relationship with the bidding public in general, as well as with its valued supplier base, without which it cannot survive in a competitive market.
  
- (4) The municipality also seeks to develop and maintain positive, long term relationships based on mutual trust and respect with those suppliers who demonstrate their commitment to the municipality's shared goals. The municipality also commits itself to clarity in its communication of requirements, and to be professional, courteous, fair, factual and responsive in its business dealings.
  
- (5) The municipality may not act otherwise than in accordance with this 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) 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.
  
- (6) This Policy, except where provided otherwise, does not apply in respect of the procurement of goods and services contemplated in section 110(2) of the Act, 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, and
  - (c) Periodic or quarterly security assessments of political office bearers and key officials (as per paragraph 13(6) of the Municipal Cost Containment Regulations).

- (7) This Policy, further exempt the request of three formal written quotations when procuring the following services:
  - (a) Repair and maintenance of Property Plant and Equipment
  - (b) Deed search
  - (c) Advertisement on the Radio Station – Giyani Community Radio and MLFM
  - (d) Affiliations and training fees
  - (e) Books and publications
  - (f) Information Technology Software

### **3. AMENDMENT AND ADOPTION OF THE SUPPLY CHAIN MANAGEMENT POLICY**

- (1) The Accounting Officer must –
  - (a) reviewed the policy as-and-when required, but within a cycle of five years; and
  - (b) when the Accounting Officer considers it necessary, submit proposals for the amendment of this Policy to the Council.
- (2) If the Accounting Officer submits proposed amendments to the Council that differs from the model policy issued by the National Treasury, the Accounting Officer must –
  - (a) ensure that such draft policy complies with the Regulations; and
  - (b) report any deviation from the model policy to the National Treasury and the relevant provincial treasury.
- (3) 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.
- (4) The Accounting Officer must, in terms of section 62(1) (f)(iv) of the Act, take all reasonable steps to ensure that the municipality has and implements this Supply Chain Management Policy.

### **4. DELEGATION OF SUPPLY CHAIN MANAGEMENT POWERS AND DUTIES**

- (1) The Council hereby delegates and is required to further delegate 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 Act; and
    - (ii) this Policy;
  - (b) to maximise administrative and operational efficiency in the implementation of this Policy;
  - (c) to enforce reasonable cost-effective measures for the prevention of fraud, corruption, favouritism and unfair and irregular practices in the implementation of this Policy; and
  - (d) to comply with his or her responsibilities in terms of section 115 and other applicable provisions of the Act.
- (2) Sections 79 and 106 of the Act apply to the sub delegation of powers and duties delegated to the Accounting Officer in terms of paragraph 4(1) of this Policy.
- (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.
- (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 26 of this Policy.



## 5. SUB DELEGATIONS

- (1) The Accounting Officer may in terms of section 79 or 106 of the Act sub delegate any supply chain management powers and duties, including those delegated to the Accounting Officer in terms of this Policy, but any such sub delegation must be consistent with paragraph 4 and paragraph 5(2) of this Policy.
- (2) The power to make a final award –
  - (a) above R10 million (VAT included) must only be exercised by the Accounting Officer ;
  - (b) above R500 001 (VAT included), but not exceeding R10 million (VAT included) may be exercised by the Accounting Officer after considering the reports and recommendations submitted by the bid adjudication committees;
  - (c) between R200 000 to R 500 000 (VAT included) may be exercised by the bid adjudication committee after considering the reports and recommendations submitted by the bid evaluation committee;
  - (d) between R30 000 to R200 000 (VAT included) may be exercised by each Director and CFO after considering the reports and recommendations submitted by the bid evaluation committee; and
  - (e) less than R30 000 (VAT included) may be exercised by the Head of the Sections after considering the quotations from Supply Chain Management unit.
  - (f) Each Director, CFO or head of section delegated with this must acquaints him or herself with applicable legislations when taking decisions.
- (3) An official or bid adjudication committee to which the power to make final awards has been sub delegated in accordance with paragraph 5(2) of this Policy must within five (5) working days of the end of each month submit to the official referred to in paragraph 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 supplier or person to whom the award was made; and
  - (c) the reason why the award was made to that supplier or person.
- (4) A written report referred to in paragraph 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 Senior Manager; or
    - (iii) a bid adjudication committee of which the Chief Financial Officer or Director is a member; or
  - (b) to the Chief Financial Officer or the director responsible for the relevant bid, in the case of an award by:
    - (i) an official referred to in paragraph 5(2)(c)(iii) of this Policy; or
    - (ii) a bid adjudication committee of which the Chief Financial Officer or Director is not a member.
- (5) Paragraphs 5(3) and 5(4) do not apply to procurements by way of direct purchases described in paragraph 15 of this Policy.
- (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 otherwise than through the committee system provided for in paragraph 26 of this Policy.
- (7) No supply chain management decision-making powers may be delegated to an advisor or consultant.

## 6. OVERSIGHT ROLE OF COUNCIL

- (1) The Council must maintain oversight over the implementation of this Policy.
- (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; and
  - (b) whenever there are serious and material problems in the implementation of such Supply Chain Management Policy, immediately submit a report to the Council.

- (3) The Accounting Officer must, within ten (10) working days of the end of each quarter, submit a report on the implementation of the Supply Chain Management Policy to the Mayor.
- (4) The reports must be made public in accordance with section 21A of the Municipal Systems Act.

## **7. SUPPLY CHAIN MANAGEMENT UNIT**

- (1) Supply chain management unit is hereby established to implement this Policy for the municipality and the various policies for the municipal entities of which the municipality is the parent municipality.
- (2) The supply chain management unit operates 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 Act.

## **8. TRAINING OF SUPPLY CHAIN MANAGEMENT OFFICIALS**

- (a) Officials involved in the implementation of the supply chain management policy of the municipality must be trained and meet the prescribed minimum competency levels in compliance with 119 of the Act.
- (b) The training of officials involved in implementing this Policy must be in accordance with any treasury guidelines on supply chain management training.
- (c) The accounting officer must ensure that Supply Chain Management officials attend Supply Chain Management training annually.

## **FRAMEWORK FOR SUPPLY CHAIN MANAGEMENT SYSTEM**

### **9. FORMAT OF SUPPLY CHAIN MANAGEMENT SYSTEM**

- (1) **This Policy provides systems for –**
  - (a) demand management;
  - (b) acquisition management;
  - (c) logistics management;
  - (d) disposal management;
  - (e) risk management; and
  - (f) Performance management.

### **10. SYSTEM OF DEMAND MANAGEMENT**

#### **Part 1: Demand management**

- (1) The Accounting Officer must establish and implement an appropriate demand management system in order to ensure that the resources required by the municipality support its operational commitments and its strategic goals outlined in the Integrated Development Plan and Service Delivery and Budget Implementation Plan.
- (2) The demand management system must –
  - (a) include timely planning and management processes to ensure that all goods and services required by the municipality are quantified, budgeted for and effectively delivered at the right locations and at the critical delivery dates, and are of the 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.
  - (d) Undertake appropriate industry analysis and research to ensure that innovations and technological benefits are maximised.

## 11. SYSTEM OF ACQUISITION MANAGEMENT

### Part 2: Acquisition management

- (1) An accounting officer must implement the system of acquisition management set out in this part in order to ensure that –
  - (a) goods and services are procured by the municipality in accordance with authorised processes only;
  - (b) expenditure on goods and services is incurred in terms of an approved budget in terms of section 15 of the Act;
  - (c) the threshold values for the different procurement processes are complied with;
  - (d) bid documentation, evaluation and adjudication criteria, and general conditions of a contract, are in accordance with any applicable legislation; and
  - (e) any Treasury guidelines on acquisition management are properly taken into account.
- (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 Act, 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.
- (3) The following information must be made public wherever goods or services contemplated in section 110(2) of the Act are procured other than through the supply chain management system -
  - (a) the kind of goods or services; and
  - (b) the name of the supplier.

## 12. RANGE OF PROCUREMENT PROCESSES

- (1) Goods and services may only be provided by way of –
  - (a) direct purchases, up to a transaction value of R2000.00 (VAT included);
  - (b) written and informal or verbal quotations for procurements of a transaction value over R2001 up to R10 000 (VAT included);
  - (c) formal three written price quotations for procurements of a transaction value over R10 001 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.
- (2) The accounting officer may, in writing –
  - (a) Lower, but not increase, the different threshold values specified in sub-clause (1); or
  - (b) direct that –
    - (i) written or verbal quotations be obtained for any specific procurement of a transaction value lower than R2 000 (VAT included);
    - (ii) formal written price quotations be obtained for any specific procurement of a transaction value lower than R30 000 (VAT included); or
    - (iii) A competitive bidding process be followed for any specific procurement of a transaction value below than R200 000 (VAT included).
- (3) Goods or services may not deliberately be split into parts or items of a lesser value merely to avoid complying with the requirements of this 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.

- (4) The Municipality reserves the rights to appoint a panel of Service Providers or Contractors for period not more than 36 months and allocation of work must be done on rotational basis taking into account the final ranking and the performance of the service provider

### **13. GENERAL PRECONDITIONS FOR CONSIDERATION OF WRITTEN QUOTATIONS OR BIDS**

- (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;
    - (iii) tax reference number and VAT registration number, if any; and
    - (iv) tax clearance from the South African Revenue Services that the provider's tax matters are in order;
    - (v) Tax Pin;
    - (vi) CSD Registration Number.
  
  - (b) 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 paragraph 13(b)(ii) is in the service of the state, or has been in the service of the state in the previous twelve months.
    - (iv) that the tendering enterprise or any of its owners, directors, members or trustees, in their personal capacity are not in arrears with any account(s) with a Municipality for longer than 90 days / three months; or
    - (v) Whether any Municipal staff member is a close family member of an owner, his/her partner serves on the board of directors, or are members or trustees, of the tendering enterprise.

### **14. CENTRAL SUPPLIER DATABASE**

- (1) The Accounting Officer must –
- (a) use the CSD supplier number starting with (MAAA) which is auto generated by the Central Database System after successful registration and validation of the prospective provider as mandatory requirement as part of listing criteria for accrediting prospective provider in line with section 14 (1) (b) of the Municipal Supply Chain Management Regulations; –
  - (b) ensures that the service departments use CSD for the procurement of goods and services by obtaining informal written quotations or formal written price quotations;
  - (c) use CSD to validate the following registration documents:
    - (i) Confirmation and status of Business Registration Documents
    - (ii) Proof of bank Account registration
    - (iii) Tax compliance status
    - (iv) Identity documentation
    - (v) Tender defaulters and restriction status
    - (vi) Employee in the service of state as define in the municipal SCM regulation with information only available in the PERSAL system at this time, namely National and Provincial officials

- (d) Apart from the CSD, the municipality must verify the authentic of the following documents:
  - (i) BBBEE status
  - (ii) CIDB
  - (iii) Municipal Statement of Account Status

## **15. PETTY CASH PURCHASES**

- (1) The conditions for the procurement of goods by means of petty cash purchases referred to in paragraph 12(1)(a) of this policy, are that minor items are purchased for up to R1000, 00 (VAT included) where it is impractical, impossible or not cost-effective to follow the official procurement process and is strictly of a reimburse nature and not for advances.
- (2) The accounting officer must establish the condition for the procurement of goods by means of petty cash purchase, which must include conditions –
  - (a) Determine the term on which a Manager may delegate responsibility for petty cash to an official reporting to the manager;
  - (b) Limiting the number of petty cash purchases or the maximum amount per month for each manager;
  - (c) Excluding any types of expenditure from petty cash purchases, where this is considered necessary; and
  - (d) Requiring monthly reconciliation report 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.
- (3) Petty cash purchases with threshold value from an amount of R1.00 up to an amount of R2 000 (VAT included) to be authorised by the Chief Financial Officer or his delegate.

## **16. VERBAL QUOTATIONS PROHIBITED**

- (1) The conditions for the procurement of goods or services through written quotations for amounts under the threshold for formal quotations as stated in clause 12.1.3 and 12.1.4 are as follows:
  - (a) quotations for transactions up to a value of R 2 000 (VAT Included) must be obtained from at least two different providers preferably from, but not limited to, providers whose names appear on the list of accredited prospective providers of the Municipality provided that if quotations are obtained from providers who are not listed, such providers must meet the listing criteria set out in clause 14(1)(a),(b) and (c) of this Policy;
  - (b) providers must be requested to submit such quotations in writing;
  - (c) if it is not possible to obtain at least two quotations, the reasons must be recorded and reported quarterly to the Supply Chain Manager
  - (d) if a quotation was submitted verbally, the order may be placed only against written confirmation by the selected provider;
  - (e) any other conditions determined by the Accounting Officer.
- (2) No orders may be placed based on verbal price quotations.
- (3) No quotation, written or verbal, may be made available by an official to a prospective bidder.

## **17. FORMAL WRITTEN PRICE QUOTATIONS**

Formal Written Quotations (> R2000 to R200 000)

- (1) The condition for the procurement of goods or services through formal written price quotations, are as follows:
  - (a) 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;
  - (b) 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 14(1)(b) and (c);

- (c) if it is not possible to obtain at least three quotations, the reasons must be recorded and approved by the chief financial officer or an official designated by the chief financial officer, and
  - (d) the accounting officer or his nominee must record the names of the potential providers and their written quotations.
- (2) The designated official referred to in paragraph 18(1)(c) must within three (3) working 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 paragraph.

**18. THE PROCEDURE FOR THE PROCUREMENT OF GOODS OR SERVICES THROUGH INFORMAL AND FORMAL WRITTEN QUOTATIONS, ARE AS FOLLOWS:–**

- (a) when using the Central Supplier Database the acquisition officer must promote ongoing competition amongst providers by inviting providers to submit quotations on a rotation basis;
- (b) all requirements in excess of R30 000 (VAT included) that are to be procured by means of formal written quotations must, in addition to the requirements of paragraph 18, be advertised for at least seven days on the website and the official notice boards of the municipality EXCEPT IN A CASE OF EMERGENCY;
- (c) offers received must be evaluated on a comparative basis taking into account unconditional discounts;
- (d) the acquisition officer must take all reasonable steps to ensure that the procurement of goods and services through formal written price quotations is not abused;
- (e) the Accounting Officer or Chief Financial Officer must on a monthly basis be notified in writing of all informal and formal written quotations accepted by an official acting in terms of a sub delegation;
- (f) offers below R30 000 (VAT included) must be awarded based on compliance to specifications and conditions of contract, ability and capability to deliver the goods and services and lowest price;
- (g) offers with a value of R30 000 (VAT included) and above are subject to the preference points system (PPFA and associated regulations) and must be dealt with according to the Council's Procurement Policy; and
- (h) the Chief Financial Officer must set requirements for proper record keeping of all informal and formal written quotations accepted on.
- (i) procurement requirements exceeding a value of R 30 000 (VAT Inclusive) must be submitted to the Quotations Evaluation Committee which comprises of Supply Chain Manager or his delegate, End User Representative and Secretary. The Quotations Evaluation Committee must make recommendation to the Chief Financial Officer or delegated official for approval.

**19. COMPETITIVE BIDDING PROCESS**

- (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 paragraphs 11(2) and 37 of this Policy.
- (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.

**20. PROCESS FOR COMPETITIVE BIDDING**

- (1) The procedures for the following stages of a competitive bidding process are as follows:-
  - (a) Cost containment determination (Needs analysis reports which necessitated the tender to be advertised)
  - (b) The CFO to formally confirm in writing the availability of budget for adverts above R10m
  - (c) Compilation of bidding documentation, detailed in paragraph 22.
  - (d) Public invitation of bids, detailed in paragraph 23.
  - (e) Site meetings or briefing sessions, detailed in paragraph 23.
  - (f) Handling of bids submitted in response to public invitation.
  - (g) Evaluation of bids, detailed in paragraph 29.
  - (h) Awarding of contracts, detailed in paragraph 30.

- (i) Administration of contracts
- (j) After approval of a bid, the Accounting Officer and the bidder must enter into a written Service Level Agreement.
- (k) Proper record keeping – Original / legal copies of written contracts and agreements must be kept in a secure place for reference purposes.

## 21. BID DOCUMENTATION FOR COMPETITIVE BIDS

- (1) The criteria to which bid documentation for a competitive bidding process must comply, must:–
  - (a) take into account –
    - (i) the General Conditions of Contract (GCC);
    - (ii) Preferential Procurement Regulation, 2017 pertaining to the PPPFA no.5 of 2000
    - (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
  - (iv) Any special conditions to the contract including the evaluation and adjudication criteria, including any criteria required by other applicable legislation, that is, determine and stipulate in the tender documents the preference point system applicable to the tender as envisaged in regulation 6 or 7;
  - (b) compel bidders to declare any conflict of interest they may have in the transaction for which the bid is submitted;
  - (c) compel bidders to declare whether they work for the state or not;
  - (d) include a tax clearance certificate issued by SARS;
  - (e) if the value of the transaction is expected to exceed R10 million (VAT included), require bidders to furnish, if the bidder is required by law to prepare annual financial statements for auditing, their audited annual financial statements –
    - (i) for the past three years; or
    - (ii) since their establishment if established during the past three years;
    - (iii) 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;
    - (iv) particulars of any contracts awarded to the bidder by an organ of state during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract;
    - (v) 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;
    - (vi) stipulate that disputes must be settled by means of mutual consultation, mediation (with or without legal representation), or, when unsuccessful, in a South African court of law;
  - (f) where surety is required it shall be in the form of cash, a certified cheque, or a bank guarantee from a banking institution registered in terms of the Banks Act, 1965 (Act No. 23 of 1965) or from an insurer registered in terms of the Insurance Act, 1943 (Act No. 27 of 1943). Where bids in Category A cannot raise the required surety of 2, 5%, and it is feasible to deduct the amount from the Preliminary and General (P+G) payment certificate, such concessions may be granted;
- (2) indicate the value or extent to which the execution of the contract should or should not be subcontracted;
- (3) submit a certificate from the Department of Labour indicating compliance with the Occupational Health and Safety Act, 1993 (Act No 85 of 1993);
- (4) Summary Central Supplier Database report;
- (5) Municipal rates and taxes not older than three months Company & Directors;
- (6) A non-refundable charge in terms of the Council's approved tariff structure shall be raised for bid forms, plans, specifications, samples and any other bid documentation, depending on the nature, magnitude and value of technical information or samples provided by the municipality;
- (7) Bid documents may allow for bidders to bid for one or more items or for a part of one or more items but the municipality reserves the right to accept part of a bid or a complete bid or quotation even if it is not the lowest, provided the interests of the municipality are best served thereby. Bid documents must be specific

as certain contracts, e.g. the construction of a bridge, may require that the whole contract is to be completed by the same contractor;

- (8) Where bidders insert prices on price lists supplied by the municipality they shall delete items for which they do not bid or if the price has been included elsewhere in the price list. After bid/quotations have been opened bidders may not supplement their original offer if the original offer was incomplete;
- (9) the municipality must state in the tender documents if the tender will be evaluated on functionality:
- (a) The evaluation criteria for measuring functionality must be objective.
  - (b) the points for each criteria and, if any, each sub-criterion; and
  - (c) The minimum qualifying score for functionality.
  - (d) The minimum qualifying score for functionality for a tender to be considered further- Must be determined separately for each tender; and (b) must not be so- low that it may jeopardize the quality of the required goods or services; or high that it is unreasonably restrictive.
  - (e) Points scored for functionality must be rounded off to the nearest two decimal places.
  - (f) A tender that fails to obtain the minimum qualifying score for functionality as indicated in the tender documents is not an acceptable tender.
  - (g) Each tender that obtained the minimum qualifying score for functionality must be evaluated further in terms of price and the preference point system and any objective criteria envisaged in PPPFA regulation 11.
  - (h) the tender documents must stipulates the applicable preferential points and the acceptable certificates to be considered, that is, sworn affidavit (EME & QSE) in terms of NT circular no.5 of 2016:-
    - (i) 80/20 preference points system for acquisition of goods and services for rand value equal to or above R30 000 and up to R50 million.
    - (ii) 90/10 preference points system for acquisition of goods and services for rand value above R50 million B-BBEE points will be allocated as follows:

B-BBEE Status Level of Contributor	Number of Points: 80/20		Number of Points : 90/10 (50m <)
	<R30	>50m)	
1		20	10
2		18	9
3		14	6
4		12	5
5		8	4
6		6	3
7		4	2
8		2	1
Non-compliant contributor		0	0

- (10) Pre-qualification criteria for preferential procurement
- (a) If the municipality decides to apply pre-qualifying criteria to advance certain designated groups, the municipality must
    - (i) advertise the tender with a specific tendering condition that only one or more of the following tenderers may respond
    - (ii) specify tenderer having a stipulated minimum B-BBEE status level of contributor;

(11) Subcontracting as condition of tender

- (a) If feasible to subcontract for a contract above R30 million, the municipality must apply subcontracting to advance designated groups.
- (b) If the municipality applies subcontracting as contemplated in sub-regulation the municipality must advertise the tender with a specific tendering condition that the successful tenderer must subcontract a minimum of 30% of the value of the contract to (a) an EME or QSE;



(12) Subcontracting

- (a) The revised regulations require organs of state to identify tenders, where it is feasible, to subcontract a minimum of 30% of the value of the contract for contracts above R30 million.
- (b) The tenderer must sub-contract a minimum of 30% of the value of the contract
- (c) to EMEs or QSEs or EMEs or QSEs which are 51% owned by either of the following:
  - (i) Blacks; Black Youth; Black Women; Black people with disabilities;
  - (ii) Black people living in rural or underdeveloped areas or townships; cooperatives owned by Black people; Black people who are military veterans.

(13) Subcontracting after award (25%)

- (a) A person awarded a contract may only enter into a subcontracting arrangement with the approval of the organ of state.
  - (i) A person awarded a contract in relation to a designated sector, may not subcontract in such a manner that the local production and content of the overall value of the contract is reduced to below the stipulated minimum threshold.
  - (ii) A person awarded a contract may not subcontract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level of contributor than the person concerned, unless the contract is subcontracted to an EME that has the capability and ability to execute the subcontract.

(14) **Cancellation**

- (a) The municipality may, before the award of a tender, cancel a tender invitation if-
  - (i) due to changed circumstances, there is no longer a need for the goods or services specified in the invitation;
  - (ii) funds are no longer available to cover the total envisaged expenditure;
  - (iii) no acceptable tender is received; or
  - (iv) there is a material irregularity in the tender process.

(15) The decision to cancel a tender invitation in terms of sub regulation (1) must be published in the same manner in which the original tender invitation was advertised.

(16) The municipality may only with the prior approval of the relevant treasury cancel a tender invitation for the second time.

- (a) if it is unclear which preference point system will be applicable, that either the 80/20 or 90/10 preference point system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system;
- (b) determine whether pre-qualification criteria are applicable to the tender as envisaged in regulation 4;
- (c) determine whether the goods or services for which a tender is to be invited, are in a designated sector for local production and content as envisaged in regulation 8;
- (d) determine whether compulsory subcontracting is applicable to the tender as envisaged in regulation 9; and
- (e) determine whether objective criteria are applicable to the tender as envisaged in regulation 11.

(17) Guarantees will be required as follows:

**CATEGORY PROJECT VALUE GUARANTEE**

- (a) A < R500 000 2,5%
- (b) B R500 001 – R1 000 000 5%
- (c) C R1 000 001 – R2 000 000 7,5%
- (d) D >R2 000 000 10%

## **22. PUBLIC INVITATION FOR COMPETITIVE BIDS**

(1) The procedure for the invitation of competitive bids is as follows:-

- (a) 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 any other appropriate ways (which may include an advertisement in the E-Tender portal ); and
- (b) the information contained in a public advertisement, must include –
  - (i) 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 not less than 14 days in any other case, from the date on which the advertisement is placed in a newspaper, subject to paragraph 23.2 of this Policy;
  - (ii) a statement that bids may only be submitted on the bid documentation provided by the municipality;
  - (iii) date, time and venue of any proposed site meetings or briefing sessions;
  - (iv) a statement stipulating that bids submitted late will not be considered
  - (v) Bidders coming late for site meetings will be disqualified.
  - (vi) Whether the briefing session/site inspection session is compulsory or not
  - (vii) A statement that the municipality reserves the right to accept or reject any bid or part thereof and is not obliged to accept the lowest bid.
  - (viii) A statement that no bid will be accepted from the person in the service of the state.
  - (ix) A statement that the municipality reserves the right to accept a bid in part.
  - (x) The tender validity period
  - (xi) A statement that the municipality reserve the right to appoint more than one bidders;
  - (xii) Details of the time when the tender closes and the location where the bid box where the bids are to be placed

(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.

(3) Bids submitted must be sealed.

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

## **23. PROCEDURE FOR HANDLING, OPENING AND RECORDING OF BIDS**

(1) The procedures for the handling, opening and recording of bids, are as follows:-

(a) Bids –

- (i) must be opened only in public;
- (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) received after the closing time won't be considered and will be returned unopened.

(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;

(c) No information, except the provisions in paragraph 24(1)(b), relating to the bid should be disclosed to bidders or other persons until the successful bidder is notified of the award; 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.

## **(2) Opening of bids and quotations**

- (a) All bids in excess of R200 000 (VAT included) shall be opened in public at the Supply Chain Management Unit as soon as possible after the expiry of the advertised closing date and time. At such public bid openings the names of the bidders and the prices are read out. All quotations i.e. responses received in terms of procurement mechanisms below the value of R200 000 (VAT included) are excluded from public bid openings. When such quotations are opened, the names of bidders who responded are therefore not read out. This is to prevent collusion between a limited number of bidders or, in the event of one supplier only, the creation of a monopolistic situation.
- (b) All bids and quotations i.e. responses received in terms of procurement mechanisms, of a value of R200 000 (VAT included) and above shall be opened in public at the relevant stores offices as soon as possible after the expiry of the advertised closing date and time. At such public bid openings the names of the bidders and the prices are read out.
- (c) All bids and quotations, addressed to the municipality, shall be opened by a Senior employee in the presence of the delegated official of the Divisional Manager Supply Chain Management Unit, or a nominee.
- (d) Bids and quotations, which fall within the jurisdiction of Unit Managers, shall be opened in the presence of at least two employees, one of which should be a Senior employee and neither of them shall have a personal interest in the bid or quotation or be involved in the adjudication thereof.
- (e) Both officials shall sign the bids and declare that they were present at the opening of the bids.

## **(3) Stamping of bids and reading out of names**

- (a) As each bid is opened, the name of the bidder and the amount shall be read out. An employee shall date-stamp the bid or quotation and all enclosures related to prices, delivery periods and special conditions. Bids and quotations shall be numbered in the sequence in which they have been opened and the words "and last" shall be endorsed on the last bid or quotation. In instances where only one bid has been received the words "and only" shall be endorsed on such bid.
- (b) Where prices have not been inserted in all relevant spaces on the form and such items have not been deleted by bidders, such spaces shall be stamped "no price" by the employee who opens the bids or quotations.
- (c) Note: It is the policy of the municipality to disclose bid prices. With regard to quotations of a value below R200 000, names of bidders and prices should not be read out.
- (d) Details on how bidders responded to the relevant evaluation criteria e.g. SMME contribution, community benefits, job creation, environmental impact, etc. should not be disclosed.
- (e) Bids opened in public should be registered in the Bidding Register.

## **(4) Late Bids**

- (a) Bids or quotations arriving after the specified closing time shall not be considered and where practicable shall be returned to the bidder unopened with a letter explaining the circumstances.
- (b) Bid documents must clearly state the venue where the bidding box is situated for each bid. Any bid delivered to the wrong bid box will not be considered, even if it was delivered on time.
- (c) Where it is necessary to open a late bid or quotation to obtain the name and address of the sender, each page of the document shall be stamped "late bid" before the bid is returned to the bidder. The envelope must be stamped and initialled in like manner and must be retained for record purposes.

## **(5) Amendments before the closing date**

- (a) The municipality is entitled to amend any bid condition, validity period, specification or plan, or extend the closing date of such a bid or quotation before the closing date, provided that such amendments or extensions are advertised and/or that all bidders to whom bid documents have been issued, are advised in writing per registered post or by fax of such amendments or of the extension

clearly reflecting the new closing date and time. For this reason, employees issuing bids shall keep a record of the names, addresses and contact numbers of the persons or enterprises to whom bid documents have been issued.

**(6) Dealing with bids and quotations if the closing date thereof has been extended**

- (a) Where the closing date of a bid or quotation is extended, the notice which makes known such extensions shall also mention the bids or quotations already received, will be retained unopened in the bidding box and be duly considered after the expiry of the extended period, unless the bidder requests that such bid or quotation to be returned to the bidder or unless the bidder cancels it by submitting a later dated bid or quotation before the extended closing date.

**(7) No amendments after the closing date allowed**

- (a) The municipality is not entitled to amend any bid condition, validity period, specification or plan after the closing date of the bid and before the acceptance of a bid or quotation has been notified.

**24. NEGOTIATIONS WITH PREFERRED BIDDERS AND COMMUNICATION WITH PROSPECTIVE PROVIDERS AND BIDDERS**

- (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.
  - (d) does not lead to a lower price in respect of sale of land / goods.
  - (e) if the price offered by a tenderer scoring the highest points is not market related, the accounting officer may not award the contract to the tenderer
  - (f) the accounting officer may:
    - (i) Negotiate a market related price with the bidder scoring the highest points or cancel the tender
    - (ii) If the tenderer does not agree to a market related price, negotiate a market related price with the tenderer scoring highest points or cancel the tender
    - (iii) If the tenderer scoring second highest point does not agree to a market related price, negotiate a market related price with the tenderer scoring third highest point or cancel the tender;
    - (iv) If a market related price is not agreed as envisaged in paragraph (e) (3), the accounting officer must re-advertise the tender
- (2) Negotiations with preferred bidder must be in line with regulation six(9) of the Preferential Procurement Regulation, 2017
- (3) Minutes of such negotiations must be kept for record purposes and as far as practical be made part of the final contract.
- (4) Communication with bidders and prospective providers
- (a) Where bids and quotations have been submitted to the municipality, a bidder may not communicate with any councillor or official on any matter regarding his or her bid, quotation or offer other than a notice of withdrawal.
  - (b) No municipal personnel may communicate with a bidder or any other party who has an interest in a bid, on the one hand, and any employee of the municipality, on the other hand, during the period between the closing date for the receipt of the bid or quotation (or date of receipt of an offer), and the date of notification of the successful bidder of acceptance of his bid, quotation or offer, except as provided for in paragraph (c) below. Every such case of unauthorised communication shall forthwith be reported to the Supply Chain Management Unit as well as the relevant Chairperson of the Bid Adjudication Committee. A bid or quotation in respect of which unauthorised communication has occurred may be disqualified.

- (c) After informing the Accounting Officer the Chairperson of the Bid Adjudication Committee may authorise an employee in writing to communicate with a bidder during the period mentioned in paragraph 25(3)(b) above for the purpose of:-
  - (i) explaining and verification of declarations made in the bid response;
  - (ii) confirming that a quoted price is correct;
  - (iii) confirming technical particulars and the compliance thereof with specifications;
  - (iv) determining whether there will be any change in price if only a portion of work is awarded to a bidder;
  - (v) requesting an explanation for an unreasonable price increase when it is compared with a previous price and the interim movement of a relevant price index;
  - (vi) clarifying delivery times/quantities;
  - (vii) extending the validity period of a bid, quotation or offer;
  - (viii) amending any bid condition, validity period or specification after the closing date; and
  - (ix) clarifying any other commercial aspect.
- (d) In all cases where authority has been granted to communicate with bidders in terms of paragraph 25(3)(c) above, it should be clearly stated in the submission to the Bid Adjudication Committee the nature of the communication as well as by whom such authority to communicate has been granted.
- (e) All changes and/or clarification of specifications shall be conveyed to all bidders by means or methods as specified in paragraph 24.

## **25. TWO-STAGE BIDDING PROCESS**

- (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.
- (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.
- (3) In the second stage final technical proposals and priced bids should be invited.
- (4) Tenders to be evaluated on functionality

## **26. COMMITTEE SYSTEM FOR COMPETITIVE BIDS**

- (1) The following committees are hereby established -
  - (a) bid specification committees;
  - (b) bid evaluation committees; and
  - (c) bid adjudication committee.
- (2) The Accounting Officer is required to appoint the members of each committee, taking into account section 117 of the Act.
- (3) The Accounting Officer is required to appoint a neutral or independent observer to attend or oversee a committee when this is appropriate for ensuring fairness and promoting transparency.
- (4) The committee system must be consistent with –
  - (a) paragraphs 28, 29 and 30 of this Policy; and
  - (b) any other applicable legislation.
- (5) The accounting officer may apply the committee system to formal written price quotations.

## **27. BID SPECIFICATION COMMITTEES**

- (1) In conjunction with the head of the department the bid specification committee must compile the specifications for the procurement of goods or services.
  - (a) 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, must 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 labelling 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 word "equivalent";
- (f) must indicate each specific goal for which points may be awarded in terms of the points system set out in 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 22 of this Policy.
- (h) A bid specification committee must be composed of one or more officials of the municipality, preferably the manager responsible for the function involved, and may, when appropriate, include external specialist advisors.
- (i) 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.
- (j) The bid specification committee must include an official representing the Supply Chain Management Section.
- (k) The bid specification committee must indicate whether or not the bid will be evaluated on functionality and stipulate the weighting criteria.
- (l) The bid specification committee must indicate the pre-qualification criteria in terms of the PPPFA Regulation number 4
- (m) The bid specification committee must indicate sub-contracting criteria (30 %) in terms of the PPPFA Regulation number 9

(2) Composition of Bid Specification Committee ;

- (a) A Bid Specification Committee must be composed of the following
  - (i) Chairperson
  - (ii) At least 2 members one of which is a Manager or delegated official from the user department requesting goods or services
  - (iii) One official from SCM Unit providing also secretarial duties.

## 28. BID EVALUATION COMMITTEES

- (1) The evaluation committee shall comprise not less than four people. The chairperson shall be an employee of Greater Giyani Municipality with requisite skills. Other members shall include a supply chain management practitioner and where relevant, include an official from the department requiring the goods and services
- (2) The bid evaluation committee must evaluate bids in accordance with –
  - (a) the specifications for a specific procurement; and
  - (b) the points system set out in terms of paragraph 28(2)(f).
  - (c) evaluate each bidder's ability to execute the contract;
- (3) check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not in arrears; and
- (4) submit to the adjudication committee a report and recommendations regarding the award of the bid or any other related matter.

- (5) 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 official of the Municipality.
- (6) The bidder will be disqualified on the following administrative matters as a minimum:
  - (a) Initialling all the pages by an authorized signatory
  - (b) Signing all the places where signature is required
  - (c) Proof of purchase of tender document
  - (d) Initialling all the corrections of errors made on the tender document
- (7) Composition of Bid Evaluation Committee ;
  - (a) A Bid Evaluation Committee must be composed of the following:
    - (i) Chairperson
    - (ii) At least 2 members one of which is a Manager or delegated official from the user department requesting goods or services who are knowledgeable.
    - (iii) One official from SCM Unit providing also secretarial duties
    - (iv) Technical experts, consultants or advisors, provided that these experts may only actively contribute to discussions, but not vote on the items evaluated.

## 29. BID ADJUDICATION COMMITTEES

- (1) The bid adjudication committee must consider the report and recommendations of the bid evaluation committee; and either –
  - (a) depending on its delegations, make a final award or a recommendation to the Accounting Officer to make the final award; or
  - (b) make another recommendation to the Accounting Officer how to proceed with the relevant procurement.
- (2) The bid adjudication committee must consist of at least four senior managers of the municipality 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 official 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.
- (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.
- (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.
- (5) The chairperson of the bid adjudication committee may ask a member of the evaluation committee to explain the committee's recommendations during the adjudication process.
- (6) All bid committee member must sign the municipal code of conduct for Bid Committee and adhere to the Guidelines for Municipal Bid Adjudication Committees June 2006.
- (7) 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 notify the Accounting Officer.
- (8) 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 30(5)(a); a
  - (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) 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.
- (10) The Accounting Officer must comply with section 114 of the Act within 10 working days.

- (11) The Accounting Officer must, before award of tender above R10m, consider internal audit to review and verify any breach of Supply Chain Management Policy.

### **30. PROCUREMENT OF BANKING SERVICES**

- (1) Banking services –
  - (a) must be procured through competitive bids;
  - (b) must be consistent with section 7 or 85 of the Act; and
  - (c) may not be for a period of more than five years at a time.
- (2) The process for procuring a contract for banking services must commence at least nine months before the end of an existing contract.
- (3) The closure date for the submission of bids may not be less than sixty (60) days from the date on which the advertisement is placed in a newspaper in terms of paragraph 23(1). Bids must be restricted to banks registered in terms of the Banks Act, 1990 (Act No 94 of 1990).

### **31. PROCUREMENT OF IT RELATED GOODS OR SERVICES**

- (1) The Accounting Officer may request the State Information Technology Agency (SITA) to assist with the acquisition of IT related goods or services through a competitive bidding process.
- (2) Both parties must enter into a written agreement to regulate the services rendered by, and the payments to be made to, SITA.
- (3) The Accounting Officer must notify SITA together with a motivation of the IT needs if –
  - (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).
- (4) If SITA comments on the submission and the municipality disagree with such comments, the comments and the reasons for rejecting or not following such comments must be submitted to the Council, the National Treasury, the relevant provincial treasury and the Auditor General.

### **32. PROCUREMENT OF GOODS AND SERVICES UNDER CONTRACTS SECURED BY OTHER ORGANS OF STATE**

- (1) The municipality must consider competitive bidding processes as the first option before participating in a SCM regulation 32. Delay in implementing the procurement plan should not be a reason for participating in SCM regulation 32.
- (2) 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 the other organ of state and the provider have consented to such procurement in writing.
- (3) Paragraphs 32(2)(c) and 32(2)(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.

### **33. PROCUREMENT OF GOODS NECESSITATING SPECIAL SAFETY ARRANGEMENTS**

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



- (2) Where the storage of goods in bulk is justified, such justification must be based on sound reasons, including the total cost of ownership, cost advantages and environmental impact and must be approved by the Accounting Officer.

#### **34. PROUDLY SA CAMPAIGN**

- (1) The municipality supports the Proudly SA Campaign to the extent that, all things being equal, preference is given to procuring local goods and services from:-
- (a) Firstly, suppliers and businesses within the municipality/municipal district;
  - (b) Secondly, suppliers and businesses within the relevant province; and
  - (c) Thirdly, suppliers and businesses within the Republic of South Africa.
- (2) These principles are to be embodied in the points allocated in terms of the Preferential Procurement Policy of the municipality.

#### **35. APPOINTMENT OF PANEL OF CONSULTANTS**

- (1) The Accounting Officer may procure consulting services provided that any Treasury guidelines requirements in respect of consulting services are taken into account when such procurements are made.
- (2) The following procedures must be followed for selecting, contracting and monitoring consultants required for projects:-
- (a) Accounting Officers must only contract with consultants after a gap analysis report has confirmed that the municipality does not have the requisite skills or resources in its permanent employment to perform the services required. Evidence of acute planning of the project must be visible to all relevant persons including the administration and political oversight mechanisms in place at the municipality.
  - (b) Accounting officers of municipalities must appoint consultants on a time and cost basis with specific start and end dates. Travel and subsistence costs for the appointment of consultants must be in accordance with the travel policy of government and the contract price specifies all travel & subsistence costs.
  - (c) All appointment of consultants must be in writing, recommended by the manager of a department and approved by the Accounting Officer.
  - (d) Responsible managers may recommend the appointment of consultants to render specific services, should they be of the opinion that the department lacks the required skills or necessary capacity and those funds are available within the approved council budgets.

#### **(3) Primary reasons for appointment of consultants**

- (a) To provide specialized services for limited periods without any obligation of permanent employment;
- (b) To benefit from superior knowledge, transfer of skills and upgrading of a knowledge base while executing and assignment; and
- (c) To provide independent advise on the most suitable approaches, methodologies and solutions of projects

#### **(4) Applicability of procedures**

- (a) The procedures to be used will result in the selection of consultants who have the necessary professional qualifications’;
- (b) The selected consultants will carry out the assignment in accordance with the agreed schedule; and
- (c) The scope of the services in consistent with the needs of the project.

#### **(5) Minimum requirements when appointing consultants**

- (a) Meeting the highest standards of quality and efficiency;
- (b) Obtaining advice that is unbiased, that is being delivered by a consultant acting independently from any affiliation, economic or otherwise, which may cause conflict between the consultants interest and those of the municipality; and
- (c) Ensuring the advice proposed or assignment executed, meeting the ethical principles of the consultancy profession's.

(6) General approach

The four major considerations guiding the accounting officer on the selection includes:

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

(7) Conflict of interest

- (a) Consultants must provide professional, objective and impartial advice and that all times holds the municipality's interest paramount, without consideration for future work and strictly avoids conflicts with other assignments or their own corporate interests.
- (b) Consultants should not be hired for any assignment that would be in conflict with their prior or current obligations to other clients, or that may place them in a position of not being able to carry out the assignment in the best interest of the municipality. Without limitation on the generality of this rule, consultants should not be hired under the following circumstances;
- (c) A firm, which has been engaged by the accounting officer to provide goods or works for a project and any of its affiliates, should be disqualified from providing consulting services for the same project. Similar, a firm hired to provide consulting services for the preparation or implementation of a project and any otis affiliates should be disqualified from subsequently providing goods or works or services related to the initial assignment.
- (d) Consultant or any of their affiliates should not be hired for any assignment which, by its nature, my conflict with another assignment of the consultants. Example, consultants hired to prepare an engineering design for an infrastructure project should not be engaged to prepare an independent environmental assessment for the same projects. Neither assisting a client in the privatization of public assets should neither purchase nor advice purchasers of such assets.

(8) Training or transfer of knowledge and skills

- (a) If the assignment includes an important component for training or transfer of knowledge and skills, the terms of reference must indicate the objectives, nature , scope and goals of the training program, including details of trainers and trainees, skills to be transferred, time frames and monitoring and evaluation arrangements.
- (b) The cost for training program should be included in the consultant's contract and the budget for the assignment.

(9) Remuneration of consultants

- (a) The Accounting Officer must follow a fair and reasonable remuneration framework for consultants taking into account the rates:
  - (i) Determined in the Guideline on fees for audits undertaken on behalf of the Auditor General of South Africa, issued by the South African Institute of Chartered Accountants
  - (ii) Set out in the 'Guide for Hourly fees for Consultants, issued by the Department of Public Service and Administration
  - (iii) Where the consultant belongs to a professional body, the rate of remuneration as stipulated by that body; and
  - (iv) In any other case, the rate stipulated as per competitive process.

- (b) The tender document will however include a clause that the remuneration rates will be subject to negotiation, not exceeding the applicable rates mentioned above.

(10) Monitoring and management reporting

(a) Monitoring:

- (i) The consultants must report project progress to the accounting officer on the timeously.
- (ii) The municipality will evaluate the progress and rate performance of each consultant annually

(b) Reporting:

- (i) Payments paid to consultants during the quarter must be reported in terms of section 6(3) of this policy and shall be disclosed as per note in the annual financial statements and the annual report.

(11) 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.

(12) 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.

(13) 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.

(14) The service level agreement between the municipality and the consultant must include as a minimum the following clauses namely

- (a) How the consultant will transfer skills to the officials of the municipality
- (b) objective for transfer of skills, including the nature, scope and goals of the training programme.
- (c) The list of employees to be trained
- (d) Contents of the skills to be transferred
- (e) Fee retention or penalty clause for poor performance

## **36. DEVIATION FROM, AND RATIFICATION OF MINOR BREACHES OF, PROCUREMENT PROCESSES**

(1) The Accounting Officer may –

(a) dispense with the official procurement processes established by this Policy and procure any required goods or services through any convenient process, which may include direct negotiations, but only:

(i) in an emergency, that include but not limited to:-

- a. the prevalence of human suffering or deprivation of rights;
- b. the possibility of damage to property, or suffering and death of livestock and animals;
- c. the interruption of essential services, including transportation and communication facilities or support services critical to the effective functioning of the municipality as a whole;
- d. the possibility of serious damage occurring to the natural environment;
- e. the possibility that failure to take necessary action may result in the municipality not being able to render an essential community service;
- f. the possibility that the security of the state could be compromised.
- g. The prevailing situation, or imminent danger, should be of such a scale and nature that it could not readily be alleviated by interim measures, in order to allow time for the formal tender process.

(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 food for such animals and/or botanical specimens for 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.
- (c) The Accounting Officer must record the reasons for any deviations in terms of paragraphs 36(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 and comply in terms of MFMA section 168, submit the deviation register to provincial treasury on a quarterly basis
- (d) Paragraph 37(2) does not apply to the procurement of goods and services contemplated in paragraph 11(2) of this Policy.

### **37. UNSOLICITED BIDS**

- (1) In accordance with section 113 of the Act there is no obligation to consider unsolicited bids received outside a normal bidding process.
- (2) The Accounting Officer may decide in terms of section 113(2) of the Act to consider an unsolicited bid, only if –
- (a) the product or service offered in terms of the bid is a demonstrably or proven unique innovative concept;
  - (b) the product or service will be exceptionally beneficial to, or have exceptional cost advantages;
  - (c) the person who made the bid is the sole provider of the product or service; and
  - (d) the reasons for not going through the normal bidding processes are found to be sound by the Accounting Officer.
- (3) If the Accounting Officer decides to consider an unsolicited bid that complies with paragraph 38(2) of this Policy, the decision must be made public in accordance with section 21(A) of the Municipal Systems Act, together with –
- (a) reasons as to why the bid should not be open to other competitors;
  - (b) an explanation of the potential benefits if the unsolicited bid were accepted; and
  - (c) an invitation to the public or other potential suppliers to submit their comments within 30 days of the notice.
- (4) All written comments received pursuant to paragraph 38(3), including any responses from the unsolicited bidder, must be submitted to the National Treasury and the relevant provincial treasury for comment.
- (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 .
- (6) A meeting of the adjudication committee to consider an unsolicited bid must be open to the public.
- (7) When considering the matter, the adjudication committee must take into account –
- (a) any comments submitted by the public; and
  - (b) any written comments and recommendations of the National Treasury or the relevant provincial treasury.
- (8)** If any recommendations of the National Treasury or provincial treasury are rejected or not followed, the accounting officer must submit to the Auditor General, the relevant provincial treasury and the National Treasury the reasons for rejecting or not following those recommendations.
- (9)** Such submission must be made within seven days after the decision on the award of the unsolicited bid is taken, but no contract committing the municipality to the bid may be entered into or signed within 30 days of the submission.
- (10)** Closed bids shall only be accepted after the municipality failed to attract potential service providers through normal competitive bidding processes

## **38. COMBATING OF ABUSE OF SUPPLY CHAIN MANAGEMENT SYSTEM**

- (1) In order to combat the abuse of the supply chain management system 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 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 unless satisfactory arrangements have been made to pay of the arrears or a consent to recover the arrears from all future payments to the bidder has been given; 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;
    - (iii) reject the bid of any bidder if that bidder or any of its directors –has abused the supply chain management system of the municipality or has committed any improper conduct in relation to such system;
    - (iv) has been convicted for fraud or corruption during the past five years;
    - (v) has wilfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
    - (vi) has been listed in the Register for Bid Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (Act No 12 of 2004).
- (2) The Accounting Officer must inform the National Treasury and relevant provincial treasury in writing of any actions taken in terms of paragraphs 39(1)(b)(ii), (e) or (f) of this Policy.

## **LOGISTICS, DISPOSAL, RISK AND PERFORMANCE MANAGEMENT**

### **39. LOGISTICS MANAGEMENT**

The Accounting Officer must establish and implement an effective system of logistics management, which must include -

- (a) the monitoring of spending patterns on types or classes of goods and services which should, where practical, incorporate the coding of items to ensure that each item has a unique number for the purposes of monitoring;
- (b) the setting of inventory levels that includes minimum and maximum levels and lead times wherever goods are placed in stock;
- (c) the placing of manual or electronic orders for all acquisitions;
- (d) before payment is approved, certification by the responsible officer that the goods and services are received or rendered on time and are 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;

- (e) appropriate standards of internal control and warehouse management to ensure that goods placed in stores are secure and only used for the purpose for which they were purchased;
- (f) regular checking to ensure that all assets, including official vehicles, are properly managed, appropriately maintained and only used for official purposes; and
- (g) monitoring and review of the supply vendor performance to ensure compliance with specifications and contract conditions for particular goods or services.

#### 40. DISPOSAL MANAGEMENT

- (1) The Accounting Officer in conjunction with the Head of Department is responsible for the management of Council's assets which includes the disposal and maintenance thereof.
- (2) Over and above the conditions contained in this policy the processes described in the municipality's asset management policy must be adhere to by the Accounting Officer and Head of Departments.
- (3) The additional criteria for the disposal or letting of assets, including unserviceable, redundant or obsolete assets, subject to section 14 of the Act, are as follows –
  - (a) Movable assets:
    - (i) the asset is uneconomical to repair;
    - (ii) the asset is irreparable;
    - (iii) the relevant department has no further use for the asset; and
    - (iv) no other department requires the asset.
  - (b) Immovable assets:
    - i. the relevant department has no further use for the asset;
    - ii. no other department requires the asset; and
    - iii. a member of the public wishing to acquire the asset can utilize the asset to the advantage of the community.
  - (c) Assets must be disposed of by–
    - i. transferring the asset to another organ of state in terms of a provision of the Act enabling the transfer of assets;
    - ii. transferring the asset to another organ of state at market related value or, when appropriate, free of charge;
    - iii. selling the asset; or
    - iv. destroying the asset.
- (4) The Accounting Officer must ensure that –
  - (a) immovable property is sold only at market related prices except when the public interest or the plight of the poor demands otherwise;
  - (b) movable assets are sold either by way of written price quotations, a competitive bidding process, auction or at market related prices, whichever is the most advantageous;
  - (c) in the case of the free disposal of computer equipment, the provincial department of education is first approached to indicate within 30 days whether any of the local schools are interested in the equipment;
  - (d) in the case of the disposal of firearms, the National Conventional Arms Control Committee has approved any sale or donation of firearms to any person or institution within or outside the Republic;
  - (e) immovable property is let at market related rates except when the public interest or the plight of the poor demands otherwise;
  - (f) all fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property are annually reviewed; and
  - (g) where assets are traded in for other assets, the highest possible trade-in price is negotiated.

(5) The disposal of immovable assets is subject to the following principles –

(a) Payment of the purchase price and costs:-

- (i) A 20% deposit shall be payable upon the date of signature of the proposed Deed of Sale, which deposit shall not be refundable should the purchaser decide not to proceed with the registration of the transfer for whatsoever reason, unless adverse soil conditions can be proven.
- (ii) A bank guarantee for the outstanding balance of the purchase price shall be submitted to the Corporate and Legal Services Department within 30 (thirty) days of the date of signing the Deed of Sale, which shall be payable upon registration of transfer of the property.
- (iii) The proceeds of the sale shall be deposited into the Land Trust Fund.
- (iv) All costs (advertising, rezoning, obtaining of a valuation, etc.) pertaining to the transaction shall be borne by the applicant/successful bidder.
- (v) The applicant/successful bidder will deposit an amount equal to an estimate of the total cost to secure his obligations in this regard and undertake to pay any unforeseen excess costs.
- (vi) The municipality will be liable to refund the balance of the unexpended costs, should the alienation not be finalised within a reasonable time or within the time limit referred to in the bidder document or deed of sale, or should the actual deposit be less than the expenditure occurred, the applicant/successful bidder shall pay the outstanding costs.

(b) Standard Conditions:-

- (i) The purchaser shall commence with the development of the property within six (6) months after the date of transfer and shall complete the development within eighteen (18) months thereafter.
- (ii) Should the purchaser fail to commence with or complete the development as stipulated in paragraph 41(4)(b)(ii) above, the property shall revert to the municipality and be transferred back to the municipality at the discretion of the Accounting Officer.
- (iii) Should the property revert to the municipality, the municipality shall refund to the purchaser an amount equal to the amount paid by the purchaser in respect of the purchase price, less all costs attached to the retransfer of the property into the name of the municipality, which costs shall be for the account of the purchaser. The municipality will only compensate the purchaser for any improvements erected on the property after the property has been resold to another purchaser and the purchase has been paid by said purchaser.
- (iv) In order to comply with the requirements of the Deeds Office as set out in Circular No 152 dated 1997.07.03 by the Registrar of Deeds, the above conditions imposed shall not be embodied in the Title Deed to be issued to the purchaser, but instead the following conditions shall be inserted in such deed "The property shall not be transferred without the written approval of the GGM".
- (v) The use of all immovable assets disposed of in terms of this Policy shall be in accordance with the requirements of the Spatial Development Framework as adopted by the Council by ensuring that the conditions of sale include compliance by purchasers within the principles of the said Framework.
- (vi) All immovable assets sales will be done subject to the necessary environmental legislation being complied with by the purchaser in respect of the intended use of the property.
- (vii) Any sale of immovable assets by the municipality which is to be utilised for purposes of housing to be funded and/or subsidised from National and/or Provincial Housing funds shall be done in compliance with the principles, policies and procedures as contained in National and Provincial Housing legislation and any Housing code and/or Land Procurement Procedures prescribed under such legislation.
- (viii) The extent to which the intended disposal of the immovable property will promote the principles of integration, densification, regeneration and compact development, shall be considered in deciding whether to dispose of the property.

## **41. RISK MANAGEMENT**

- (1) The audit committee and the accounting officer must facilitate a risk assessment to determine the material risks to which the department may be exposed and to evaluate the strategy for managing those risks.
- (2) The Risk Committee will be responsible for:
  - (a) assessing the nature and extent of the risks associated with municipality's operations.
  - (b) deciding on an acceptable level of loss or degree of failure,
  - (c) deciding how to manage or minimise the risk; and
  - (d) monitoring, reporting and, from time to time, reassessing the level and implications of the risk exposure.
- (3) Risks are primarily addressed through directives for the SCM process. The key risks have been identified and the risk management strategy and plan must address each in detail:
  - (a) Fraud, corruption and collusion: This must be addressed by adequate segregation separation of duties between specification, acquisition, ordering, vendor performance management and approval of invoices.
  - (b) Theft and losses of assets: Regular tracking of assets and insuring of assets.
  - (c) Misuse, abuse of assets: Authorisation for acquisition or
  - (d) use of assets must be properly addressed in delegations.
  - (e) Effective life-cycle management of movable assets: This must be addressed through asset management plans for movable assets.
  - (f) Asset Register: The asset register must be kept up to date.
  - (g) Assets must be registered as they are received and tracked and recorded throughout its life-cycle.
  - (h) Demand not determined in advance: This will place undue pressure on the acquisitions unit, which may lead to mistakes in the acquisition process and consequential legal actions by suppliers.
  - (i) Fraud hotline and tip off anonymous will be implemented to report abuse of the SCM processes.

## **42. PERFORMANCE MANAGEMENT**

The Accounting Officer must ensure that an effective internal monitoring system is implemented in order to determine, on the basis of a retrospective analysis, whether the authorised supply chain management processes were followed and whether the measurable performance objectives linked to and approved with the budget and the service delivery and budget implementation were achieved. Each department must monitor the performance of contractors and report for such performance on non-performance must be sent to supply chain unit for consolidation and sending it to higher authority.

## **43. PROHIBITION ON AWARDS TO PERSONS WHOSE TAX MATTERS ARE NOT IN ORDER**

- (1) In order to comply with the new TCS system and the condition of bids that a successful bidder's tax matters must be in order, Accounting Officers of all municipalities should:
  - (a) Designate officials, preferably from the supply chain management unit, whose function will be to verify the tax compliance status of a taxpayer and to manage the TCS system on the SARS website and have the functionality to verify the tax compliance status of a taxpayer on the SARS' e-Filing system. Guidance to the Tax Compliance functionality on e-Filing is available on the SARS website [www.sars.gov.za](http://www.sars.gov.za).
  - (b) Utilize the Municipal Bid Document 1 (MBD1) when inviting bids.
  - (c) As a bid condition, request bidders to register on government's Central Supplier Database (CSD) and include in their quotations or bids, their Master Registration Number or tax compliance status PIN to enable the municipality to verify the bidder's tax compliance status.
  - (d) Utilize the Master Registration Number or tax compliance status PIN to verify bidders' tax compliance status.



- (e) Print the tax compliance status screen view or letter with the result of the bidder's status at the date and time of verification to file with the bidder's bid documents for audit purposes

#### **44. PROHIBITION ON AWARDS TO PERSONS IN THE SERVICE OF THE STATE**

- (1) The Accounting Officer must ensure that irrespective of the procurement process followed, no award may be made 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, majority shareholder or stakeholder is a person in the service of the state; or
  - (c) who is an advisor or consultant contracted with the municipality in respect of a contract that would cause a conflict of interest.
- (2) Awards to close family members of persons in the service of the state. Should it come to light that a false declaration was made by the bidder after the municipality had awarded the bid, the accounting officer must:
  - (a) immediately suspended and payments made, recovered.
  - (b) False declarations by bidders is regarded and viewed as a criminal offence and charges must be laid by the municipality with the South African Police Services for further investigation.
  - (c) Details will be reported to Council at its next meeting and information contained in the Annual Report of the municipality.
  - (d) In the event that the Auditor-General detects irregular expenditure during the audit process as a result of possible false declarations and subsequent awards based on those declarations, the municipality will be informed of such irregular expenditure.
  - (e) The municipality will be required to rectify this matter by instituting the necessary remedial measures, by investigating the matter, recovering the funds spent, instituting disciplinary proceedings against those liable for such actions and possible criminal prosecution as may be appropriate.
  - (f) The accounting officer must also apply the remedial measures contained under "Termination for Default" in the General Conditions of Contract.

#### **45. THE NOTES TO THE ANNUAL FINANCIAL STATEMENTS MUST DISCLOSE PARTICULARS OF ANY AWARD OF MORE THAN R2 000 (VAT INCLUDED) TO A PERSON WHO IS A SPOUSE, LIFE PARTNER, 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 –**

- (1) the name of that person;
- (2) the capacity in which that person is in the service of the state; and
- (3) the amount of the award.
- (4) Contracts Having Budgetary Implications beyond three Financial Years
  - (a) The Municipality may not enter into any contract that will impose financial obligations beyond the three years covered in the annual budget for that financial year, unless the requirements of section 33 of the Municipal Finance Management Act have been fully complied with.
- (5) Public-Private Partnerships
  - (a) Part 2 of chapter 11 of the MFMA applies to the procurement of public-private partnership agreements. Section 33 also applies if the agreement will have multi-year budgetary implications for the Municipality within the meaning of that section.

#### **46. ETHICAL STANDARDS**

- (1) A code of ethical standards is hereby established, in accordance with paragraph 47(2), for officials and other role players in the supply chain management system of the municipality in order to promote –
  - (a) mutual trust and respect; and

- (b) an environment where business can be conducted with integrity and in a fair and reasonable manner.
- (2) An official or other role player involved in the implementation of this 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 R350.00.
    - (d) notwithstanding paragraph 47(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 48(1) of this Policy; or
      - (iii) any alleged breach of this code of ethical standards.
  - (3) Declarations in terms of paragraphs 47(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.
  - (4) The National Treasury's code of conduct must also be taken into account by supply chain management officials and other role players involved in Supply Chain Management.
  - (5) A breach of the code of ethics adopted by the Municipality must be dealt with in accordance with schedule 2 of the Local Government: Municipal Systems Act, 2000.

#### **47. INDUCEMENTS, REWARDS, GIFTS AND FAVOURS TO MUNICIPALITIES, OFFICIALS AND OTHER ROLE PLAYERS**

- (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 – any official; or any other role player involved in the implementation of this Policy.
- (2) The Accounting Officer must promptly report any alleged contravention of paragraph 48(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.
- (3) Paragraph 47(1) does not apply to gifts less than R350.00 in value.

## 48. SPONSORSHIPS

- (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.

## 49. OBJECTIONS AND COMPLAINTS

Persons aggrieved by decisions or actions taken in the implementation of this Supply Chain Management System, may lodge within 14 days of the decision or action, a written objection or complaint against the decision or action.

## 50. RESOLUTION OF DISPUTES, OBJECTIONS, COMPLAINTS AND QUERIES

- (1) The Accounting Officer must appoint an independent and impartial person, not directly involved in the supply chain management processes –
  - (a) to assist in the resolution of disputes between the municipality and other persons regarding -
    - (i) any decisions or actions taken in the implementation of the supply chain management system; or
    - (ii) any matter arising from a contract awarded in the course of the supply chain management system;
  - (b) to deal with objections, complaints or queries regarding any such decisions or actions or any matters arising from such contract.
- (2) The Accounting Officer, or another official designated by the Accounting Officer, is responsible for assisting the appointed person to perform his or her functions effectively.
- (3) The person appointed must –
  - (a) strive to resolve promptly all disputes, objections, complaints or queries received; and
  - (b) submit monthly reports to the Accounting Officer on all disputes, objections, complaints or queries received, attended to or resolved.
- (4) A dispute, objection, complaint or query may be referred to the relevant provincial treasury if –
  - (a) the dispute, objection, complaint or query is not resolved within 60 days; or
  - (b) no response is forthcoming within 60 days.
- (5) If the provincial treasury does not or cannot resolve the matter, the dispute, objection, complaint or query may be referred to the National Treasury for resolution.
- (6) This paragraph must not be read as affecting a person's rights to approach a court at any time.
- (7) **Remedies** - Upon detecting that a tenderer submitted false information regarding its BBEE status level of contributor, local production and content, or any other matter required in terms of these Regulations which will affect or has affected the evaluation of a tender, or where a tenderer has failed to declare any subcontracting arrangements, the organ of state must
  - (a) inform the tenderer accordingly;
  - (b) give the tenderer an opportunity to make representations within 14 days as to why
    - (i) the tender submitted should not be disqualified or, if the tender has already been awarded to the tenderer, the contract should not be terminated in whole or in part;
    - (ii) if the successful tenderer subcontracted a portion of the tender to another person without disclosing it, the tenderer should not be penalised up to 10 percent of the value of the contract; and
    - (iii) the tenderer should not be restricted by the National Treasury from conducting any business for a period not exceeding 10 years with any organ of state; and
  - (c) if it concludes, after considering the representations referred to in sub-regulation (1)(b), that
    - (i) such false information was submitted by the tenderer
      - (aa) disqualify the tenderer or terminate the contract in whole or in part; and
      - (bb) if applicable, claim damages from the tenderer; or
    - (ii) the successful tenderer subcontracted a portion of the tender to another person without disclosing, penalise the tenderer up to 10 percent of the value of the contract.

- (d) An organ of state must
- (i) inform the National Treasury, in writing, of any actions taken in terms of sub-regulation (1);
  - (ii) provide written submissions as to whether the tenderer should be restricted from conducting business with any organ of state; and
  - (iii) submit written representations from the tenderer as to why that tenderer should not be restricted from conducting business with any organ of state.
- (8) The National Treasury may request an organ of state to submit further information pertaining to sub-regulation (1) within a specified period. The National Treasury must (a) after considering the representations of the tenderer and any other relevant information, decide whether to restrict the tenderer from doing business with any organ of state for a period not exceeding 10 years; and (b) maintain and publish on its official website a list of restricted suppliers

## **51. CONTRACTS PROVIDING FOR COMPENSATION BASED ON TURNOVER**

If a service provider acts on behalf of the 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.

## **52. APPOINTMENT OF SERVICE PROVIDER FOR FERENSIC AND OTHER SPECIAL ASSIGNMENTS**

- (1) The accounting officer in consultation with the mayor shall have the discretion to appoint service providers for the execution of classified services through a *closed tendering process* involving quotation/s from one or more service providers.
- (2) All appointments made following this process shall be reported to EXCO for noting.

## **53. APPOINTMENT OF POOL SERVICE PROVIDERS FOR SUPPLY OF GOODS AND SERVICES ON AN AS AND WHEN REQUIRED BASIS**

- (a) The Accounting Officer may procure pool of suppliers for goods and services mainly for maintenance.
  - (i) The procurement of pool must be in line with paragraph 19 of this policy
  - (ii) All appointment of suppliers must be in writing and approved by the Accounting Officer.
  - (iii) Purchase order must be issued in line with the approved rates by the accounting officer.
  - (iv) Allocation of purchase order to pool of service provider shall be outlined in the Supply Chain Management Purchasing Procedure Manual

## **54. EXTENDING OR VARYING A CONTRACT**

- (1) Subject to paragraph 54(2), the municipality on its own initiative or upon receipt of an application from the person, body, organisation or corporation supplying goods or services to the municipality in terms of this Policy, may resolve to extend or vary a contract if –
  - (a) the circumstances as contemplated in paragraph 36(1)(a) prevail; or
  - (b) with due regard to administrative efficiency and effectiveness, the Accounting Officer deems it appropriate.
- (2) The municipality may not extend or vary a contract –
  - (a) more than once;
  - (b) for a period exceeding the duration of the original agreement; or for an amount exceeding the original bid value plus any adjustments in terms of the consumer price index.
- (3) Within one (1) month of the decision referred to in paragraph 54(1), the matters specified in paragraph 54(4) must be –

- (a) published by the Municipality at least in an appropriate newspaper circulating within the boundaries of the municipality; and
- (b) displayed at a prominent place that is designed for that purpose by the Municipality.
- (4) The matters to be published or displayed are –
  - (a) the reasons for dispensing with the prescribed procedure;
  - (b) a summary of the requirements of the goods or services; and
  - (c) the details of the person, body, organisation or corporation supplying the goods or services.
- (5) The functions of the Accounting Officer in terms of paragraph 54 may not be assigned nor delegated.

**55. SHORT TITLE AND COMMENCEMENT**

- (1) Payment of sub-contractors or joint venture partners
  - (a) The Chief Financial Officer or an official designated by the Chief Financial Officer may consent to the direct payment of sub-contractors or joint venture partners by way of -
    - (i) an approved cession; or
    - (ii) an agreement for direct payment.
- (2) Cessionary payment
  - (a) The municipality shall accept cessionary payment under the following conditions:
    - (i) Signed agreement between the parties involved.
    - (ii) Provided that the cedee submit original and valid tax clearance certificate and pin.
    - (iii) The cedee is not blacklisted in the National Treasury database
    - (iv) The cedee is listed on the Central Supplier Database
    - (v) The cedee signs the MDB 4' Independence Declaration'
- (3) Cessionary payments shall be approved by delegated officials in terms of approved delegations.
- (4) Cession can only entered into if it is for purchase of the material or stock by the appointed service provider or financing cession to the appointment service provider.
- (5) No official other than the Accounting Officer shall enter into cession on behalf of the municipality

**56. COMMENCEMENT**

This Policy takes effect on the 1st July 2021.

**57. REVIEW OF THE POLICY**

The policy shall be reviewed annually.

Signed by

**The Mayor: Cllr Zitha T  
SURNAME & INITIALS**

  
\_\_\_\_\_  
**SIGNATURE**

27/05/2022  
**DATE**

**COUNCIL RESOLUTION CR96–27/05/22SP**