



# **Setsoto Local Municipality**

**MUNICIPAL SUPPLY CHAIN MANAGEMENT POLICY**

**MAY 2023**

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## 1. Definitions

- (1) 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 –
- (a) **“competitive bidding process”** means a competitive bidding process referred to in clause 12 (1) (d) of this Policy;
  - (b) **“competitive bid”** means a bid in terms of a competitive bidding process;
  - (c) **“Contract of a long term nature”** means a contract as defined by section 33(1) of the Municipal Finance Management Act imposing financial obligations on the Municipality beyond the first three years covered in the approved annual budget (*reference to section 22 of this policy*);
  - (d) **“emergency”** an emergency (*as referred to in section 36 of this policy*) is an unforeseeable and sudden event with harmful or potentially harmful consequences for the municipality which requires urgent action to address.
  - (e) **“Emergency dispensation”** means emergency as referred to in paragraph 36(1)(a)(i) of this policy under which one or more of the following is in existence that warrants an emergency dispensation:
    - i. The possibility of human injury or death;
    - ii. The prevalence of human suffering or deprivation of rights;
    - iii. The possibility of damage to property, or suffering and death of livestock and animals;
    - iv. The interruption of essential services, including transportation and communication facilities or support services critical to the effective functioning of the municipality as a whole;
    - v. The possibility of serious damage occurring to the natural environment;
    - vi. The possibility that failure to take necessary action may result in the municipality not being able to render an essential community service;
    - vii. The possibility that the security of the state could be compromised; or
    - viii. The prevailing situation, or imminent danger, should be of such a scale and nature that it could not readily be alleviated by interim measures, in order to allow time for the formal procurement process. Emergency dispensation shall not be granted in respect of circumstances other than those contemplated above.
  - (f) **“final award”**, in relation to bids or quotations submitted for a contract, means the final decision on which bid or quote to accept;

- (g) **“formal written price quotation”** means quotations referred to in clause 12 (1) (c) of this Policy;
- (h) **“in the service of the state” means to be –**
- (i) a member of –
    - (aa) any municipal council;
    - (bb) any provincial legislature; or the National Assembly or
    - (cc) the National Council of Provinces;
  - (ii) a member of the board of directors of any municipal entity;
  - (iii) an official of any municipality or municipal entity;
  - (iv) 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);
  - (v) a member of the accounting authority of any national or provincial public entity; or
  - (vi) an employee of Parliament or a provincial legislature;
- (i) **“long term contract”** means a contract with a duration period exceeding one year;
- (j) **“list of accredited prospective providers”** means the list of accredited prospective providers which the municipality must keep in terms of clause 14 of this policy;
- (k) **“other applicable legislation”** means any other legislation applicable to municipal supply chain management, including –
- (i) the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000);
  - (ii) the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003); and
  - (iii) the Construction Industry Development Board Act, 2000 (Act No.38 of 2000);
- (l) **“Single source”** refers to when the competition exist in the market, but from a selected few suppliers due to technical capabilities and abilities comply with the requirements of the municipality;
- (m) **“Sole Supplier”** It refers in instances where there is no competition and only one service provider exist in the market, with sole distribution rights and/or patent rights or manufacturer;
- (n) **“Treasury guidelines”** means any guidelines on supply chain management issued by the Minister in terms of section 168 of the Act;

- (o) **“the Act”** means the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);
- (p) **“the Regulations”** means the Local Government: Municipal Finance Management Act, 2003, Municipal Supply Chain Management Regulations published by Government Notice 868 of 2005;
- (q) **“validity period”** means the period for which a bid is to remain valid and binding as stipulated in the relevant tender document.
- (r) **“written or verbal quotations”** means quotations referred to in clause 12(1)(b) of this Policy.

## 2. Policy Statement

### (1) Introduction

- (a) Section 111 of the Municipal Finance Management Act requires each municipality and municipal entity to adopt and implement a supply chain management policy, which gives effect to the requirements of the Act.
- (b) In addition, the Preferential Procurement Policy Framework Act requires an Organ of State to determine its Preferential Procurement Policy and to implement it within the framework prescribed. This requirement is given effect to in the Preferential Procurement section of this Policy.

### (2) Goal

- (a) The goal of this Policy is to provide a mechanism to ensure sound, sustainable and accountable supply chain management within Setsoto Local Municipality, whilst promoting black economic empowerment, which includes general principles for achieving the following socio-economic objectives:
  - (i) to stimulate and promote local economic development in a targeted and focused manner.
  - (i) to facilitate creation of employment and business opportunities for the people of Setsoto Local Municipality with particular reference to HDI's.
  - (ii) to promote the competitiveness of local businesses.
  - (iii) to increase the small business sector access, in general, to procurement business opportunities created by Council.
  - (iv) to increase participation by small, medium and micro enterprises (SMME's) by ensuring that prospective contractors/suppliers receive education on general tender and quotation procedures in terms of SCM Policy; and
  - (v) to promote joint venture partnerships.

### (3) Objectives

- (a) The policy aims to improve accountability by placing responsibility for decisions in the hands of each accounting officer who should develop an implementation plan to assist with managing the implementation of this policy and ensure that value for money is obtained.
- (b) This Policy will also strive to promote and enforce transparency and put in place cost-effective control measures, procedures and an ethical culture to prevent fraud and corruption within the supply chain management systems.

#### (4) Compliance with Ethical Standards

- (a) In order to create an environment where business can be conducted with integrity and in a fair and reasonable manner, this policy will strive to ensure that the municipal manager and all representatives of the Setsoto Local Municipality involved in supply chain management activities shall act with integrity and in accordance with the highest ethical standards.
- (b) All supply chain management representatives shall adhere to the code of conduct of municipal staff contained in schedule 2 of the Systems Act, and this Policy's Code of Ethical Standards.

#### (5) Proudly SA Campaign

- (a) 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:
  - (i) Firstly – suppliers and businesses within the municipality or district;
  - (ii) Secondly – suppliers and businesses within the relevant province;
  - (iii) Thirdly – suppliers and businesses within the Republic.

## **CHAPTER 1: IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY**

### **3. Supply chain management policy**

- (1) All stakeholders and officials and other role players in the supply chain management system of Setsoto Local Municipality must implement this Policy in a way that –
- (a) The objectives of this Policy are to give effect to –
    - (i) Section 217 of the Constitution;
    - (ii) Part 1 of Chapter 11 and other applicable provisions of the Act; and
  - (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 all other applicable legislation and any regulations pertaining thereto, including:
    - (i) the Preferential Procurement Policy Framework Act;
    - (ii) the Broad-Based Black Economic Empowerment Act;
    - (iii) the Construction Industry Development Board Act;
    - (iv) the Local Government: Municipal Systems Act; and
    - (v) the Promotion of Administrative Justice Act
  - (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) This policy applies when the municipality –
- (a) procures goods or services;
  - (b) disposes goods no longer needed;
  - (c) selects 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) selects 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.

- (3) 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.

#### **4. Amendment of the supply chain management policy**

- (1) The accounting officer must –
- (a) at least annually review the implementation of this policy; and
  - (b) when the accounting officer considers it necessary, submit proposals for the amendment of this policy to the council.
- (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 proposed amendments comply 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) Where this SCM Policy contradicts any legislation / regulations / by-law, the latter will take precedence to the extent applicable.

#### **5. Delegation of supply chain management powers and duties**

- (1) The **council** hereby delegates all powers and duties to the accounting officer which are necessary 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
    - (i) this Policy;

- (b) to maximize administrative and operational efficiency in the implementation of this policy;
  - (c) to enforce reasonable cost-effective measures for the prevention of fraud, corruption, favoritism 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 of the Act apply to the sub-delegation of powers and duties delegated to an accounting officer in terms of clause (1).
- (3) The municipal council or accounting officer may not delegate or sub-delegate any supply chain management powers or duties to a –
- (a) person who is not an official of **the municipality**; or
  - (b) committee which is not exclusively composed of officials of the municipality;
- (4) This clause 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 clause 27 of this Policy.
- (5) The accounting officer must outline the specific delegations and limits when an authorized official is to take part of in an alternative method of procuring goods (e.g: purchase by auction).

## 6. Sub-delegations

- (1) The accounting officer may in terms of section 79 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 clause 6(2) and clause 5 of this Policy.
- (2) The power to make a final award –
- (a) above R10 million (VAT included) may not be sub-delegated by the accounting officer;
  - (b) above R2 million (VAT included), but not exceeding R10 million (VAT included), may be sub-delegated but only to –
    - (i) the chief financial officer;
    - (ii) a senior manager; or
    - (iii) a bid adjudication committee of which the chief financial officer or a senior manager is a member; or

- (c) not exceeding R2 million (VAT included) be sub-delegated but only to –
  - (i) the chief financial officer;
  - (ii) a senior manager; or
  - (iii) a bid adjudication committee of which the chief financial officer or a senior manager is a member;
  - (iv) a manager directly accountable to the chief financial officer or a senior manager.
  
- (3) An official or bid adjudication committee to which the power to make final awards has been sub-delegated in accordance with clause 6(2) must within five days of the end of each month submit to the official referred to in clause 6(4) a written report containing particulars of each final award made by such official or committee during that month, including–
  - (a) the amount of the award;
  - (b) the name of the person to whom the award was made; and
  - (c) the reason why the award was made to that person.
  
- (4) A written report referred to in clause 6(3) 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 a senior manager is a member; or
  - (b) to the chief financial officer or the senior manager responsible for the relevant bid, in the case of an award by –
    - (i) a manager referred to in clause (2)(c)(iv); or
    - (ii) a bid adjudication committee of which the chief financial officer or a senior manager is not a member.
  
- (5) Clauses (3) and (4) of this policy do not apply to procurements out of petty cash.
  
- (6) This clause 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 clause 26 of this Policy.
  
- (7) No supply chain management decision-making powers may be delegated to an advisor or consultant.

## 7. Oversight role of council

- (1) The **council** reserves its right to 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 this policy and the supply chain management policy of any municipal entity under the sole or shared control of the municipality, to the council of the municipality; and
  - (b) whenever there are serious and material problems in the implementation of this policy, immediately submit a report **to the council**.
- (3) The accounting officer must, within 10 days of the end of each quarter, submit a report on the implementation of the supply chain management policy to the **mayor**.
- (4) The reports must be made public in accordance with section 21A of the Municipal Systems Act.

## 8. Supply chain management unit

- (1) A supply chain management unit is hereby established to implement this policy. For the purposes of effective implementation of this policy supply chain management unit must -
  - (a) Monitor all aspects of the supply chain management system and report to the accounting officer any suspected or potential abuse immediately of discovery thereof.
  - (b) Advice and guide municipal departments in respect of all aspects of the supply chain management system and this policy as well as the budgetary provisions.
- (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.
- (3) All correspondence with regard to this policy shall be addressed to the Head of Supply Chain Management.

## 9. Training of supply chain management officials

- (1) The Accounting Officer shall ensure that all persons involved in the implementation of this policy meet the prescribed competency levels, and where necessary, shall provide relevant training.

- (2) The training of officials involved in implementing this policy should be in accordance with any Treasury guidelines on supply chain management training.

## **CHAPTER 2: SUPPLY CHAIN MANAGEMENT SYSTEM**

### **10. Format of supply chain management system**

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

### **PART 1: DEMAND MANAGEMENT**

#### **11. System of 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.
- (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 timely 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; and
  - (c) provide for the compilation of the required specifications to ensure that its needs are met.
  - (d) To undertake appropriate industry analysis and research to ensure that innovations and technological benefits are maximized.
- (3) Accounting officers should ensure that:
- (a) a proper needs assessment is undertaken of required goods, works and / or services through analysis of the past expenditure and current usage of the commodity in order to have effective and efficient acquisition;

- (b) optimum methods to satisfy the procurement needs are considered based on the knowledge established about the market and the available budget;
- (c) frequency for meeting different procurement requirements are specified in order to determine most suitable acquisition strategies.
- (d) The Demand Management Plan must be developed in conjunction with the IDP, Service Delivery and Budget Implementation Plan (SDBIP) and annual budget.
- (e) All user departments are required to submit their procurement plans to the Supply Chain Management Unit by at least 31 March in alignment with the Budget processes.
- (f) The Demand Management Plan must be submitted to and approved by the Accounting Officer or his or her delegate before 30 June of each year.
- (g) The Demand Management Plan must be reviewed regularly and reported to the Accounting Officer or his delegate regularly at least quarterly.
- (h) Demand management must be co-ordinated by SCM officials of the Municipality in consultation with line departments.
- (i) The outcome of this activity should be a detailed planning document that outlines what goods, works or services should be procured, the manner in which they should be procured as well as the timelines to execute the procurement functions.
- (j) The planning process should also include the LED unit, to give effect to section 152 of the constitution, in terms of local economic development objectives and special projects, where preference and targeting strategies to local suppliers and labour are developed.
- (k) Each Department within the municipality must submit its Procurement Plan to SCM Unit within 30 days of the adoption of the IDP/MTREF or by 31 July [yearly], whichever ever comes first.

## **PART 2: ACQUISITION MANAGEMENT**

### **12. System of acquisition management**

- (1) The accounting officer must implement the system of acquisition management set out in this Part in order to ensure –
  - (a) that goods and services are procured by the municipality in accordance with authorized processes only;
  - (b) that expenditure on goods and services is incurred in terms of an approved budget in terms of section 15 of the Act;
  - (c) that the threshold values for the different procurement processes are complied with;
  - (d) that bid documentation, evaluation and adjudication criteria, and general conditions of a contract, are in accordance with any applicable legislation; and

- (e) that any Treasury guidelines on acquisition management are properly taken into account.
- (2) The procuring of goods in an alternative method is permitted only under the specific instruction in writing by the accounting officer (e.g: procuring goods on auction)
- (3) When procuring goods or services contemplated in section 110(2) of the Act, the accounting officer must make public the fact that such goods or services are procured otherwise than through the municipality's supply chain management system, including –
  - (a) the kind of goods or services; and
  - (b) the name of the supplier.

### **13. Range of procurement processes**

- (1) Goods and services may only be procured by way of –
  - (a) petty cash purchases, up to a transaction value of R2 000 (VAT included);
  - (b) written or verbal quotations for procurements of a transaction value over R2 000 up to R10 000 (VAT included);
  - (c) formal written price quotations for procurements of a transaction value over R10 000 up to R200 000 (VAT included); and
  - (d) a competitive bidding process for–
    - (i) procurements above a transaction value of R200 000 (VAT included);
    - (i) procurement of long-term contracts; and
    - (ii) procurement of predetermined period of time contracts for the supply on as and when basis of goods and services or construction works that is of repetitive and urgent nature.
  - (e) Entering into any contract that will impose financial obligations beyond the three years covered in the annual budget for that financial year, provided that the requirements of section 33 of the Municipal Finance Management Act have been fully complied with.
- (2) The accounting officer may, in writing-
  - (a) lower, but not increase, the different threshold values specified in 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;
    - (ii) confirmed (in writing by SCM staff) verbal quotes up to the value of R4 000

- (iii) formal written price quotations be obtained for any specific procurement of a transaction value lower than R4 000 to the value of R30 000 or
  - (iv) a competitive bidding process be followed for any specific procurement of a transaction value between R30 000 and R200 000.
- (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 the policy. When determining transaction values, a requirement for goods or services consisting of different parts or items must as far as possible be treated and dealt with as a single transaction.

#### **14. Conditions for consideration and comparison of written quotations or bids**

- (1) Written quotations or bids will be considered and compared for the purpose of awarding in accordance with the conditions divided into the following three categories:
- (a) Administrative requirement;
  - (b) Technical requirement; and
  - (c) Financial requirement.
- (2) In terms of the administrative requirement category a written quotation or bid may not be considered unless the supplier 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;
    - (iv) certificate of attendance at a compulsory site inspection, where applicable; and
    - (v) municipal account statement for rates, taxes and municipal service charges of the bidder or any of its directors.
  - (b) has submitted SARS Tax PIN certifying that the supplier's tax matters are in order and authorized the municipality to verify from the South African Revenue Services that the supplier's tax matters are indeed in order; and
  - (c) has indicated –
    - (i) whether he or she is in the service of the state, or has been in the service of the state in the previous twelve months;
    - (ii) if the provider is not a natural person, whether any of its directors, managers, principal shareholders, or stakeholder is in the service of the state, or has been in the service of the state in the previous twelve months; or

- (iii) whether a spouse, child or parent of the provider or of a director, manager, shareholder or stakeholder referred to in clause (ii) is in the service of the state, or has been in the service of the state in the previous twelve months.
- (3) In terms of the technical requirement written quotations or bids will be compared based on the evaluation criteria derived from the bid specifications or request for quotation and will cover two general areas:
- (a) a company's capacities and capabilities to provide the right goods, services and works on agreed delivery period and conditions; and
  - (b) the content and availability of goods, services and works to be delivered.
- (4) Financial requirement component will compare price of bids or written quotations based on the weight that price carries in accordance with the selected evaluation methodology provided for in clause 28 of this policy.

## **15. Lists of accredited prospective providers**

- (1) The accounting officer must –
- (a) keep a list of accredited prospective providers of goods and services that must be used for the procurement requirements through written or verbal quotations and formal written price quotations;
  - (b) at least once a year through newspapers commonly circulating locally, the website and any other appropriate ways, invite prospective providers of goods or services to apply for evaluation and listing as accredited prospective providers;
  - (c) specify the listing criteria for accredited prospective providers; and
  - (d) disallow the listing of any prospective provider whose name appears on the National Treasury's database as a person prohibited from doing business with the public sector.
- (2) The list must be updated at least quarterly to include any additional prospective providers and any new commodities or types of services.
- (3) Prospective providers already enlisted in the database must be allowed to submit at any time applications for amendment of their listing.
- (4) The list of providers must be compiled per commodity and per type of service.
- (5) Accredited prospective providers shall be removed from the municipality's supplier database under the following conditions -

- (a) the municipality established that the provider has been convicted of any offence under any law relating to dishonesty, fraud and corruption;
  - (b) ceases to carry on business under the name registered in the database or fails to comply with the requirements of such approved list;
  - (c) performs unsatisfactorily work/performance measured on the agreed criteria;
  - (d) has shown little interest over a reasonable period to submit quotations when invited to do so or has not been awarded any business over a reasonable period due to non-competitive prices;
- (6) Provisions of clause 15 (5) shall be carried out provided that before a provider is removed from any approved list a communication is made to the provider of the nature of the complaint and the intention for removal from the approved list unless sufficient reasons can be given by a provider why the intended action should not be carried out.
- (7) The above provisions are not applicable in case where another organ of the state has already undertaken the above and the municipality being a position to use such database. This include or not limited to Central Supplier Database maintained by National Treasury.

## **16. Petty cash purchases**

- (1) The conditions for the procurement of goods by means of petty cash purchases referred to in clause 13(1)(a) of this Policy, are as follows –
- (a) In accordance with the petty cash policy, Setsoto Local Municipality may procure supplies without inviting price quotations or bids up to a transaction value of R2 000.
  - (b) The conditions for the use petty cash are as follows:
    - (i) The thresholds for the daily float prescribed in the municipality’s petty cash policy must be strictly adhered to.
    - (ii) Cash purchases may only be made against available funds.
    - (iii) Each manager duly authorized and allocated petty cash as the custodian is restricted to the number of transactions/values of petty cash transactions for the month determined in the Delegation of Authority Document.
    - (iv) All transactions must be recorded and documentary evidence must be submitted. Proof of payments is a cash register slip or receipt, and not the invoice, unless the invoice has been endorsed with proof of payment.
    - (v) Should the value of a transaction exceed the prescribed transaction value, the petty cash procedure must not be used.
  - (c) Subdivision of requirements to circumvent the required procurement processes would not be permitted.
  - (d) The petty cash procedure must not be utilised for the following items and under the following circumstances:

- (i) Items available on contract.
  - (ii) Items available from other pre-established sources.
  - (iii) Professional services.
- (e) a monthly reconciliation report from each manager duly authorized and allocated petty cash as the custodian must be provided 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.
- (the above will be dealt with in terms of the petty cash policy and stipulations)

## **17. Written or verbal quotations**

- (2) The conditions for the procurement of goods or services through written or verbal quotations, are as follows:
- (a) quotations must be obtained from at least three different providers preferably from, but not limited to, providers whose names appear on the list of accredited prospective providers of the municipality, provided that if quotations are obtained from providers who are not listed, such providers must meet the listing criteria set out in terms of clause 15(1)(c) of this Policy;
  - (b) to the extent feasible, providers must be requested to submit such quotations in writing;
  - (c) if it is not possible to obtain at least three quotations, the reasons must be recorded and reported quarterly to the accounting officer or another official designated by the accounting officer;
  - (d) the accounting officer must record the names of the potential providers requested to provide such quotations with their quoted prices; and
  - (e) if a quotation was submitted verbally, the order may be placed only against written confirmation by the selected provider.

## **18. Formal written price quotations**

- (1) The conditions 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 set out in terms of clause 15(1)(c) of this Policy;

- (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 must record the names of the potential providers and their written quotations.
- (e) to the extent feasible and for empowerment purpose, quotations for the amounts less than R30 000 for goods and services/ works intended to service a specific area or community may be requested first from providers based in that community.
- (f) Practicality dictates that the below transaction types represent necessary exemptions for which the accounting officer authorizes the Chief Financial Officer/Head of Supply Chain Management to sourcing at least one quotation:
  1. Newspaper advertisements
  2. Groceries
  3. Registration and licensing
  4. General Repairs and maintenance of agent products
  5. Venues and accommodation bookings
  6. Transportation services.
  7. Scheduled fleet maintenance
  8. Warranty tied fleet repairs
  9. Strip and quotes
  10. Legislative books/ documents
  11. Lawyers, Attorney /Advocates adhoc appointed
  12. Annual subscription and Membership
  13. Annual registrations and continued courses
  14. Medical examinations
  15. Burial services
  16. Artists and musical groups
  17. Local Radio Station broadcasts

(2) A designated official referred to in clause (1)(c) must within three days of the end of each month report to the Chief Financial Officer on any approvals given during that month by that official in terms of that clause.

**19. Procedures for procuring goods or services through written or verbal quotations and formal written price quotations**

(1) The procedure for the procurement of goods or services through written or verbal quotations or formal written price quotations, is as follows:

- (a) when using the list of accredited prospective providers the accounting officer must promote ongoing competition amongst providers by inviting providers of the same product to submit quotations and make awards on a rotation basis where prices and quality are within similar range;
- (b) all requirements in excess of R30 000 (VAT included) that are to be procured by means of formal written price quotations must, in addition to the requirements of clause 18, be advertised for at least seven days on the website and an official notice board of the municipality;
- (c) providers who are not registered on the supplier database are not precluded from submitting quotations, however preference for contracting will be given to quotations from providers who are registered and verified on the supplier database;
- (d) quotations submitted from providers not registered in the database may be considered in instances where no suitable providers are available from the list of accredited prospective providers, provided that such a provider meets the database listing criteria set out in terms of clause 15(1)(c) of this policy;
- (e) offers received must be evaluated on a comparative basis as per the provisions of clause 14 taking into account unconditional discounts;
- (f) the accounting officer or chief financial officer must on a monthly basis be notified in writing of all written or verbal quotations and formal written price quotations accepted by an official acting in terms of a sub-delegation;
- (g) 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;
- (h) acceptable offers, which are subject to the preference points system (PPPFA and associated regulations), must be awarded to the bidder who scored the highest points;
- (i) records of the names and prices of the prospective providers must be properly kept for all procurements concluded.

## **20. Competitive bids**

- (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 clause 12(2) 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.

- (3) If, in a specific case, it is impracticable to invite competitive bids, the municipality may procure the required goods or services by other means such as through limited bidding, provided that the reasons for deviating from inviting competitive bids must be recorded and approved by the Accounting Officer.

## **21. Process for competitive bidding**

- (1) The procedures for the following stages of a competitive bidding process are as follows:
- (a) Compilation of bidding documentation as detailed in clause 22;
  - (b) Public invitation of bids as detailed in clause 23;
  - (c) Site meetings or briefing sessions as detailed in clause 23;
  - (d) Handling of bids submitted in response to public invitation as detailed in clause 24;
  - (e) Evaluation of bids as detailed in clause 29;
  - (f) Award of contracts as detailed in clause 30;
  - (g) Administration of contracts
- (2) After approval of a bid, the accounting officer and the bidder must enter into a written agreement.
- (3) Original / legal copies of written contracts agreements should be kept in a secure place for reference purposes.

## **22. Bid documentation for competitive bids**

- (1) The criteria to which bid documentation for a competitive bidding process must comply, must –
- (a) consider –
    - (i) the general conditions of contract and any special conditions of contract, if specified;
    - (ii) any Treasury guidelines on bid documentation; and
    - (iii) the requirements of the Construction Industry Development Board, in the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure;
    - (iv) Preferential Procurement Regulations 2022.
  - (b) include the preference points system to be used, goals as contemplated in the Preferential Procurement Regulations and/or SCM Policy and evaluation and adjudication criteria, including any criteria required by other applicable legislation;

- (c) The municipality will apply the 80/20 Preferential Point System to all the quotations [where necessary] and tenders up to prescribed limits/threshold. The municipality will apply the 90/10 Preferential Point System to all the tenders up to prescribed limits/threshold.

**For the application of the allocation of Specific goals, please refer to the Preferential Procurement Policy of the municipality.**

- (d) compel bidders to declare any conflict of interest they may have in the transaction for which the bid is submitted.
- (e) if the value of the transaction is expected to exceed R10 million (VAT included), require bidders to furnish–
- (i) if the bidder is required by law to prepare annual financial statements for auditing, their audited annual financial statements –
    - (aa) for the past three years; or
    - (bb) since their establishment if established during the past three years;
  - (ii) a certificate signed by the bidder certifying that the bidder has no undisputed commitments for municipal services towards a municipality or other service provider in respect of which payment is overdue for more than 30 days;
  - (iii) particulars of any contracts awarded to the bidder by an organ of state during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract;
  - (iv) a statement indicating whether any portion of the goods or services are expected to be sourced from outside the Republic, and, if so, what portion and whether any portion of payment from the municipality or municipal entity is expected to be transferred out of the Republic; and
- (f) stipulate that dispute must be settled by means of mutual consultation, mediation (with or without legal representation), or, when unsuccessful, in a South African court of law; and
- (g) include an appropriate contract stipulating delivery standards and all other applicable terms and conditions.
- (2) Unless otherwise indicated the municipality shall avail to the suppliers bid document at a non-refundable fee determined to recover any expenses incurred in the preparation and publication of a bid and this amount shall be payable before document collection. The non-refundable fee will be determined as per appendix “A” of this policy.
- (3) Bidders must receive the same information in the documentation and must be assured of an equal opportunity to obtain additional information on a timely basis to ensure fairness.
- (4) The bid documentation and evaluation criteria must not be used to hamper completion, but rather ensure fair, equitable, transparent, competitive, and cost-effective bidding as well as

advancement of categories of individuals as embodied in the preferential procurement regulations.

- (5) The bid documentation may include, where feasible in order to encourage increased participation and the sustainable growth of the small business sector, condition for the unbundling of larger projects into smaller more manageable contracts.
- (6) The bid documentation provides for the conditions to allow an alternative bid to be submitted on a separate complete set of bid documents. The document shall be clearly marked "Alternative Bid" to distinguish it from the unqualified bid referred to above. However, it should be stated clearly that the municipality when evaluating bids will not be bound to consider the alternative bid.
- (7) A successful tenderer may not subcontract more than 30% of the contract value to any other enterprise that does not have an equal or higher BBBEE level contributor status or an EME supplier that has the capability and ability to execute the contract.
- (8) Where the tender document indicates that subcontracting will be more than 30% of the value of the contract, the tenderer may not be awarded BBBEE Level Contributor Status points if the other party is not qualifying for at least the same points that the tenderer qualifies for unless the intended subcontractor is an EME that has the capability to execute the subcontract.

### **23. 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 Government Tender Bulletin); 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 14 days in any other case, from the date on which the advertisement is placed in a newspaper, subject to clause (2) of this policy;
    - (ii) a statement that bids may only be submitted on the bid documentation provided by the municipality; and
    - (iii) date, time and venue of any proposed site meetings or briefing sessions.;

- (iv) must include subcontracting and pre – evaluation criteria for the advancement of local economic businesses, youth, woman, and the empowerment of black owned businesses.
  - (v) The point's allocation for functionality must allow for points for local businesses where possible.
- (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) If any additional information, clarification, correction of errors, or modifications of bidding documents are made such should be sent to each recipient of the original bidding documents in sufficient time before the deadline for receipt of bids to enable bidders to take appropriate actions. If necessary, the deadline should be extended.
- (4) Bids submitted must be sealed.
- (5) Where bids are requested in electronic format, such bids must be supplemented by sealed hard copies.

#### **24. Procedure for handling, opening and recording of bids**

- (1) At any given time when opening the tender box either before or after the period for submission of bids has expired representatives from the Supply Chain Management Unit, Internal Audit Unit, purchasing department or unit and Security Services unit must be present and the proceedings shall be minuted.
- (2) The procedures for the handling, opening and recording of bid documents received, 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 should not be considered and returned unopened immediately.
    - (iv) In case of bid requested on electronic format, if the electronic bid document was in time, but the hard copy was late, it is considered that the bid was in time

- (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 clause 24(2)(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;
- (3) Instances and conditions applicable to opening of the tender box before the period for the submission of bids has expired and of which provisions of clause 24(1) shall be followed are as follows:
- (a) When the tender box is full, bid documents received will be removed, recorded and stored away still sealed; and
  - (b) When a supplier requests an access to a bid document already deposited in the tender box, bid documents already received will be removed, recorded and stored away still sealed whilst bid document of the supplier referred hereto shall be handed back.
- (4) (a) The accounting officer shall not permit request for bidders to alter their bids after the deadline for receipt of bids, however only questions that do not change the substance or price of bids for bidders to provide clarification needed in evaluating their bids could be allowed. Requests for clarification and the bidder's responses should be made in writing.
- (b) Request for clarity and augmentation of a bid that does not change the substance or price of bidders may come from the municipality, whilst adhering to fairness principle, with the approval of the municipal manager.
  - (c) The accounting officer will employ mechanisms to safeguard bidders submissions till the conclusion of bid processes and audit.

## **25. Negotiations with preferred 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.
- (2) Minutes of such negotiations must be kept for record purposes.
- (3) Market related price may be negotiated with the tenderer scoring the highest points and if that tenderers price is not market related the municipality may not award the contract to that tenderer.
- (4) The municipality may negotiate up to the third highest tenderer not skipping the two before it and if the price remains not market related the municipality must cancel the tender.

## **26. 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) The bidding process may include an open and transparent, competitive pre-qualification in which only pre-qualified providers may participate.

## **27. Committee system for competitive bids**

- (1) A committee system for competitive bids is hereby established, consisting of the following committees for each procurement or cluster of procurements as the accounting officer may determine:
  - (a) bid specification committee;
  - (b) a bid evaluation committee; and
  - (c) a bid adjudication committee;
- (2) The accounting officer appoints the members of each committee, taking into account section 117 of the Act.

- (3) A neutral or independent observer, appointed by the accounting officer, must attend or oversee a committee when this is appropriate for ensuring fairness and promoting transparency.
- (4) The committee system must be consistent with –
  - (a) clause 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.
- (6) Supply chain management unit established in terms of clause 8 of this policy shall be responsible for managing the committee system by ensuring that:
  - (a) members with requisite skills and expertise are correctly and timeously appointed to different committees;
  - (b) meetings of the committees are arranged, necessary information are packaged, the proceedings in the committees are minuted and reports and records are properly documented;
  - (c) bids and quotations are appropriately documented, approved and correctly publicized; and
  - (d) award decisions are properly communicated and contracts concluded or purchase orders are issued and confirmed timeously.
- (7) The accounting officer may include as part of the performance agreement of each manager an indicator about ensuring effectiveness and successful operation of the bid committee each manager is a member.
- (8) All members appointed to any of the bid committee must be bound to a declaration of interest and confidentiality to their appointment.

## **28. Bid specification committees**

- (1) A bid specification committee must compile the bids or quotations specifications for each procurement of goods or services by the municipality.
- (2) Specifications –
  - (a) must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services;

- (b) must take account of any accepted standards such as those issued by Standards South Africa, the International Standards Organization, or an authority accredited or recognized by the South African National Accreditation System with which the equipment or material or workmanship should comply;
  - (c) must, where possible, be described in terms of performance required rather than in terms of descriptive characteristics for design;
  - (d) may not create trade barriers in contract requirements in the forms of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labeling of conformity certification;
  - (e) may not make reference to any particular trade mark, name, patent, design, type, specific origin or producer unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the word “equivalent”;
  - (f) must determine evaluation criteria and each specific goal for which points may be awarded in terms of the points system set out in the Preferential Procurement Regulations 2022; and
  - (g) The following criteria’s will be used for evaluation of the bids received:
    - Compliance - to verify the required returnable documents requested.
    - Functionality as an when required or where feasible - to assess the capacity and capability of the bidder/s to execute the work required.
    - Price and Specific Goals - to check the market related financial offer of the bidder/s and HDI’s status can render or supply the required Goods, Works, or Services.
  - (h) must be approved by the accounting officer prior to publication of the invitation for bids or quotations in terms of clause 23 or 19(1)(b) of this Policy.
- (3) The accounting officer must establish the bid specification committee on ad hoc basis for each procurement requirement.
- (4) 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. The accounting officer shall appoint these members in writing stipulating for which procurement requirement the committee is established.
- (5) 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.
- (6) Each Head of Department is responsible for recommending to the CFO for consideration and CFO will consider the same for possible amendment / compliance to legislation; include

officials who will represent SCM Unit and submit the same to Accounting Officer for final approval.

## **29. Bid evaluation committees**

- (1) A bid evaluation committee must –
  - (a) evaluate bids in accordance with –
    - (i) the specifications for a specific procurement; and
    - (ii) the evaluation criteria and points system set out in terms of clause 28 (2) (f).
  - (b) evaluate each bidder's ability to execute the contract;
  - (c) check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not in arrears;
  - (d) irrespective of the procurement process followed, no award above R15 000 is given to a person whose tax matters have not been declared by the South African Revenue Services to be in order;
  - (e) verify that the recommended bidder is not in the service of the state and
  - (f) submit to the adjudication committee evaluation report and recommendations including legal comments obtained regarding the award of the bid or any other related matter.
- (2) A bid evaluation committee must as far as possible be composed of-
  - (a) officials from departments requiring the goods or services including project management practitioner where necessary;
  - (b) at least one supply chain management practitioner;
  - (c) at least one financial management practitioner; and
  - (d) at least one legal practitioner of the municipality.
- (3) The Accounting Officer must establish and appoint one or more bid evaluation committees, as necessary per procurement requirement and members as well the chairperson thereof must be appointed as soon as possible before the evaluation of bids. No member must be appointed post the sitting of the BEC. The Committee must disband after the award of the bids in this regard.
- (4) Members of the committee shall be required to declare a conflict of interest at any stage, the member may not be part of the bid evaluation committee and must be replaced by a member of suitable expertise.
- (5) The only person that will be allowed at the bid adjudication committee that was a member of the bid evaluation committee will be the person doing the presentation of the bid

evaluation committee report and provide clarity to the bid adjudication committee where required. BAC may invite any member of the BEC for clarification certain matters in isolated cases.

- (6) The scribe may be allowed to do duty at both evaluation committee and adjudication committee.
- (7) No bid must be evaluated after its validity period has lapsed. Prior to lapsing date of the validity period, the chair of BEC must request authorization to request bidders to extend the validity period of the bids.
- (8) No municipal personnel may communicate with a bidder or any other party who has an interest in a bid, 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 clause (a) below. Every such case of unauthorised communication shall forthwith be reported to the Supply Chain Management Unit as well as the chairpersons of the BEC and BAC respectively.
  - (a) The BEC Chairperson must ensure that bids are evaluated during their validity period and there is enough time available for BAC to conclude their processes within the validity period. Request for extension of validity period must be requested by Accounting Officer, via the SCM Unit/official, in writing, from the bidders for the purpose of:-
    - (i) Obtaining an explanation and verification of declarations made in the bid response;
    - (ii) confirming technical particulars and the compliance thereof with specifications;
    - (iii) clarifying delivery times/quantities;
    - (iv) extending the validity period of a bid;
    - (v) clarifying any other commercial aspect;
    - (vi) for the submission of substantiating documents;
    - (vii) correction of errors and omissions

- (b) In all cases where authority has been granted to communicate with bidders in terms of clause (a) above, it should be clearly stated in the minutes of the committee and reports the nature of the communication as well as by whom such authority to communicate has been granted.
- (c) In an event as described in subsection 7 above, bidders shall be afforded a minimum of two (2) working days up to a maximum of five (5) working days (on discretion of the relevant senior manager or the head: Supply Chain Management) from time of notification to correct such innocent errors and/or omissions. If no response is received from such bidders at the deadline the bid may be deemed to be non-responsive.

### **30. Bid adjudication committees**

- (1) A bid adjudication committee must –
  - (a) consider the report and recommendations of the bid evaluation committee, assess the completeness of the procurement process followed; and
  - (b) either –
    - (i) depending on its delegations, make a final award or a recommendation to the accounting officer to make the final award; or
    - (ii) make another recommendation to the accounting officer how to proceed with the relevant procurement; or
    - (iii) upon detecting deficiencies in the evaluation report and recommendations, refer such a report back to the bid evaluation committee for reconsideration considering issues raised.
  - (c) in the case decision to make final award is vested with the accounting officer, reconsider its recommendation upon receiving from the accounting officer his/her decision and reasons to reject the recommended award.
- (2) The accounting officer must establish a standing bid adjudication committee for the period not exceeding two years and this 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 practitioner who is an official of the municipality; and
  - (c) a technical expert in the relevant field who is an official, if such an expert exists.
  - (d) Another official that will act in the place of a senior official, appointed by the Municipal Manager, should such senior official not be available to do duty at the bid adjudication committee
- (3) The accounting officer must appoint the chairperson of the committee preferably the chief financial officer. 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) The accounting officer may appoint an alternative member for each permanent member of the bid adjudication committee who must only attend the committee meeting when the respective permanent member –
- (a) is not present at workplace; or
  - (b) has declared conflict interest regarding a bid under consideration and he/she has to be recused from the meeting.
- (5) All members of bid adjudication committee should be cleared at the level of “CONFIDENTIAL” by the Accounting Officer and should be required to declare their financial interest annually.
- (6) A quorum for the Bid Adjudication Committee shall be 50%+1 of the members of the bid adjudication committee for the BAC to commence with its business.
- (7) For the purpose of the quorum indicated above, the Bid Adjudication Committee cannot consider any bid in the absence of the Chief Financial Officer; Senior SCM Practitioner [the most senior official in the SCM Unit reporting direct to the CFO] and Senior Manager of the procuring department or his/her representative [which such must be approved by the Accounting Officer].
- (8) 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. However, a member of the bid evaluation committee may attend the bid adjudication committee meeting to present the evaluation report and provide clarity on issues that may be raised, after which he/she must leave the meeting before deliberations on the report by the adjudication committee.

- (9) No bid must be adjudicated after its validity period has lapsed. Prior to lapsing date of the validity period, the chair of BAC must notify the Accounting Officer to request extension for validity period from bidders.
- (10) Bid can be awarded to a bidder other than the one recommended by the bid evaluation committee, provided that:
- (a) If the bid adjudication committee decides to award a bid other than the one recommended by the bid evaluation committee, the bid adjudication committee must prior to awarding the bid –
    - (i) check in respect of the preferred bidder whether that bidder's municipal rates and taxes and municipal service charges are not in arrears, and;
    - (ii) notify the accounting officer.
  - (b) The accounting officer may –
    - (i) after due consideration of the reasons for the deviation, ratify or reject the decision of the bid adjudication committee referred to in clause (a); and
    - (ii) if the decision of the bid adjudication committee is rejected, refer the decision of the adjudication committee back to that committee for reconsideration.
- (11) The accounting officer must comply with section 114 of the Act within 10 working days, **unless a different bid was approved in order to rectify an irregularity**
- (12) 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.

### **31. Procurement of banking services**

- (1) A contract for banking services –
- (a) must be procured through competitive bids;
  - (b) must be consistent with section 7 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 60 days from the date on which the advertisement is placed in a newspaper in terms of clause 23(1).

- (4) Bids shall be restricted to banks registered in terms of the Banks Act, 1990 (Act No. 94 of 1990).

### **32. 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 disagrees with such comments, the comments and the reasons for rejecting or not following such comments must be submitted to the council, the National Treasury, the relevant provincial treasury and the Auditor General.

### **33. Procuring goods and services under contracts secured by other organs of state**

- (1) The accounting officer may procure goods or services under a contract secured by another organ of state, but only if –
  - (a) the contract has been secured by that other organ of state by means of a competitive bidding process applicable to that organ of state;
  - (b) there is no reason to believe that such contract was not validly procured;
  - (c) there are demonstrable discounts or benefits to do so; and
  - (d) that other organ of state and the provider have consented to such procurement in writing.
- (2) Clauses (1)(c) and (d) do not apply if a municipality procures goods or services through a contract secured by a municipal entity of which it is the parent municipality.

### **34. 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.

### **35. Appointment of consultants**

- (1) The accounting officer may procure consulting services provided that any Treasury guidelines in respect of consulting services are considered when such procurements are made.
- (2) Consultancy services must be procured through competitive bids if
  - (a) the value of the contract exceeds R200 000 (VAT included); or
  - (b) the duration period of the contract exceeds one year.
- (3) In addition to any requirements prescribed by this policy for competitive bids, bidders must furnish particulars of –
  - (a) all consultancy services provided to an organ of state in the last five years; and
  - (b) any similar consultancy services provided to an organ of state in the last five years.
- (4) The accounting officer must ensure that copyright in any document produced, and the patent rights or ownership in any plant, machinery, thing, system, or process designed or devised, by a consultant in the course of the consultancy service is vested in the municipality.
- (5) Where the estimated value of the fees is less than or equal to R200 000 (VAT inclusive) and the duration of the appointment is less than one year, the selection of a consultant to provide the required service shall follow a written price quotation or a formal written price quotation procedure as described in this Policy.
- (6) National Treasury Guidelines provide for single-source selection in exceptional cases. The justification for single-source selection must be examined in the context of the overall interests of the municipality and the project.
- (7) Single-source selection may be considered only if it presents a clear advantage over

competition:

- (a) for services that represent a natural continuation of previous work carried out by the consultant, and continuity of downstream work is considered essential;
- (b) where rapid selection is essential;
- (c) for very small appointments; and
- (d) when only one consultant is qualified or has experience of exceptional worth for the project.

- (8) The reasons for single-source selection must be fully motivated in a report and approved by the Bid Adjudication Committee prior to conclusion of a contract, provided that if the award is for an amount of R200 000 (VAT inclusive) or less, such award shall be approved by the Municipal Manager or his delegated official (director of Supply Chain Management)

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

- (2) The accounting officer must record the reasons for any deviations in terms of clauses (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.

- (3) Clause (2) does not apply to the procurement of goods and services contemplated in clause 12(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 clause (2) of this policy, the decision must be made public in accordance with section 21A of the Municipal Systems Act, together with –
  - (a) reasons as to why the bid should not be open to other competitors;
  - (b) an explanation of the potential benefits if the unsolicited bid were accepted; and
  - (c) an invitation to the public or other potential suppliers to submit their comments within 30 days of the notice.
- (4) The accounting officer must submit all written comments received pursuant to clause (3), including any responses from the unsolicited bidder 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 consider –
  - (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.

### **38. Combating of abuse of supply chain management system**

(1) The accounting officer must–

- (a) take all reasonable steps to prevent abuse of the supply chain management system;
- (b) investigate any allegations against an official or other role player of fraud, corruption, favouritism, unfair or irregular practices or failure to comply with this 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 and there is no written proof that a proper arrangement to settle the debt has been made; or
  - (ii) who during the last five years has failed to perform satisfactorily on a previous contract with the municipality or any other organ of state after written notice was given to that bidder that performance was unsatisfactory;
- (e) reject a recommendation for the award of a contract if the recommended bidder, or any of its directors, has committed a corrupt or fraudulent act in competing for the particular contract;
- (f) cancel a contract awarded to a person if –
  - (i) the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract; or
  - (ii) an official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of the contract that benefited that person;and
- (g) reject the bid of any bidder if that bidder or any of its directors –
  - (i) has abused the supply chain management system of the municipality or has committed any improper conduct in relation to such system;

- (ii) has been convicted for fraud or corruption during the past five years;
- (iii) has willfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
- (iv) has been listed in the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities 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 clauses (1)(b)(ii), (e) or (f) of this policy.
- (3) Criteria for breaking deadlock in scoring:
  - a. In the event that two or more bids have scored equal total points, the successful bid must be the one that scored the highest points for specific goals.
  - b. In the event whereby two or more bids are equal in all respects, the award must be decided by drawing of LOTS.
- (4) The point's scores must be rounded off to the nearest second decimal on functionality.
- (5) Functionality must not be too low to jeopardize the quality of the service or goods required and also not be too high to be too restrictive for tenderers.

## **PART 3: LOGISTICS, DISPOSAL, RISK AND PERFORMANCE MANAGEMENT**

### **39. Logistics management**

- (1) 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 incorporating, where practical, the coding of items to ensure that each item has a unique number;
  - (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 other than those from petty cash;
  - (d) before payment is approved, certification by the responsible officer that the goods and services are received or rendered on time and is in accordance with the order, the general conditions of contract and specifications where applicable and that the price charged is as quoted in terms of a contract;
  - (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 criteria for the disposal or letting of assets, including unserviceable, redundant or obsolete assets, subject to sections 14 and 90 of the Act, are that the municipality should:
- (a) compile list of redundant or obsolete assets by establishing using capability and cost-benefit analysis the physical condition and usefulness of the under-utilized and under-performing assets that they can no longer be maintained or used for its original purpose;
  - (b) categorize assets in the redundant list and determine disposal methods which are cost effective and could promote fair dealing;
  - (c) communicate the preferred method and arrangements for disposals to all the relevant stakeholders.

(2) Assets may be disposed of by –

- (a) transferring the asset to another organ of state in terms of a provision of the Act enabling the transfer of assets;
- (b) transferring the asset to another organ of state at market related value or, when appropriate, free of charge;
- (c) selling the asset; or
- (d) destroying the asset.

(3) 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) firearms are not sold or donated to any person or institution within or outside the Republic unless approved by the National Conventional Arms Control Committee;
- (d) immovable property is let at market related rates except when the public interest or the plight of the poor demands otherwise;
- (e) all fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property are annually reviewed;
- (f) where assets are traded in for other assets, the highest possible trade-in price is negotiated; and
- (g) 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.

#### **41. Risk management**

(1) The criteria for the identification, consideration, and avoidance of potential risks in the supply chain management system, are as follows:

- (a) Identifying to provide early warnings major trends in the acquisition processes and contract management and their variation over time through:
  - (i) Examination of past performances, practices and experiences;
  - (ii) Work breakdown structure analysis and operational modelling; and
  - (iii) survey and networking with peers and end-users.

- (b) The criteria to consider risks must involve understand the source or root causes that may affect the project/activity/ business unit and give direction to risk intervention measures.
- (c) Managing potential risks may require tackling contributory factors that could increase the likelihood for risks to occur. Contributory factors are normally divided into the following major categories, namely, people, equipment, business processes, and information communication technology.

(2) Risk management must include –

- (a) the identification of risks on a case-by-case basis;
- (b) the allocation of risks to the party best suited to manage such risks;
- (c) acceptance of the cost of the risk where the cost of transferring the risk is greater than that of retaining it;
- (d) the management of risks in a pro-active manner and the provision of adequate cover for residual risks; and
- (e) ensuring that the municipality's interests are protected and bidders are able to more easily determine the scope and extent of risk, by providing unambiguous but simplified and uniform contract documents for all classes of contract.

#### **42. Performance management**

- (1) The accounting officer must establish and implement an internal monitoring system in order to determine, on the basis of a retrospective analysis, whether the authorized supply chain management processes were followed and whether the objectives of this Policy were achieved.
- (2) The accounting officer must ensure that performance management is used as a pro-active and re-active (retrospective) tool of determining whether supply chain management system is effective enough to help in achieving the objectives and the broader government and Setsoto Local Municipality strategic and operational goals.

## **PART 4: OTHER MATTERS**

### **43. Prohibition on awards to persons whose tax matters are not in order**

- (1) No award above R15 000 may be made in terms of this Policy to a person whose tax matters have not been declared by the South African Revenue Service to be in order.
- (2) Before making an award to a person the accounting officer must first check with SARS whether that person's tax matters are in order.
- (3) If SARS does not respond within 7 days such person's tax matters may for purposes of clause (1) be presumed to be in order.

### **44. Prohibition on awards to persons in the service of the state**

- (1) Irrespective of the procurement process followed, no award may be made to a person in terms of this Policy –
  - (a) who is in the service of the state.
  - (b) if that person is not a natural person, of which any director, manager, principal shareholder, or stakeholder is a person in the service of the state; or
  - (c) a person who is an advisor or consultant contracted with the municipality.
- (2) A declaration of interest (MBD 4) to do business with the municipality must be completed in terms of this Policy on all transactions ranging from R15 000 and above.

### **45. Awards to close family members of persons in the service of the state**

- (1) The accounting officer must ensure that the notes to the annual financial statements disclose particulars of any award of more than R2000 to a person who is a spouse, child, or parent of a person in the service of the state, or has been in the service of the state in the previous twelve months, including –
  - (a) the name of that person;
  - (b) the capacity in which that person is in the service of the state; and
  - (c) the amount of the award.

## 46. Ethical standards

- (1) A code of ethical standards as set out in clause (2) is hereby established 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 Policy –
  - (a) must treat all providers and potential providers equitably;
  - (b) may not use his or her position for private gain or to improperly benefit another person;
  - (c) may not accept any reward, gift, favour, hospitality or other benefit directly or indirectly, including to any close family member, partner or associate of that person, of a value more than R350;
  - (d) notwithstanding clause (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 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 clause 47(1) of this Policy; or
    - (iii) any alleged breach of this code of ethical standards.
  
- (3) Declarations in terms of clauses (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 considered by supply chain management practitioners and other role players involved in supply chain management.
- (5) A breach of the code of ethics must be dealt with as follows -
  - (a) in the case of an employee, in terms of the disciplinary procedures of the municipality envisaged in section 67(1)(h) of the Municipal Systems Act;
  - (b) in the case a role player who is not an employee, through other appropriate means in recognition of the severity of the breach.
- (6) In all cases, financial misconduct must be dealt with in terms of chapter 15 of the Act.

#### **47. Inducements, rewards, gifts and favors 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 –
    - (i) any official; or
    - (ii) any other role player involved in the implementation of this Policy.
- (2) The accounting officer must promptly report any alleged contravention of clause (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) Clause (1) does not apply to gifts less than R350 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**

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

#### **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; or
  - (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 clause must not be read as affecting a person's rights to approach a court at any time.

## **51. Contractual commitment**

- (1) Supply chain management unit must communicate the award decision by issuing an acceptance letter signed by the accounting officer, the contract form, including the formal contract to the successful bidder. The bidder should thus signed to accept or reject the appointment within time stipulated in the acceptance letter.
- (2) A contract to be concluded through the supply chain management system must stipulate the terms and conditions that must include provisions providing for:
- (a) monitoring delivery period and handling delivery period extension;
  - (b) subcontracting part of contract and concluding of cessions or transfer where necessary;
  - (c) providing guarantees or securities and insurance where necessary;
  - (d) standard payment terms and withholding retentions where necessary;
  - (e) calculating penalties in case of contract default where necessary;
  - (f) monitoring of performance and the termination of the contract in the case of non-performance or under-performance and any other conditions;
  - (g) which amendments of specifications or contract conditions may be considered and the process to be followed in such circumstance;
  - (h) circumstances under which price adjustments will be considered, the intervals for adjustment, the base date for adjustments;
  - (i) a periodic review of the contract once every two years in the case of a contract for longer than two years;

- (j) renewal or extension after the expiry of contract longer than a year; and
  - (k) any other matters that are necessary to be prescribed
- (3) Regarding contracts providing for compensation based on turnover the following conditions are applicable:
- (a) If a service provider acts on behalf of a municipality to provide any service or act as a collector of fees, service charges or taxes and the compensation payable to the service provider is fixed as an agreed percentage of turnover for the service or the amount collected, the contract between the service provider and the municipality must stipulate –
    - (i) a cap on the compensation payable to the service provider; and
    - (ii) that such compensation must be performance based.
- (4) A senior manager of the procuring department shall be responsible for managing and reporting on all the aspects of the contract.

## **52. Use of SCM Policy to promote Local Economic Development and Revenue Collection**

As part of LED, a supplier residing within Setsoto Local Municipality's jurisdiction and have accounts for municipal rates and taxes service that are in arrears for more than three months can be allowed to make payment arrangement with the municipality upon submission of quotations, an agreed percentage will be deducted automatically from the invoiced amount should they become successful bidder.

## **53. Commencement**

This Policy takes effect from the date of approval by Council and replaces all SCM Policies approved prior to date of approval date.

## APPENDIX “A”: BID DOCUMENT PURCHASE PRICE

The non-refundable fee to purchase the bid document will be determined as follows:

BID VALUE	FEE
1. Bids between the value of R 30 000 and R 200 000	No document
2. Bids between the value of R 200 000 and R 1 000 000	R 350 or any reasonable amount to cover the costs of producing the tender document
3. Bids of the value in excess of R 1 000 000 up to R 2 000 000	R 500 or any reasonable amount to cover the costs of producing the tender document
4. Bids of the value in excess of R 2 000 000 up to R 10 000 000	R 1 000 or any reasonable amount to cover the costs of producing the tender document
5. Bids of the value in excess of R 10 000 000	R 1 500 or any reasonable amount to cover the costs of producing the tender document
6. Other bids prices including any of the above, announced by the Municipal Manager	

## APPENDIX “B”: SAFETY & GARUANTEE

The municipality applies the retention and contingencies for construction and related projects procured. The following fees will apply where applicable:

TYPE	FEE
RETENTION	10% of Project Construction Cost
CONTINGENCIES	10% of Project Construction Cost