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**VHEMBE DISTRICT MUNICIPALITY  
SUPPLY CHAIN MANAGEMENT POLICY**

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## 1. DEFINITIONS

In this Supply Chain Management Policy, unless the context indicates otherwise:

- 1.1            **“Abuse”** in terms of the Municipality Supply Chain Management System means conduct by an official or person that is tantamount to:
- 1.1.1        fraud.
- 1.1.2        corruption.
- 1.1.3.        favoritism.
- 1.1.4        unfair, irregular, and unlawful practices.
- 1.1.5        Misrepresentation on information submitted for the purposes of procuring a contract with the Municipality; misrepresentation regarding the supplier’s , expertise, and capacity to perform in terms of a contract procured via the supply chain management system.
- 1.1.6        Breach of a contract procured via the supply chain management system.
- 1.1.7        Failure to comply with the supply chain management system: or
- 1.1.8        And any other conduct referred to under the heading of” Combatting Abuse of the Supply Chain Management System”.
- 1.2            **“ Acceptable Bid”** means any bid which, in all respects, complies with the specifications and bid conditions. Also referred to as a “Responsive Bid”.

- 1.3 **“Adjudication points”** means the points for price and points for specific goals contribution referred to in the Preferential Procurement Regulations, 2017 and the Preferential Procurement section of this policy, also referred to as “evaluation points”.
- 1.4 **“Affected person”** means a person whose rights may be materially and or adversely affected if the Municipal Manager takes any of the steps contemplated in this policy in order to combat abuse of the Supply Chain Management System.
- 1.5 **“Alternative Bid”** means a bid which is submitted in accordance with paragraphs 145 and 146 and which materially or substantially deviates from the specification and/or bid conditions.
- 1.6 **“Alternative Bidder”** means a bidder, identified at the time of awarding a bid, that will be considered for award should the contract be terminated for any reason whatsoever
- 1.7 **“All applicable taxes”** includes value-added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies.
- 1.8 **“Appropriate steps”** as contemplated in regulation 38(1)(b)(i) of the Supply Chain Management Regulations, means the registering of an affected person on the Municipality’s Register of Tender and Contract Defaulters for a period not exceeding 5 (five) years and include the actions listed in Regulation 38(1)(d), (e), (f) and (g) of the Supply Chain Management Regulations.
- 1.9 **“Approved”** means officially agreed and signed-off by an Accounting Officer or a delegated person / body.
- 1.10 **“Asset”** means a tangible or intangible resource capable of ownership.
- 1.11 **“B-BBEE”** means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act, 2003, (Act 53 of 2003).

- 1.12        **“B-BBEE Status Level of Contributor”** means the B-BBEE status of an entity in terms of a code of good practice on black economic empowerment issued in terms of s9(1) of the Broad-Based Black Economic Empowerment Act, 2003, (Act 53 of 2003).
- 1.13        **“Black Designated Groups”** has the meaning assigned to it in the codes of good practice issued in terms of s9(1) of the Broad-Based Black Economic Empowerment Act, 2003, (Act 53 of 2003).
- 1.14        **“Black People”** has the meaning assigned to it in s1 of the Broad-Based Black Economic Empowerment Act.
- 1.15        **“Bid”** means a written offer in a prescribed or stipulated form in response to an invitation by the Municipality for the provision of goods, services or construction works through price quotations, advertised competitive bidding processes or proposals, or any other proposition for business with the Municipality whether solicited or not.
- 1.16        **“Bidder”** means any person submitting a bid.
- 1.17        **“Broad-Based Black Economic Empowerment Act”** means the Broad-Based Black Economic Empowerment Act, 2003, (Act 53 of 2003).
- 1.18        **“Capital Asset”** means:
- 1.18.1      Any immovable asset such as land, property, or buildings; or
- 1.18.2      Any movable asset that can be used continuously or repeatedly for more than one year in the production or supply of goods or services, for rental to others or for administrative purposes, and from which future economic benefit can be derived, such as plant, machinery, and equipment.
- 1.19        **“Closing Time”** means the time and day specified in the bid documents for the receipt of bids.
- 1.20        **“Collusive Bids”** means where bidders bid conclude an arrangement between themselves to obtain the highest possible

points in the evaluation and or the award of a bid whereby competitive bids are eliminated.

- 1.21 **“Competitions Act”** means the Competitions Act, 1998, (Act 89 of 1998, and any regulations pertaining thereto.
- 1.22 **“Competitive Bidding Process”** means a competitive bidding process referred to in Regulation 12 (1) (d) of the Supply Chain Management Regulations.
- 1.23 **“Competitive Bid”** means a bid in terms of a competitive bidding process.
- 1.24 **“Consortium”** also referred to as a “Joint Venture” (see paragraph 1.54 below).
- 1.25 **“Construction Industry Development Board (CIDB) Act”** means the Construction Industry Development Board Act, 2000, (Act 38 of 2000) and includes the regulations pertaining thereto.
- 1.26 **“Consultant”** means a person or entity providing services requiring knowledge-based expertise, and includes professional service providers (see also supplier);
- 1.27 **“Contract”** means the agreement, which is concluded when the Municipality accepts, in writing, a bid.
- 1.28 **“Contractor”** means any person or entity whose bid for construction works has been accepted by the Municipality (see also supplier).
- 1.29 **“Contract participation goal”** is the value of the participation of specific targeted labour and / or enterprises that a supplier must achieve in the performance of a contract, expressed as a percentage of the bid sum less provisional sums, contingencies, and VAT.
- 1.30 **“Co-operative”** means a co-operative registered in terms of s7 of the Co-operatives Act, 2005 (Act no. 14 of 2005).
- 1.31 **“Day(s)”** means calendar days unless the context indicates otherwise.



- 1.32        **“Delegated Authority”** means any person or committee delegated with authority by the Municipality in terms of the provisions of the MFMA.
- 1.33        **“Designated Group”** means black designated groups, black people, women, people with disabilities or small enterprises as defined in s1 of the National Small Enterprises Act, 1996 (act no. 102 of 1996).
- 1.34        **“Designated sector”** means a sector, sub-sector or industry or product that has been designated in terms of any relevant regulation of the Preferential Procurement Regulations, 2017.
- 1.35        **“Director”** in terms of this policy means a director of a company as defined in the Companies Act, 1973 and 2008 (Act No. 61 of 1973 and Act No. 71 of 2008); a member of a close corporation as defined in the Close Corporations Act, 1984 (Act No. 69 of 1984); a trustee of a trust or a person holding an equivalent position in a firm.
- 1.36        **“e-Procurement”**; is the electronic implementation of the procurement methodology.
- 1.37        **“Evaluation Points”** also referred to as “Adjudication Points” (see paragraph 1.3 above).
- 1.38        **“Exempted Capital Asset”** means a municipal capital asset which is exempted by s14 (6) or 90(6) of the MFMA from the other provisions of that section.
- 1.39        **” Exempted Micro Enterprise (EME)”** means an exempted micro enterprise in terms of a code of good practice on black economic empowerment issued in terms of s9(1) of the Broad-Based Black Economic Empowerment Act.
- 1.40        **“Final Award”** in relation to bids or quotations submitted for a contract, means the final decision on which bid or quote to accept.
- 1.41        **“Firm Price”** means the price that is only subject to adjustments in accordance with the actual increase or decrease resulting from the

change, imposition, or abolition of customs or excise duty and any other duty, levy, or tax, which, in terms of the law or regulation, is binding on the supplier and demonstrably has an influence on the price of any supplies, or the rendering costs of any service, for the execution of the contract;

- 1.42 **“Formal Written Price Quotation”** means a written or electronic offer to the Municipality in response to an invitation to submit a quotation. “Formal Written Price Quotation”, “Written Price Quotation”, “Quotation” or “Quote” shall have a similar meaning. Also referred to as “Bids”.
- 1.43 **“Fronting Practice (Also referred to as Tokenism or Window dressing)”** means a transaction, arrangement or other act or conduct that directly or indirectly undermines or frustrates the allocation of the specific goals .
- 1.44.1. In terms of which black persons who are appointed to an enterprise are discouraged or inhibited from substantially participating in the core activities of that enterprise.
- 1.44.2 in terms of which the economic benefits received because of the specific goals empowerment status of an enterprise do not flow to black people the ratio specified in the relevant legal documentation.
- 1.44.3 Involving the conclusion of a legal relationship with a black person for the purpose of that enterprise achieving a certain level of broad-based black economic empowerment compliance without granting that black person the economic benefits that would reasonably be expected to be associated with the status or position held by that black person; or
- 1.44.4 Involving the conclusion of an agreement with another enterprise in order to achieve the specific goals.
- 1.44.5 There are significant limitations, whether implicit or explicit, on the identity of suppliers, service providers, clients, or customers.

- 1.46.6 The maintenance of business operations is reasonably considered to be improbable, having regard to the resources available.
- 1.44.7 The terms and conditions were not negotiated at arm's length and on a fair and reasonable basis.
- 1.45 **“Functionality”** means the ability of a tenderer to provide goods or services in accordance with specifications as set out in the tender documents. This is determined by the measurement according to predetermined norms, as set out in the bid documents, of the totality of features and characteristics of the goods or services that bears on the ability of thereof to satisfy the stated or implied needs. “Functionality” is also referred to as “Quality”
- 1.46 **“Highest acceptable tender”** means a tender that complies with all specifications and conditions of tender and that has the highest price compared to other tenders.
- 1.47 **“Influencing the Bid Process”** means directly, indirectly, or tacitly influencing or interfering with the work of relevant Municipal Officials involved in the bid process to influence the process to inter alia:
- 1.47.1 Influence the process and/or outcome of a bid.
- 1.47.2 Incite breach of confidentiality and/or the offering of bribes.
- 1.47.3 cause over and under invoicing; 1.52.4 influence the choice of procurement method or technical standards; or
- 1.47.5 Influence any Municipal Official in any way which may secure an unfair advantage during or at any stage of the procurement process.
- 1.48 **“In the service of the state”** means:
- 1.48.1 A member of any municipal Council, any provincial legislature or the National Assembly or the National Council of Provinces.
- 1.48.2 An official of any municipality or municipal entity.

- 1.48.3 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 1 of 1999).
- 1.48.4 A member of the board of directors of any municipal entity.
- 1.48.5 An executive member of the accounting authority of any national or provincial public entity; or
- 1.48.6 An employee of Parliament or a provincial legislature.
- 1.49 **“Infrastructure”** means:
- 1.49.1 Immovable asset, which is acquired, constructed or results from construction operations: or
- 1.49.2 Movable asset, which cannot function independently from purpose-built immovable asset(s).
- 1.50 **“Infrastructure delivery”** means the combination of all planning, technical, administrative and managerial actions associated with the construction, supply, refurbishment, rehabilitation, alteration, maintenance, operation or disposal of infrastructure.
- 1.51 **“Infrastructure procurement”** means the procurement of goods or services, including any combination thereof, associated with the acquisition, refurbishment, rehabilitation, alteration, maintenance, operation, or disposal of infrastructure.
- 1.52 **“Joint Venture or Consortium”** means an association of persons, formalised by agreement between such persons, formed for the purpose of combining their expertise, property, capital, efforts, skill, and knowledge in an activity for the execution of a contract.
- 1.53 **“Lowest acceptable”** means a tender that complies with all specifications and conditions of tender and that has lowest price compared to other tenderers.
- 1.54 **“Military Veteran”** has the meaning assigned to it in s1 of the Military Veterans Act, 2011 (Act No. 18 of 2011).

- 1.55        **“Municipal Asset Transfer Regulations”** means the Municipal Asset Transfer Regulations published in Government Gazette 31346 of 22 August 2008.
- 1.56        **“Municipal Council (Council)”** means the Council referred to in S18 of the Local Government Municipal Structures Act 117 of 1998.
- 1.57        **“Municipal Entity”** means an entity as defined in the Municipal Systems Act.
- 1.58        **“Municipal Finance Management Act”** (MFMA): means the Local Government: Municipal Finance Management Act, 2003, (Act 56 of 2003).
- 1.59        **“Municipality”** means Vhembe District Municipality, established in terms of the Local Government: Municipal Structures Act, 1998, (Act 117 of 1998) or any structure or employee of the Municipality acting in terms of delegated authority.
- 1.60        **“Municipal Manager”** means the Accounting Officer of the Municipality as defined in the MFMA.
- 1.61        **"Municipality Register of Tender and Contract Defaulters"** means any list compiled by the Municipality for purposes of the combating of Abuse of the Supply Chain Management System in terms of which the persons reflected on the list are prohibited from being awarded any contract by the Municipality for the specified period reflected on the list.
- 1.62        **“Municipal Structures Act”** means Local Government Municipal Structures Act, 1998 (Act 117 of 1998).
- 1.63        **“Municipal Systems Act”** means Local Government Municipal Systems Act, 2000 (Act 32 of 2000)
- 1.64        **“National Treasury”** has the meaning assigned to it in s1 of the Public Finance Management Act, 1999 (Act No. 18 of 1999).
- 1.65        **“Non-firm Prices”** means all prices other than “firm” prices.
- 1.66        **“Organ of State”** means any department of state or administration in the national, provincial, and local sphere of government.

- 1.67            **“Person”** includes a natural or legal entity.
- 1.68            **“People with Disabilities”** has the meaning assigned to it in s1 of the Employment Equity Act, 1998 (Act No. 55 of 1998);
- 1.69            **“Price”** means an amount of money tendered for goods or services, and includes all applicable taxes less all unconditional discounts
- 1.70            **“Project”** means a unique set of processes consisting of coordinated and controlled activities with start and end dates, performed to achieve the project objective. culminates in the completion of an end of stage deliverable.
- 1.71            **“Preferred Bidder”** means a bidder with whom negotiations may be entered into to conclude the final terms of a contract
- 1.72            **“Preferential Procurement Policy Framework Act”** (PPPFA) means the Preferential Procurement Policy Framework Act, 2000, (Act 5 of 2000);
- 1.73            **“Preferential Procurement Regulations”** means the regulations pertaining to the PPPFA;
- 1.74            **“Price”** includes all applicable taxes less unconditional discounts.
- 1.75            **“Prime Supplier”** shall have the same meaning as “Contractor” (see also Supplier);
- 1.76            **“Promotion of Access to Information Act (PAIA)”** means Promotion of Access to Information Act, 2000 (Act 2 of 2000);
- 1.77            **“Policy”** means this Supply Chain Management Policy as amended from time to time.
- 1.78            **“Qualifying Small Enterprise (QSE)”** means a qualifying small enterprise in terms of a code of good practice on black economic empowerment issued in terms of s9(1) of the Broad-Based Black Economic Empowerment Act;
- 1.79            **“Quality”** also referred to as “Functionality” (see paragraph 1.49 above);

- 1.80        **“Rand Value”** means the total estimated value of a contract in Rand, calculated at the time of bid invitation;
- 1.81        **“Representative”** means any representative of a supplier in relation to the relevant tender, whether authorized or not, including but not limited to directors, members, employees and agents and include Legal Representatives.
- 1.82        **“Republic”** means the Republic of South Africa.
- 1.83        **“Responsible Agent”** means either an internal project manager (being an employee of the Municipality) or an external consultant (appointed by the Municipality), as the case may be, who is responsible for the implementation of a project or part thereof.
- 1.84        **“Rural Area”** means a sparsely populated area in which people farm or depend on natural resources, including villages and small towns that are dispersed through the area or an area including a large settlement which depends on migratory labour and remittances and government social grants for survival, and may have a traditional land tenure system.
- 1.85        **“SARS”** means the South African Revenue Services.
- 1.86        **“Specific goals”** means specific goals as contemplated in section 2(1)(d) of the Act which may include contracting persons, or categories of person, Historically disadvantage by unfair discrimination on the basis of race , gender and disability included the implementation of the programmers of the Reconstruction and Development programme as published in the government gazette No:16085 dated 23 November 1994
- 1.87        **“Stipulated Minimum Threshold”** means the minimum threshold stipulated in terms of any relevant regulation of the Preferential Procurement Regulations, 2017;

- 1.88 **“Sub-contract”** means the prime supplier’s assigning, leasing, making out work to, or employing, another person to support such prime supplier in the execution of part of a contract.
- 1.89 **“Sub-contractor”** means any person that is assigned, leased, employed or contracted by the prime supplier to carry out work in support of the prime supplier in the execution of a contract.
- 1.90 **“Supplier/Vendor”** are generic terms which may include suppliers of goods and services, contractors and/or consultants and must be applied as the context requires.
- 1.91 **“Supply Chain Management (SCM) Regulations”** means the Municipal Supply Chain Management Regulations published in terms of the Municipal Finance Management Act, 2003, (Act 56 of 2003);
- 1.92 **“Targeted Labour”** means those individuals employed by a supplier, or sub-contractor, in the performance of a contract, who are defined in the contract as the target group, and who permanently reside in the defined target area.
- 1.93 **“Targeted Enterprises”** means those enterprises (suppliers, manufacturers, service providers or construction works contractors) that own, operate or maintain premises within the target area defined in the contract, for the purposes of carrying out their normal business operations.
- 1.94 **“Tender/Tenderer”** means “bid/bidder”;
- 1.95 **“Tender”** means a written offer in the form determined by an organ of state in response to an invitation to provide goods or services through price quotations, competitive tendering process or any other method envisaged in legislation:
- 1.95 **“Tender for income-generating contracts”** means a written offer in the form determined by an organ of state in response to an invitation for the origination of income-generating contracts through any method envisaged in legislation that will result in a legal



agreement between the organ of state and a third party that produces revenue for the organ of state, and includes, but is not limited to leasing and disposal of assets and concession contracts, excluding direct sales and disposal of assets through public auctions

- 1.96 **“Township”** means an urban living area that at any time from the late 19th century until 27 April 1994, was reserved for black people, including areas developed for historically disadvantaged individuals post 27 April 1994.
- 1.97 **“Transaction Value”** means the actual contract value (the bid sum or price) in South African currency, inclusive of all applicable taxes in respect of the goods, services or construction works that are contracted for;
- 1.98 **“Treasury”** has the meaning assigned to it in s 1 of the Public Finance Management Act, 1999 (Act No. 18 of 1999);
- 1.99 **“Treasury Guidelines”** means any guidelines on supply chain management issued by the Minister in terms of s168 of the MFMA.
- 1.100 **“Trust”** means the arrangement through which the property of one person is made over or bequeathed to a trustee to administer such property for the benefit of another person.
- 1.101 **“Trustee”** means any person, including the founder of a trust, to whom property is bequeathed in order for such property to be administered for the benefit of another person; and
- 1.102 **“Unsolicited Bid”** means an offer submitted by any person at its own initiative without having been invited by the Municipality to do so;
- 1.103 **“Youth”** has the meaning assigned to it in s1 of the National Youth Development Agency Act, 2008 (Act No. 54 of 2008).
2. Words importing the singular shall include the plural and vice versa and words importing the masculine gender shall include females and words importing persons shall include companies, close

corporations and firms, unless the context clearly indicates otherwise.

3. Unless otherwise indicated, all amounts/limits stated in this document shall be deemed to be inclusive of all applicable taxes.

## **2. Purpose**

- The Purpose of this policy is to ensure sound, sustainable and accountable supply chain management practices within Vhembe District Municipality, whilst the economic empowerment as a priority in terms of the goals and objectives of the municipality's preferential procurement policy and other empowerment strategies.

## **3. Scope of application**

This Policy applies to:

- the procuring of goods or services, including infrastructure or construction works and consultant services;
- the disposal by the Municipality of goods no longer needed;
- the selection of suppliers to provide assistance in the provision of municipal services otherwise than in circumstances where Chapter 8 of the Municipal Systems Act applies; or
- the selection of external mechanisms referred to in s80(1)(b) of the Municipal Systems Act for the provision of municipal services in circumstances contemplated in s83 of that Act.

- the procurement of goods and services under a current contract secured by another organ of state, provided that the relevant supplier has agreed to such procurement.
- Unless specifically stated otherwise, this Policy does not apply if the Municipality contracts with another organ of state for:
  - the provision of goods or services to the Municipality;
  - the provision of a municipal service, or assistance in the provision of a municipal service; or
  - any other contractual agreements between organs of state for whatever reasons

#### **4. Objectives**

The objectives of this Policy are:

- to give effect to s217 of the Constitution of the Republic of South Africa by implementing a system that is fair, equitable, transparent, competitive and cost effective;
- to comply with all applicable provisions of the MFMA including the Municipal Supply Chain Management Regulations published under GN868 in Government Gazette 27636 30 May 2005 and to comply with any National Treasury Circulars/Guidelines specifically adopted by Council, in terms of the MFMA;
- to ensure consistency with all other applicable legislation and any national, provincial regulations and guidelines.

## 5. Legislative framework

This Policy gives effects to the following legislation:

- The Preferential Procurement Policy Framework Act Act no.5 of 2000.
- The Broad-based Black Economic Empoerment Act 2003
- The Construction Industry Development Board Act No. 38 of 2000
- The local Government: Municipal System Act No. 32 of 2000
- The Promotion of Administartive justice Act 2000
- Any regulations promulgated in terms of the legislation referred to the above

## 6. Commencement

- (1) This Policy is effective from the date on which it is adopted by Council. Should any Legislation be enacted or be amended that conflicts with any part of this Policy, such Legislation will take precedence and will be implemented by the Municipality without amending this Policy. Such amendment of the Policy as may be required would be done as expeditiously as possible.

## CHAPTER 1

### IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY

#### 7. Supply chain management policy

- (1) All officials and other role players in the supply chain management system of the municipality must implement this Policy in a way that –
  - (a) gives effect to –
    - (i) section 217 of the Constitution; and
    - (ii) Part 1 of Chapter 11 and other applicable provisions of the Act;
  - (b) is fair, equitable, transparent, competitive and cost effective;
  - (c) complies with –
    - (i) the Regulations; and
    - (ii) any minimum norms and standards that may be prescribed in terms of section 168 of the Act;
  - (d) is consistent with other applicable legislation;
  - (e) does not undermine the objective for uniformity in supply chain management systems between organs of state in all spheres; and
  - (f) is consistent with national economic policy concerning the promotion of investments and doing business with the public sector.
2. 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

## **8. 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.

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

- (1) 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
    - (ii) this Policy;
  - (b) to maximise administrative and operational efficiency in the implementation of this Policy;

- (c) to enforce reasonable cost-effective measures for the prevention of fraud, corruption, favouritism and unfair and irregular practices in the implementation of this Policy; and
  - (d) to comply with his or her responsibilities in terms of section 115 and other applicable provisions of the Act.
- (2) Sections 79 and 106 of the Act apply to the subdelegation of powers and duties delegated to an accounting officer in terms of subparagraph (1).
  - (3) The accounting officer may not subdelegate any supply chain management powers or duties to a person who is not an official of the municipality or to a committee which is not exclusively composed of officials of the municipality
  - (4) This paragraph may not be read as permitting an official to whom the power to make final awards has been delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in paragraph 26 of this Policy.

#### **10. Subdelegations**

- (1) The accounting officer may in terms of section 79 or 106 of the Act subdelegate any supply chain management powers and duties, including those delegated to the accounting officer in terms of this Policy, but any such subdelegation must be consistent with subparagraph (2) of this paragraph and paragraph 4 of this Policy.
- (2) The power to make a final award –
  - (a) above R10 million (VAT included) may not be subdelegated by the accounting officer;
  - (b) above R2 million (VAT included), but not exceeding R10 million (VAT included), may be subdelegated 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) may be subdelegated but only to –
  - (i) the chief financial officer;
  - (ii) a senior manager;
  - (iii) a manager directly accountable to the chief financial officer or a senior manager; or
  - (iv) a bid adjudication committee.
- (3) An official or bid adjudication committee to which the power to make final awards has been sub delegated in accordance with subparagraph (2) must within five days of the end of each month submit to the official referred to in subparagraph (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 subparagraph (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 subparagraph (2)(c)(iii); or
    - (ii) a bid adjudication committee of which the chief financial officer or a senior manager is not a member.
- (5) Subparagraphs (3) and (4) of this policy do not apply to procurements out of petty cash.



- (6) This paragraph may not be interpreted as permitting an official to whom the power to make final awards has been subdelegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in paragraph 26 of this Policy.
- (7) No supply chain management decision-making powers may be delegated to an advisor or consultant.

## 11. DELEGATION OF POWERS ON SUPPLY CHAIN

(1)

<b>FUNCTION</b>	<b>QUOTATIONS</b>	<b>VALUE</b>	<b>DELEGATION</b>
Appointment of service provider for the supply of goods and services through petty cash / approval of payment	None	Up to R1000.00 VAT Included	General Managers
Appointment of service provider for the supply of goods and services through written quotations / approval of payments	1	R501.00 – R5 000.00 VAT Included	Chief Financial Officer
Appointment of service provider for the supply of goods and services through formal written quotations / approval of payment	3	R5 001 – R29 999.99 VAT included	Chief Financial Officer

Appointment of service provider for the supply of goods and services through formal written quotations / approval of payment	Advertise for 7 days	R30 000.00 – R199 999.99 VAT included	Accounting Officer
Appointment of service provider for the supply of goods and services through competitive Bidding	Supply chain process	Over R200 000.00 VAT Included	Accounting Officer

**12. PREFERENCE POINT SYSTEM, EVALUATION OF TENDERS, AWARDING OF TENDERS NOT SCORING THE HIGHEST POINTS, CANCELLATION AND RE-INVITATION OF TENDERS.**

**The Preferential Procurement regulation, 2011 pertaining to the preferential procurement policy framework act, acts no 5 of 2000.**

- **The 80/20 and 90/10 Preference point system**

(1) The following formula will be used to calculate the points for price in respect of tenders/procurement with a Rand value equal to, or above R30 000 and up to a Rand value of R50 000 000.00. However, VDM will apply this formula for procurement with a value less than R30 000, if and when appropriate:

$$P_s = 80 \left( 1 - \frac{P_t - P_{\min}}{P_{\min}} \right)$$

$P_s$  = Points scored for price of tender under consideration

$P_t$  = Rand value of offer tender consideration

$P_{\min}$  = Rand value of lowest acceptable tender

A maximum of 20 points will be awarded to B-BBEE Status Level Verification Certificates. Bidders will be required to submit original and valid B-BBEE Status level verification certificates or copies thereof together with their bids, to substantiate their B-BBEE rating claims.

- (2) A maximum of 20 points may be awarded to a tenderer for the specific goal specified for the tender. (The allocation of preference points for tenders above the quotation threshold to be decide and allocated per tender)
- (3) The points scored for the specific goal will be added to the points scored for price and the total will be rounded off to the nearest two decimal places.
- (3) The points scored by a tenderer in respect of the goals contemplated above will be added to the points scored for price.
- (4) Only the tender with the highest number of points scored will be awarded.

- **The 90/10 preference point system**

- (5) The following formula must be used to calculate the points for price in respect of tenders/procurement with a Rand value above R 50 000 000.00

$$P_s = 90 \left( 1 - \frac{P_t - P_{\min}}{P_{\min}} \right)$$

Where

$P_s$  = Points scored for price of tender under consideration

$P_t$  = Rand value of tender under consideration

$P_{\min}$  = Rand value of lowest acceptable tender

A maximum of 10 points will be awarded for B-BBEE status level Certificates. Bidders will be required to submit original and Valid B-BBEE Status level verification certificates or copies thereof together with their bids, to substantiate their B-BBEE rating claims.

- (6) A maximum of 10 points may be awarded to a tenderer for the specific goal specified for the tender. (The allocation of preference points for tenders above the quotation threshold to be decide and allocated per tender)
- (7) The points scored for the specific goal will be added to the points scored for price and the total will be rounded off to the nearest two decimal places.
- (8) The points scored by a tenderer in respect of the goals contemplated above will be added to the points scored for price.
- (9) Only the tender with the highest number of points scored will be awarded.

- **The preference point system for the sale and letting of assets.**

An invitation for tender for income-generating contracts, that either the 80/20 or 90/10 preference point system will apply and that the highest

acceptable tender will be used to determine the applicable preference point system

Where

**80/20 preference point system for tenders for income-generating contracts with Rand value equal or below R50 million**

- (10) The following formula must be used to calculate the points for price in respect of a tender for income-generating contracts, with a Rand value equal or below R50 million, inclusive of all applicable taxes:

$$P_s = 80 \left( 1 - \frac{P_t - P_{max}}{P_{max}} \right)$$

Where:

$P_s$  = Points scored for price of tender under consideration;

$P_t$  = Price of tender under consideration; and

$P_{max}$  = Price of highest acceptable tender.

A maximum of 20 points will be awarded to B-BBEE Status Level Verification Certificates. Bidders will be required to submit original and valid B-BBEE Status level verification certificates or copies thereof together with their bids, to substantiate their B-BBEE rating claims.

- (11) A maximum of 20 points may be awarded to a tenderer for the specific goal specified for the tender. (The allocation of preference points for

tenders above the quotation threshold to be decide and allocated per tender)

- (12) The points scored for the specific goal will be added to the points scored for price and the total will be rounded off to the nearest two decimal places.
- (13) Only the tender with the highest number of points scored will be awarded.

**90/10 preference point system for tenders for income-generating contracts with Rand value above R50 million**

- (14) The following formula must be used to calculate the points for price in respect of a tender for income-generating contracts, with a Rand value above R50 million, inclusive of all applicable taxes:

$$P_s = 90 \left( 1 - \frac{P_t - P_{max}}{P_{max}} \right)$$

Where:

$P_s$  = Points scored for price of tender under consideration;

$P_t$  = Price of tender under consideration; and

$P_{max}$  = Price of highest acceptable tender.

A maximum of 10 points will be awarded for B-BBEE status level Certificates. Bidders will be required to submit original and

Valid B-BBEE Status level verification certificates or copies thereof together with their bids, to substantiate their B-BBEE rating claims.

- (15) A maximum of 10 points may be awarded to a tenderer for the specific goal specified for the tender. (The allocation of preference points for tenders above the quotation threshold to be decide and allocated per tender)
- (16) The points scored for the specific goal must be added to the points scored for price and the total must be rounded off to the nearest two decimal places.
- (17) The contract will be awarded to the tenderer scoring the highest points.

- **Stipulation of preference point system to be used**

- (18) VDM will stipulate in the tender documents, the preference point system which will be applied in the adjudication of tenders.

- **Evaluation of tenders on functionality and price**

- (19) VDM will indicate, in the tender documents whether that tender will be evaluated on functionality and price.
- (20) The points for functionality will be assessed initially, and there after service provider will be evaluated on price. The tender document will indicate the minimum functionality requirements.
- (21) When evaluating the tenders contemplated in this item, the points for functionality will be-calculated for each individual tenderer.

- (22) The conditions of tender may stipulate that a tenderer must score a specified minimum number of points for functionality to qualify for further adjudication.
- (23) The points for price, in respect of a tender which has scored the specified number of points contemplated in (5) must, subject to the application of the evaluation system for functionality and price contemplated in this policy, be established separately and be calculated in accordance with the provisions of point 3 and 4.
- (24) Preferences for achieving specified goals must be calculated separately and must be added to the points scored for functionality and price.
- (25) Only the tender with the highest number of points scored may be selected.
- (25) Points scored must be rounded off to the nearest 2 decimals.
- (27) In the event that two or more tenders have scored equal total points, the successful tender must be the one scoring the highest number of preference points for specified goals. Should two or more tenders be equal in all respects, the award shall be decided by the drawing of lots
- (28). No contract that will be awarded to a person whose Tax matter are not in order.
- **Award of contract to tender not scoring the highest number of points**
- (29) Despite section 21,25,29,33 and 45, a contract may, on reasonable and justifiable grounds, be awarded to a tender that did not score the highest number of points.

- **Cancellation and re-invitation of tenders**



- (30) In the event that, in the application of the 80/20 preference point system as stipulated in the tender documents, all tenders received exceed the estimated Rand value of R50 000 000. 000, the tender invitation must be cancelled.
- (31) In the event that, in the application of the 90/10 preference point system as stipulated in the tender documents, all tenders received are equal to, or below R50 000 000.00, the tender must be cancelled.
- (32) An organ of state which has cancelled a tender invitation as contemplated in section (1) and (2) must reinvoke tenders and must, in the tender documents, stipulate the preference point system to be applied.
- (33) VDM will, prior to the award of a tender, cancel a tender if-
- (a) Due to changed circumstances, there is no longer need for the goods or  
Services tendered for; or
  - (b) Funds are no longer available to cover the total envisaged expenditure; or
  - (b) no acceptable tenders are received.

### **13. Oversight role of council**

- (1) For the purposes of such oversight the accounting officer must –

- (a)
  - (i) 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
  - (ii) whenever there are serious and material problems in the implementation of this Policy, immediately submit a report to council
- (2) 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.
- (3) The reports must be made public in accordance with section 21A of the Municipal Systems Act.

#### **14. Supply chain management unit**

- (1) A supply chain management unit is hereby established to implement this Policy.
- (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.

#### **15. Training of supply chain management officials**

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

- (2) The accounting officer will ensure that all officials involved in the implementation of the supply chain management policy are adequately trained.

## **CHAPTER 2**

### **SUPPLY CHAIN MANAGEMENT SYSTEM**

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

- (1) This Policy provides systems for –
  - (i) demand management;
  - (ii) acquisition management;
  - (iii) logistics management;
  - (iv) disposal management;
  - (v) risk management; and
  - (vi) performance management.

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

#### **17. 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.

## ***Part 2: Acquisition management***

### **18. 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 authorised processes only;
  - (b) that expenditure on goods and services is incurred in terms of an approved budget in terms of section 15 of the 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). 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 supply chain management system, including -
  - (a) the kind of goods or services; and
  - (b) the name of the supplier.

### **19. 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 R1 000.00 (VAT included);

- (b) written quotations for procurements of a transaction value over R1000 .00 up to R5 000 .0(VAT included);
  - (c) written price quotations for procurements of a transaction value over R5 000.00 up to R30 000.00 (VAT included);
  - (d) formal written price quotations for procurement of a transaction value over R30 000.00 up to R200 000.00 and
  - (d) a competitive bidding process for–
    - (i) procurements above a transaction value of R200 000 (VAT included); and
    - (ii) the procurement of long term contracts.
- (2) The accounting officer may, in writing-
- (a) lower, but not increase, the different threshold values specified in paragraph
57. 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.
- (3) The range of procurement process is set out as follows

PROCESS	VALUE	ADVERTISEMENT	NUMBER OF QUOTATIONS
Petty Cash purchases	Up to R1 000.00 (VAT included)	No	None
Written quotations	Over R1 000.00 up to R5 000 .00 (VAT Included)	No	1

Written quotations	Price	Over R5 000.00 up to R30 000.00 (VAT Included)	No	3
Formal quotation	written	Over R30 000.00 up to R200 000.00 (VAT Included)	YES (at least 7 days)	
Competitive Bidding		Over R200 000.00	At least 14 days	

## 20. General preconditions for consideration of written quotations or bids

- (1) A written quotation or bid may not be considered unless the provider who submitted the quotation or bid –
  - (a) has furnished that provider's –
    - (i) full name;
    - (ii) identification number or company or other registration number; and
    - (iii) tax reference number and VAT registration number, if any;
  - (b) has submitted a valid tax clearance from the South African Revenue Services to the effect that the provider's tax matters are in order; and
  - (c) has indicated –
    - (i) whether he or she is in the service of the state, or has been in the service of the state in the previous twelve months;
    - (ii) if the provider is not a natural person, whether any of its directors, managers, principal shareholders or stakeholder is in the service of the state, or has been in the service of the state in the previous twelve months; or

- (iii) whether a spouse, child or parent of the provider or of a director, manager, shareholder or stakeholder referred to in subparagraph (ii) is in the service of the state, or has been in the service of the state in the previous twelve months.

## **21. 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; and
- (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. Prospective providers must be allowed to submit applications for listing at any time.
- (3) The list must be compiled per commodity and per type of service. Central Supplier Database will automatically validate the following registration documents for the municipality:-
- Confirmation and status of Business Registration Documents
  - Proof of Bank Account Registration
  - Tax compliance status
  - Employee in the service of state as defined in the Municipal SCM Paragraphs



- Identity Documentation
- Tender defaulters and restrictions status

**It is the responsibility of the municipality to continue with verification of other listing criteria which are not currently validated by CSD, for instance, proof of municipal account,**

## **22. Petty cash purchases**

- (1) The conditions for the procurement of goods by means of petty cash purchases referred to in paragraph 30 (a) of this Policy, are that minor items are purchased for up to R1 000.00 ( One thousand Rand ) ( VAT Included) where it is impractical, impossible or not cost effective to follow the official procurement process.
  - (a) The Chief Financial Officer will authorize officials from his/ her department to keep petty cash registers and to grant refunds for cash purchases or allow cash advances.;
  - (b) Cash advances can only be granted for out of pocket expenses for delegated representatives of the municipality or upon a written quotation but in all instances a petty cash voucher should be approved by the related departmental head.;
  - (c) No toll gate fees or entertainment expenses are payable from petty cash; and
  - (d) a monthly reconciliation report from each manager 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.

## **23. Written quotations up to R5 000.00**

- (1) The conditions for the procurement of goods or services through written or quotations, are as follows:

- (a) Quotations must be obtained from at least one service 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 paragraph 33 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

#### **24. Formal written price quotations up to R30 000.00**

- (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 paragraph 33of 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.
  
- (2) A designated official referred to in subparagraph (1) (c) must within three days of the end of each month report to the chief financial officer on any

approvals given during that month by that official in terms of that subparagraph.

**25. Procedures for procuring goods or services through written or verbal quotations and formal written price quotations up to R200 000.00**

- (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 to submit quotations on a rotation basis;
  - (b) all requirements in excess of R30 000 (VAT included) that are to be procured by means of formal written price quotations must, in addition to the requirements of paragraph 38, be advertised for at least seven days on the website and an official notice board of the municipality;
  - (c) offers received must be evaluated on a comparative basis taking into account unconditional discounts;
  - (d) 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 subdelegation;
  - (e) 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;
  - (e) 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;

**26. 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 paragraph 28 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.

### **27. Process for competitive bidding**

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

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

- (1). The criteria to which bid documentation for a competitive bidding process must comply, must –
  - (a) take into account –
    - (i) the general conditions of contract 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;
- (b) include the preference points system to be used , goals as contemplated in the Preferential Procurement Regulations and evaluation and adjudication criteria, including any criteria required by other applicable legislation;
- (c) compel bidders to declare any conflict of interest they may have in the transaction for which the bid is submitted;
- (d) 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

- (e) stipulate that disputes must be settled by means of mutual consultation, mediation (with or without legal representation), or, when unsuccessful, in a South African court of law.

## **29. 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 subparagraph (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.;
- (2) The accounting officer may determine a closure date for the submission of bids which is less than the 30 or 14 days requirement, but only if such shorter period can be justified on the grounds of urgency or emergency or any exceptional case where it is impractical or impossible to follow the official procurement process.
- (3) Bids submitted must be sealed.

**30. Procedure for handling, opening and recording of bids**

- (1) The procedures for the handling, opening and recording of bids, are as follows:
  - (a) Bids–
    - (i) must be opened only in public;
    - (ii) must be opened at the same time and as soon as possible after the period for the submission of bids has expired; and
    - (iii) received after the closing time should not be considered and returned unopened immediately.
  - (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 subparagraph (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.

**31. 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.

**32. 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.

### **33. 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) a bid specification committee;
  - (b) a bid evaluation committee; and
  - (c) a bid adjudication committee;
79. The accounting officer appoints the members of each committee, taking into account section 117 of the Act; and
- (2) 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.
- (3) The accounting officer may apply the committee system to formal written price quotations.

### **34. Bid specification committees**

- (1) A bid specification committee must compile the 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 Organisation, or an authority accredited or recognised by the South African National Accreditation System with which the equipment or material or workmanship should comply;
  - (c) 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 indicate each specific goal for which points may be awarded in terms of the points system set out in the Preferential Procurement Regulations 2001; and
  - (g) must be approved by the accounting officer prior to publication of the invitation for bids in terms of paragraph 22 of this Policy.
- (3) 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.
- (4) No person, advisor or corporate entity involved with the bid specification committee, or director of such a corporate entity, may bid for any resulting contracts.

### **35. 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 points system
  - (b) evaluate each bidder's ability to execute the contract;
  - (c) check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not in arrears, and;
  - (d) submit to the adjudication committee a report and recommendations regarding the award of the bid or any other related matter.
- (2) A bid evaluation committee must as far as possible be composed of-
  - (a) officials from departments requiring the goods or services; and
  - (b) at least one supply chain management practitioner of the municipality .

### **36. Bid adjudication committees**

- (1) A bid adjudication committee must –
  - (a) consider the report and recommendations of the bid evaluation committee;  
and
  - (b) either –
    - (i) depending on its delegations, make a final award or a recommendation to the accounting officer to make the final award;  
or
    - (ii) make another recommendation to the accounting officer how to proceed with the relevant procurement.
- (2) A bid adjudication committee must consist of at least four senior managers of the municipality which must include –
  - (a) the chief financial officer or, if the chief financial officer is not available, another manager in the budget and treasury office reporting directly to the chief financial officer and designated by the chief financial officer; and
  - (b) at least one senior supply chain management 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.
- (2) The accounting officer must appoint the chairperson of the committee. If the chairperson is absent from a meeting, the members of the committee who are present must elect one of them to preside at the meeting.
- (3) 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.
- (4) 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 –
- (5)
  - (i) check in respect of the preferred bidder whether that bidder's municipal rates and taxes and municipal service charges are not in arrears, and;
  - (ii) notify the accounting officer.
- (b) The accounting officer may –
  - (i) after due consideration of the reasons for the deviation, ratify or reject the decision of the bid adjudication committee referred to in paragraph (a); and
  - (ii) if the decision of the bid adjudication committee is rejected, refer the decision of the adjudication committee back to that committee for reconsideration.
- (6) The accounting officer may at any stage of a bidding process, refer any recommendation made by the evaluation committee or the adjudication committee back to that committee for reconsideration of the recommendation.
- (7) The accounting officer must comply with section 114 of the Act

### **37. Procurement of banking services**

- (1) A contract for banking services –

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

### **38. 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.

### **39. Procurement of 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.

#### **40. 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.

#### **41. Proudly SA Campaign**

- (1) The municipality supports the Proudly SA Campaign to the extent that, all things being equal, preference is given to procuring local goods and services from:
  - Firstly – suppliers and businesses within the municipality or district;
  - Secondly – suppliers and businesses within the relevant province;
  - Thirdly – suppliers and businesses within the Republic.

#### **42. Appointment of consultants**

- (1) The accounting officer may procure consulting services provided that any Treasury guidelines in respect of consulting services are taken into account when such procurements are made.

- (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.

**43. 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 subparagraphs (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.

#### **44. 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 , 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 , 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 take into account –
  - (a) any comments submitted by the public; and
  - (b) any written comments and recommendations of the National Treasury or the relevant provincial treasury.
- (8) If any recommendations of the National Treasury or provincial treasury are rejected or not followed, the accounting officer must submit to the Auditor General, the relevant provincial treasury and the National Treasury the reasons for rejecting or not following those recommendations.
- (9) Such submission must be made within seven days after the decision on the award of the unsolicited bid is taken, but no contract committing the municipality to the bid may be entered into or signed within 30 days of the submission.

#### **45. 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; 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 subparagraphs (1)(b)(ii), (e) or (f) of this policy.

### ***Part 3: Logistics, Disposal, Risk and Performance Management***

#### **46. 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.

#### **47. 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 as follows:
- (2) Assets may be disposed of by –
  - (i) transferring the asset to another organ of state in terms of a provision of the Act enabling the transfer of assets;
  - (ii) transferring the asset to another organ of state at market related value or, when appropriate, free of charge;
  - (iii) selling the asset; or
  - (iv) destroying the asset.
- (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.

#### **48. Risk management**

- (1) The accounting officer must establish an effective system of risk management for the identification, consideration and avoidance of potential risks
  
- (2) Risk management must include –
  - (a) the identification of risks on a case-by-case basis;
  - (b) the allocation of risks to the party best suited to manage such risks;
  - (c) acceptance of the cost of the risk where the cost of transferring the risk is greater than that of retaining it;
  - (d) the management of risks in a pro-active manner and the provision of adequate cover for residual risks; and
  - (e) the assignment of relative risks to the contracting parties through clear and unambiguous contract documentation.

#### **49. 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 authorised supply chain management processes were followed and whether the objectives of this Policy were achieved.

### ***Part 4: Other matters***

**50. 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 subparagraph (1) be presumed to be in order.

**51. Provision of awards to the person in the service of the state**

- (1) No award will be made to the person
  - 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) who is an advisor or consultant contracted with the municipality .

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

- (2) 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.

### **53. Ethical standards**

- (1) A code of ethical standards is hereby established in accordance with paragraph 106 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 subparagraph (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 paragraph 47(1) of this Policy; or
    - (iii) any alleged breach of this code of ethical standards.
- (3) Declarations in terms of subparagraphs (106)(d) and (e) -
- (a) must be recorded in a register which the accounting officer must keep for this purpose;
  - (b) by the accounting officer must be made to the mayor of the municipality who must ensure that such declarations are recorded in the register.
- (4) The National Treasury's code of conduct must also be taken into account by supply chain management 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.
  - (c) In all cases, financial misconduct must be dealt with in terms of chapter 15 of the Act.

**54. Inducements, rewards, gifts and favours to [municipalities / municipal entities], 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 subparagraph (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.

#### **55. 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.

#### **56. 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.



**57. 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.
  
- (3) 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.
  
- (4) 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.
  
- (5) 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.
  
- (6) 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.

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

**58. Contracts providing for compensation based on turnover**

- (1) If a service provider acts on behalf of a municipality to provide any service or act as a collector of fees, service charges or taxes and the compensation payable to the service provider is fixed as an agreed percentage of turnover for the service or the amount collected, the contract between the service provider and the municipality must stipulate –
- (a) a cap on the compensation payable to the service provider; and
- (d) that such compensation must be performance based.

**59. Payment of sub-contractors or joint venture partners**

- (1) The chief financial Officer or an official designated by the chief financial officer may consent to the direct payment of sub contractors or joint venture partner by way of :
- (a). an approved cession or
- (b). an agreement for direct payment

**60. Central Supplier Database (CSD) Registration number**

**For all awards.**

- (1) The municipality shall make awards to suppliers that have been registered on the national treasury central database, who have central supplier database number only.

**61. Extending or varying a contract**

- (1) The accounting officer on the advice of the bid adjudication committee may resolve to extend or vary a contract
- (2) The accounting officer may not extend the contract
  - (a). more than once
  - (b). for a period exceeding the duration of the original agreement
- (c)** Accounting officers may expand or vary a contract by not more than 20% for construction related goods, services and/or infrastructure projects and 15% for all other goods and/or services of the original value of the contract. Furthermore, anything beyond the abovementioned thresholds must be reported to council.

## **62. Infrastructure Procurement Policy**

- (1) The municipality shall make all infrastructure procurement in line with Infrastructure procurement policy issued by National Treasury attached separately.

## **63. Bids Advertisement**

- (1) The municipality will advertise bids in either at least one local and national newspapers or on e -tender portal in line with any national treasury guidelines.

## **64. COST CONTAINMENT MEASURES**

- (1) The municipality shall implement cost containment measures in line with MFMA circular no.82 issued by National Treasury

**65. Commencement**

- (1) This Policy takes effect on the date it adopted by Council.