



**SCM POLICY**

**SCM MODEL POLICY**

# MAGARNEG LOCAL MUNICIPAL SUPPLY CHAIN MANAGEMENT POLICY LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003

Date of adoption: \_\_\_\_\_

Council resolves in terms of section 111 of the Local Government Municipal Finance Management Act (No. 56 of 2003), to adopt the following proposal as the Supply Chain Management Policy of Magareng Local municipality. **TABLE OF CONTENTS**

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## 1. DEFINITIONS

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

**“Municipality”** means the Name of municipality municipality

**“Municipal entity”** has the meaning assigned to it by Section 1 of the Municipal systems Act, 2000.

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

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

**“In the service of the state”** means to be -

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

**“Sole Provider”**-means a provider of specialized or exclusive goods/services who has a sole distribution / patent /manufacturing rights and copy rights.

**“Senior manager”** means an executive director appointed in terms of section 56 of the Municipal Systems Act, 2000 or an acting executive director appointed by the Accounting Officer.

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

**“All applicable taxes”** includes value-added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies;

**“The regulations”** means the Local Government: Municipal Finance Management Act, 2003, Municipal Supply Chain Management Regulations

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

**“B-BBEE STATUS LEVEL OF CONTRIBUTOR** – means the B-BBEE status of an entity in terms of a code of good practice on black economic empowerment issued in terms of section 9(1) of the Broad Based Black Economic Empowerment Act; “Black People”; has the meaning assigned to it in section 1 of the Broad Based Black Economic Empowerment Act;

**Black Designated Groups** – has the meaning assigned to it in the codes of good practice issued in terms of section 9(1) of the Broad Based Black Economic Empowerment Act;

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

**Co-Operative** – means a co-operative registered in terms of section 7 of the Co-operatives ACT, 2005 (Act No. 14 of 2005);

**Designated Group** means –

- a) black designated groups;
  - i. black people;
  - ii. women;
  - iii. people with disabilities, or
  - iv. small enterprises, as defined in section 1 of the National Small Enterprise Act,

(Act No. 102 of 1996);

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

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

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

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

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

**“People with Disabilities”** - has the meaning assigned to it in section 1 of the Employment Equity Act, 1998 (Act No. 55 of 1998);

**“Price”** – includes all applicable taxes less all unconditional discounts,

**“Proof of B-BBEE Status Level of Contributor”** – means –

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

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

**“Rural Area”** - means

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

**“Stipulated Minimum Threshold”** – means the minimum threshold stipulated in terms guidelines issued by NT and DTI

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

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

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

**“Accredited”** means goods / services that are officially recognized, are generally accepted or having a guaranteed quality.

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

**“Competitive bidding process”** means a competitive bidding process referred to in paragraph 14 (1) (d) of this Policy;

**“Accounting officer”** means the Accounting Officer referred to in section 60 of the Municipal Finance Management Act, No. 56 of 2003, in relation to a municipal entity, means the official referred to in section 93, and includes a person acting as the accounting officer.

**“Accredited Agent”** means a provider who is authorized to deliver certain goods / services and can be trading in a specific area, however, an accredited agent is not a sole provider.

**“Emergency procurement”** emergency cases are cases where immediate action is necessary in order to avoid dangerous or risky situation (life threatening) or misery such as floods or fires.

**“Exceptional / urgent cases”** exceptional cases are cases where early delivery is of critical importance and the invitation of competitive bids is either impossible or impractical. However a lack of proper planning should not be constituted as an urgent case subject to the approval of the Accounting Officer. The nature of the urgency and the details of the justifiable procurement must be recorded and the AO to approve.

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

**"Formal written price quotation"** means quotations referred to in paragraph 14 (1) (c) of this Policy;

**“Fruitless and wasteful expenditure”**- is defined in section 1 of the MFMA as follows: expenditure made in vain and would have been avoided had reasonable care been exercised;

**“Irregular expenditure”**- as contemplated in MFMA section 32 and refers to the;

- Municipal Finance Management Act, Act56 of 2003, and its regulations
- Municipal Systems Act, Act 32 of 2000, and its regulations
- Public Office-Bearers Act, Act20 of 1998, and its regulations; and
- The municipality’s supply chain management policy, and any by-laws giving effect to that policy.

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

**"List of accredited prospective providers"** means the list of accredited prospective providers which the municipality must be kept in terms of paragraph 16 of this policy;

**“Central Supplier Database (CSD)”**- is a single database to serve as the source of all supplier information for all spheres of government. The purpose of centralising government’s supplier database is to reduce duplication of effort and cost for both supplier and government while enabling electronic procurement processes.

**“e-Tender Publication Portal”** - facilitates all government institutions to publish their tenders, corrigendum and award notices on a single platform. This portal gives FREE access to public sector tender opportunities in South Africa.

**“Transversal contract”** means a contract arranged for more then one dept/mun or for more than one level of government eg. National and Provincial Government.

**"Treasury guidelines"** means any guidelines on supply chain management issued by the Minister in terms of section 168 of the Act;

**“Unauthorized expenditure”** - means any expenditure incurred by a municipality otherwise than in accordance with section 11 [3] and 15 of MFMA and includes-

- a) overspending of the total amount appropriated in the municipality’s approved

budget;

- b) overspending of the total amount appropriated for a vote in the approved budget;
- c) expenditure from a vote unrelated to the department or functional area covered by the vote;
- d) expenditure of money appropriated for a specific purpose, otherwise than for that specific purpose;
- e) spending of an allocation referred to in paragraph [b], [c] or [d] of the definition of “allocation” otherwise than in accordance with any conditions of the allocation; or
- f) a grant by the municipality otherwise than in accordance with the MFMA.

# CHAPTER 1

## IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY

### 2. SUPPLY CHAIN MANAGEMENT POLICY

2.1. 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;
  - Broad Based Black Economic Empowerment Act [B-BBEEA];
  - Corruption Act, 1998 – anti-corruption measures and practices;
  - Competition Law and Regulations;
  - Promotion of Administrative Justice Act, 2000;
  - National Archives of South Africa Act, 1996;
  - National Small Business Act;
  - Construction Industry Development Board Act, 2000 [Act no 38 of 2000].
  - Preferential Procurement Policy Framework Act
- e) does not undermine the objective for uniformity in supply chain management systems between organs of state in all spheres; and
- f) is consistent with national economic policy concerning the promotion of investments and doing business with the public sector.

2.2. The municipal entity must, in addition to complying with subparagraph (1), apply this Policy, to the extent determined by the parent municipality, in a way that and that is consistent with the supply chain management policy of the municipality.

2.3. 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.

2.4. This Policy, except where provided otherwise, does not apply in respect of the procurement of goods and services contemplated in section 110(2) of the Act, including

- a) water from the Department of Water Affairs or a public entity, another municipality or a municipal entity; and
- b) electricity from Eskom or another public entity, another municipality or a municipal entity.

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

3.1. 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.

3.2. 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.

3.3. When amending this supply chain management policy, the need for uniformity in supply chain practices, procedures and forms between organs of state in all spheres, particularly to promote accessibility of supply chain management

systems for small businesses must be taken into account.

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

4.1. The council hereby delegates all powers and duties to the accounting officer which are necessary to enable the accounting officer-

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

4.2. Sections 79 and 106 of the Act apply to the sub delegation of powers and duties delegated to an accounting officer in terms of subparagraph (1).

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

4.4. 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 28 of this Policy.

#### **5. SUB DELEGATIONS**

5.1. The accounting officer may in terms of section 79 or 106 of the Act sub delegate any supply chain management powers and duties, including those delegated to the accounting officer in terms of this Policy, but any such sub delegation must be

consistent with subparagraph (2) of this paragraph and paragraph 4 of this Policy.

5.2. The power to make a final award -

- a) above R 10 million (VAT included) may not be sub delegated by the accounting officer;
- b) above R2 million (VAT included), but not exceeding R10 million (VAT included), may be sub delegated but only to –
  - iii. the chief financial officer;
  - iv. a senior manager; or
  - v. a bid adjudication committee comprises of:
    - Chief Financial Officer
    - Head Infrastructure
    - Head Social Development
    - Head Institutional Development
- c) not exceeding R2 million (VAT included) may be sub delegated 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 comprises of:
    - Chief Financial Officer
    - Head Infrastructure
    - Head Social Development
    - Head Institutional Development

5.3. 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.

5.4. 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.

5.5. Subparagraphs (3) and (4) of this policy do not apply to procurements out of petty cash.

5.6. This paragraph may not be interpreted as permitting an official to whom the power to make final awards has been sub delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in paragraph 26 of this Policy.

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

## **6. OVERSIGHT ROLE OF COUNCIL**

No councillor may be a member of a bid committee or any other committee evaluating or approving quotations or bids nor attend any meeting of such committees as an observer.

6.1. The council reserves its right to maintain oversight over the implementation of this Policy.

6.2. 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 to the council of the municipality.

- ii. whenever there are serious and material problems in the implementation of this Policy, immediately submit a report to the council, who must then submit the report to the accounting officer of the municipality for submission to the council

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

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

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

7.1. A supply chain management unit is hereby established to implement this Policy.

7.2. The supply chain management unit operates under the direct supervision of the chief financial officer or an official to whom this duty has been delegated in terms of section 82 of the Act.

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

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

(1) The Accounting Officer and all other officials involved in the implementation of the SCM Policies and Procedures Manual of Magareng Local Municipality; must meet the prescribed competency levels as prescribed by National Treasury.

(2) Magareng Local Municipality must, for the above purposes, provide resources or opportunities for the training of officials referred, to meet the prescribed competency levels.

(3) The National Treasury, or the Provincial Treasury, or any other appropriate accredited body, may be requested to assist Magareng Local Municipality in the training of such officials.

(4) The training of officials involved in implementing this SCM Policies and Procedures Manual, should be in accordance with any guidelines on SCM training as issued by Treasury.

It is the responsibility of the Head of SCM Unit to ensure that SCM officials are adequately developed and capacitated.

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

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

9.1. This Policy provides systems for -

- iii. demand management;
- iv. acquisition management;
- v. logistics management;
- vi. disposal management;
- b) risk management; and
- vii. performance management.
- viii. asset management
- ix. Contract Management

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

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

10.1. 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 goal outlined in the Integrated Development Plan

10.2. 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.
- e) The municipality must compile a Procurement Plan containing all planned procurement for the financial year in respect of the procurement of goods, services and infrastructure projects which exceed R 300 000 [all applicable taxes included] per case as described in the Supply Chain Management Guide for Accounting Officers. The procurement plan must be finalized on the 1 July every year. The relevant information should preferably be furnished in the format contained in the MFMA Circular 62 (Annexure A and B).
- f) Demand management must translate the annual plan (SDBIP) and multi-year business plan (IDP) of Magareng Local Municipality into current and future needs. The process should consider the following as a minimum:
  - i) Understanding of the current and future needs;
  - ii) Ensuring that the need forms part of the IDP of the municipality;
  - iii) Consideration of the optimum method to satisfy the need e.g. possibility of procuring goods and services using transversal or ad hoc contracts;
  - v) Consideration of an analysis of previous expenditure in order to determine the manner in which the particular need was fulfilled in the past;
  - v) Indication of the frequency of the specified requirement;
  - vi) Assessment of available assets;
  - vii) Determination of the economic order quantity;
  - viii) Identification of lead and delivery times and;
  - ix) Planning for publication;

**f)** The demand management function is a cross functional exercise which necessitates end users involvement in SCM activities and this shall be performed by a Cross Functional Sourcing Team (CFST) that consists of individuals having the relevant expertise.

The CFST composition shall be as follows:

  - i) Head of Supply Chain
  - ii) Financial/budget manager
  - iii) Demand Management Specialist/ delegated official(s)
  - v) Relevant end-users from Clusters
- g) The Head of SCM Unit is responsible for the appointment of the CFST

## 11. FRAMEWORK FOR INFRASTRUCTURE PROCUREMENT

The framework for infrastructure procurement outlines the minimum infrastructure procurement policy requirements for municipal planning and implementation.

The strategic direction set in the Integrated Development Plan (IDP) informs the framework for infrastructure procurement. For example, procurement strategies must be aligned to the municipality's developmental and internal transformation needs, as specified in the IDP.

### 11.1. Minimum Requirement for Infrastructure Procurement

- a) Infrastructure procurement must be undertaken in accordance with all applicable Infrastructure Procurement related legislation and this Framework.
- b) Infrastructure procurement must be implemented in accordance with the institutional Supply Chain Management System, which promotes differentiated procurement for infrastructure.
- c) Infrastructure procurement must be implemented in accordance with the procurement gates prescribed in paragraph 11.
- d) The Accounting Officer must ensure that a budget is available for the duration of the project, in line with MFMA provisions for capital and operating budgets.
- e) The Accounting Officer must ensure that cash flow management processes are in place to meet payment obligations within the time periods specified in the contract.
- f) Procurement gates provided in paragraph 11 of this policy must be used, as appropriate, to:
  - i. Authorise commencement of activities that lead to the next control gate;
  - ii. Confirm conformity with requirements; and/or
  - iii. Provide information
- g) The authorisation to proceed to the next procurement gate must be given by a delegated person or body. The delegated person or body must be able

to apply relevant built environment knowledge and skill to achieve the intended results required at the relevant procurement gate. The level of detail contained in the documentation on which a decision to proceed to the next procurement gate is made, must be sufficient to enable an informed decision.

- h) The Accounting Officer must develop and implement effective and efficient emergency procurement procedures, including relevant approval delegation, in compliance with relevant legislation.
- i) The Accounting Officer must develop and implement an effective and efficient infrastructure disposal policy in line with the Municipal Asset Transfer Regulations. The institution may consider disposal strategies aligned to their internal disposal policy, prior to proceeding with the procurement strategy.
- j) The Accounting Officer must keep records of Procurement Gate Approvals, in a manual or electronic format, with the following minimum requirements:
  - i. Procurement gate.
  - ii. Delegated person/s or body.
  - iii. Date on which the approval request was received.
  - iv. Date on which the approval was actioned; and
  - v. Signature of the delegated person or body.
- k) All assets must be recorded in the municipal asset register as required by the GRAP standards.

#### 11.2. Infrastructure Procurement Gates (PG1)

- a) Initiate a procurement process.

***(See Annexure C: In order for the initiation to be completed, and the decision to proceed with procurement is effected; the Project Stage Deliverables for Stages 1 and 2 must be completed. In the case of Mega Projects (Projects in excess of R50 million) the Gateway Review requirements must be adhered to as stipulated within Annexure C)***

#### 11.2.1. Minimum Requirement for PG 1:

- i. Establish and clarify the procurement need, aligned to the municipality's development and transformation priorities specified in the IDP.
  - ii. Determine a suitable title for the procurement, to be applied as the project description.
  - iii. Prepare the broad scope of work for the procurement.
  - iv. Perform market analysis.
  - v. Estimate the financial value of proposed procurement and contract for budgetary purposes, based on the broad scope of work.
  - vi. Confirm the budget.
  - vii. Compliance with section 33 of the MFMA with respect to community and stakeholder consultation.
- b) PG 1 is complete when a designated person or body makes the decision to proceed/not to proceed, with the procurement of the infrastructure.

#### 11.3. Procurement Gate 2 for PG 2:

- a) Approve procurement strategy to be adopted.  
**(See Annexure C: In order for the procurement strategy to be adopted, and the decision to proceed with an approved procurement strategy; the Project Stage Deliverables for Stages 3 and 4 must be completed)**

##### 11.3.1. Minimum Requirement for PG 2:

- a) Develop a procurement strategy aligned to the institutional procurement strategy:
- i. Establish contracting and pricing strategy comprising of an appropriate allocation of responsibilities and risks; and the methodology for contractor payments.
  - ii. Identify service required for works.

- iii. Decide on contracting strategy.
- iv. Decide on pricing strategy.
- v. Decide on form of contract.
- vi. Establish opportunities for promoting preferential procurement in compliance with legislative provisions and the Construction Sector Code.

b) PG 2 is complete when a delegated person or body approves the procurement strategy that is to be adopted.

#### 11.4. Procurement Gate 3 (PG 3)

- a) Approve procurement documents.

##### 11.4.1. Minimum requirements for PG 3:

- b) Prepare procurement documents that are compatible with:
  - i. Approved procurement strategies.
  - ii. Project management design documentation.

c) PG 3 is complete when the Bid Specification Committee approves the procurement document.

#### 11.5. Procurement Gate 4 (PG 4)

- a) Confirm that cash flow processes are in place to meet projected contractual obligations.

##### 11.5.1. Minimum requirement for PG 4

11.5.1.1. Confirm that cash flow processes are in place to meet contractual obligations.

11.5.1.2. Establish control measures for settlement of payments within the time period specified in the contract.

- b) PG 4 is complete when a delegated person or body confirms in writing that cash flow processes are in place; and control measures are established for the procurement to take place.

## **PART 2: ACQUISITION MANAGEMENT**

### **12. SYSTEM OF ACQUISITION MANAGEMENT**

12.1. 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 as per SCM prescripts.
- e) that the preference point system used in accordance with this SCM Policy.
- f) that any Treasury guidelines on acquisition management are properly taken into account.
- g) Verification of bids in excess of R10 million

#### **Prior to advertisement:**

Verification by the CFO

The senior manager responsible for a vote must submit to the CFO

- proof that budgetary provision exists for the procurement of the goods/services and / or infrastructure projects;
  - any ancillary budgetary implications related to the bid;
  - any multi -year budgetary implications;

#### **Prior to the award of a bid**

Contracts above the value of R 10 million [all applicable taxes included] may only be awarded to the preferred bidder after the CFO has verified in writing that budgetary provision exists for the acquisition of the goods, infrastructure projects and /or services and that it is consistent with the Integrated Development Plan.

- h) Publication of awards in respect of advertised competitive bids [above the threshold value of R 300 000]

The following information on the successful bids must be placed on the municipal website:

- Contract numbers and description of goods, services or infrastructure projects;
- Names of the successful bidders and the total claimed for Specific goals;
- Brand names and dates for completion of contracts.

- i) Functionality

Adhere to the revised guidelines when functionality is included as a criterion in the evaluation of bids [National Treasury note issued in September 2010].

- (i) Clear indication must be given in bid documents if bids will be evaluated on functionality.
- (ii) Evaluation criteria must be objective.
- (iii) The weight of each criterion, applicable values and the minimum qualifying score [for each bid on its own merit] must be indicated in the bid documents.
- (iv) Bidders failing to achieve the qualifying score for functionality must be disqualified.
- (v) Bidders achieving the minimum qualifying score must be evaluated further in terms of points for price and specific goals.
- (vi) Must be determined separately for each tender; and
- (vii) May not be so-
  - low that it may jeopardise the quality of the required goods and services; or

- high that it is unreasonably restrictive.
- (viii) Points scored for functionality must be rounded off to the nearest two decimal places.

- 12.2. When procuring goods or services contemplated in section 110(2) of the Act must make public the fact that it procures such goods and services otherwise than through its supply chain management system, including -
- a) the kind of goods or services; and
  - b) the name of the supplier.

### **13. Framework for Infrastructure Procurement**

The framework for infrastructure procurement outlines the minimum infrastructure procurement policy requirements for municipal planning and implementation. The strategic direction set in the Integrated Development Plan (IDP) informs the framework for infrastructure procurement. For example, procurement strategies must be aligned to the municipality's developmental and internal transformation needs, as specified in the IDP.

#### **13.1. Procurement Gate 5 (PG 5)**

- a) Solicit tender offers.

##### **13.1.1. Minimum requirements for PG 5**

- (i) Invite contractors to submit tender offers.
- (ii) Receive tender offers.
- (iii) Record tender offers.
- (iv) Safeguard tender offers.

- b) PG 5 is complete when tender offers received are recorded and safeguarded by a delegated person from the SCM unit.

#### **13.2. Procurement Gate 6 (PG 6)**

- a) Evaluate tender offers premised on undertakings and parameters established in procurement documents.

13.2.1. Minimum Requirement for PG 6:

- (i) Determine whether tender offers are complete.
  - (ii) Determine whether tender offers are responsive.
  - (iii) Evaluate tender submissions.
  - (iv) Review minimum compliance requirements for each tender.
  - (v) Perform a risk analysis.
  - (vi) Prepare a report on tender offers received, and on their achievement of minimum compliance.
- b) PG 6 is complete when the chairperson of the Bid Evaluation Committee approves the BEC report.

13.3. Procurement Gate 7 (PG 7)

- a) Award the contract.

13.3.1. Minimum Requirement for PG 7:

- (i) Bid adjudication committee review of the BEC evaluation report.
  - (ii) Bid Adjudication Committee makes an award.
  - (iii) Accounting Officer Approval of the tender process.
  - (iv) Notify successful tenderer and unsuccessful tenderers of the outcome.
  - (v) Sign contract document.
  - (vi) Formally accept tender offer.
- b) PG 7 is complete when the Accounting Officer, or the Bid Adjudication Committee where delegated, confirms that the tenderer has provided evidence of complying with all requirements stated in the tender data and formally accepts the tender offer in writing, and issues the contractor with a signed copy of the contract.

## 14. RANGE OF PROCUREMENT PROCESSES

14.1. Goods and services may only be procured by way of-

<b>Description</b>	<b>Value (VAT inclusive)</b>	<b>Advertisement</b>
Petty cash purchases	Transaction up to the value of R 2000 (SCM no longer has physical cash but generates an official order.)	Request one quotation through email.
Written quotation	R 2000 to R 30 000 (Minimum three quotations)	Request a minimum of three quotations through email.
Formal written price quotation	Above R 30,000 to R 300,000 (7 days advertisement quote)	Advertised on the municipal website. May be advertised on E-tender upon re-advertisement and special cases.
Competitive bidding process	Above R300 000 (Tender)	Advertised on the municipal website, CSD e-tender, local newspaper,

14.2. The accounting officer may, in writing-

- a) lower, but not increase, the different threshold values specified in subparagraph (1); or
- b) direct that-
  - (ii) formal written price quotations be obtained for any specific procurement of a transaction value lower than R 10 000[all taxes included]; or
  - (iii) a competitive bidding process be followed for any specific procurement of a transaction value lower than the competitive bidding thresholds specified in sub regulation (1)(c)(i) to (iii).”.

14.3.

- a) 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.
- b) 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.

## 15. GENERAL PRECONDITIONS FOR CONSIDERATION OF WRITTEN QUOTATIONS OR BIDS

15.1. 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;
- (iv) registered on Central Supplier Database(CSD) with a tax compliant status;
- (v) check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not in arrears for more than three [3] months; or if the bidder lives in the rural area, he or she should get proof of residence from the chief of the village of the area. Arrangement on Municipal and taxes account (more than 90 days) can only be accepted provided that the service provider has submitted a creditable and original stamped letter by the municipality to state that an arrangement has been made to pay the outstanding service charges, can a service provider be considered to tender.
- (vi) If the suppliers are not residing in this municipality, but offer their services from any other municipality, the same applies. It should be established if they are not in arrears in their own municipality.
- (vii) requirements for construction and engineering related bids should be awarded according to CIDB regulations;
- (viii) The CIDB Act requires that all projects need to be registered with the CIDB;
- (ix) Before an award is done to a contractor, the contractor's CIDB grading must be confirmed with the CIDB website;

(x) The CIDB grading designation is as follows:

Grading designation	Less than or equal to
1	R 500 000
2	R 1 000 000
3	R 3 000 000
4	R 6 000 000
5	R 10 000 000
6	R 20 000 000
7	R 60 000 000
8	R 200 000 000
9	No Limit

a) has authorised the municipality to obtain a tax clearance from the South African Revenue Services that the provider's tax matters are in order; and [the tax compliant status be verified on the Central Supplier Database(CSD)] and

b) has indicated -

- (i) whether he or she is in the service of the state, or has been in the service of the state in the previous twelve months;
- (ii) if the provider is not a natural person, whether any of its directors, managers, principal shareholders or stakeholder is in the service of the state, or has been in the service of the state in the previous twelve months; or
- (iii) whether a spouse, child or parent of the provider or of a director, manager, shareholder or stakeholder referred to in subparagraph (ii) is in the service of the state, or has been in the service of the state in the previous twelve months.

## 16. LISTS OF ACCREDITED PROSPECTIVE PROVIDERS

16.1. The accounting officer must -

- a) utilise the National Central Supplier Database (NCSDB) to source accredited service providers of goods and services that must be used for procurements through formal written price quotations and competitive bids; and
  - b) invite prospective service providers of goods and services to apply for evaluation and listing as accredited prospective service providers for subcontracting purposes; and
  - c) dis-allow 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.
  - d) Ensure that suppliers may update their CSD status continuously;
  - e) Ensure that the CSD is compiled per commodity and per type of service.
  - f) Utilization of web based national central supplier database - the CSD has been fully effective as from 1<sup>st</sup> July 2016.
- a) Use the CSD supplier number starting with (MAAA) which is auto generated by the Central Database System after successful registration and validation of the prospective provider as mandatory requirement as part of listing criteria for accrediting prospective provider in line with Section 14(1)(b) of the Municipal Supply Chain Management Regulations.
  - b) The CSD will automatically validate the following registration documents for Municipalities
    - i. Confirmation and status of Business Registration Documents
    - ii. Proof of Bank Account Registration
    - iii. Tax compliance status
    - iv. Employee in the service of state as defined in the Municipal SCM Regulations with information only available in the PERSAL system at this time, namely National and Provincial officials
    - v. Identity Documentation
    - vi. 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 accounts.

## **17. PETTY CASH PURCHASES**

17.1. The conditions for the procurement of goods by means of petty cash purchases referred to in paragraph 14 (1) (a) of this Policy, are as follows –

- a) council determine the terms on which a manager may delegate responsibility for petty cash to an official reporting to the manager;
  - b) council determine the maximum number of petty cash purchases or the maximum amounts per month for each manager;
  - c) council determine any types of expenditure from petty cash purchases that are excluded, where this is considered necessary; 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.
- No item that is an approved stores item may be purchased by means of a petty cash transaction.
  - Petty cash should not be used to purchase the following items: fuel, payroll related expenses and other expenses which can and should have been planned in advance for bulk purchases.
  - No fixed asset regardless of value may be purchased through petty cash

## **18. FORMAL WRITTEN PRICE QUOTATIONS –**

Offers above R30 000 (all applicable taxes included) must be awarded based on compliance with specifications, conditions of contract, ability, capacity and capability to deliver the required goods and/or services and lowest price provided that the accounting officer may direct, in appropriate cases, that the applicable provisions of the Preferential Procurement Regulations be applied in respect of the calculation of preference points for price;

Prior to the award of a contract with a price in excess of R10 000, the designated official must verify the status of recommended bidders (including their directors(s), owners(s) or trustee(s) by checking the Data Base of Restricted Suppliers maintained by National Treasury in order to ensure that no recommended bidder or any of its directors/owners/trustees are listed as companies or persons prohibited from doing business with the public sector;

A call for quotations in terms of the preceding paragraphs must be in writing and contain a specification for the goods and/or services to be procured as well as details of the preference points system to be used in adjudicating quotations;

18.1. 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 are listed on Central Supplier Database
- b) One Strip and Quote Quotation will be obtained from any Accredited Dealership for all Municipal vehicles that needs, parts, repairs and or services.
- 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.

18.2. 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.

## **19. PROCEDURES FOR PROCURING GOODS OR SERVICES THROUGH FORMAL WRITTEN PRICE QUOTATIONS**

19.1. The procedure for the procurement of goods or services through formal written price quotations, is as follows:

- a) 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 17(19), 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 formal written price quotations accepted by an official acting in terms of a sub delegation;

- 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;
- f) acceptable offers, which are subject to the preference points system (PPPFA and this SCM Policy), must be awarded to the bidder who's offer is according to specifications, has the ability to deliver and is compliant with all the other requirements and scored the highest points.
- g) Minimum requirements for proper record keeping must be complied with.

## **20. COMPETITIVE BIDS**

A senior manager responsible for a vote must submit the under-mentioned information to the chief financial officer prior to the publication of any public invitation of bids in respect of procurements estimated to exceed R300 000 and above (all taxes included):

- (i) proof that budgetary provision exists for the procurement concerned;
- (ii) details of any ancillary budgetary implications related to the bid concerned;
- (iii) details of any multi-year budgetary implications associated with a project which will be undertaken over a period of more than one year as well as details of the anticipated expenditure per financial year.

- 20.1. Goods or services above a transaction value of R300 000 (VAT included) and long term contracts may only be procured through a competitive bidding process, subject to paragraph 12 (2) and 15 of this Policy.
- 20.2. No requirement for goods or services above an estimated transaction value of R300 000 (VAT included), may deliberately be split into parts or items of lesser value merely for the sake of procuring the goods or services otherwise than through a competitive bidding process.
- 20.3. The 80 / 20 principle is applicable; 80 points for price and 20 points for specific goal as per advertisement and or MBD 6.1.

20.4. The 80/20 point system is applicable from R30 000 [all taxes included] up to R50 million [all taxes included]

20.5. The 90/10 point system is applicable to bids invited exceeding R 50 million [all taxes included]

20.6. The following fomula will be used to calculate points for the following thresholds:

80/20 Preference point system for acquisition of goods or services for rand value equal to or above R30 000 and up to R50 million

$$Ps = \frac{80(1-Pt - P \text{ min})}{P \text{ min}}$$

Where-

Ps = Points scored for price of tender under consideration;  
Pt = Price of tender under consideration; and  
Pmin = Price of lowest acceptable tender

90/10 Preference point system for acquisition of goods or services for rand value above R50 million

$$Ps = \frac{90(1-Pt - P \text{ min})}{P \text{ min}}$$

Where-

Ps = Points scored for price of tender under consideration;  
Pt = Price of tender under consideration; and  
Pmin = Price of lowest acceptable tender

20.7. The specification committee will make proposals if functionality points need to be used and the evaluation committee will approve a variation in the point system for a specific bid.

20.8. For construction procurements the CIDB Act and Regulations are to be used for quotations/ bids.

## 21. PROCESS FOR COMPETITIVE BIDDING

21.1. The procedures for the following stages of a competitive bidding process are as follows:

- a) Compilation of bidding documentation as detailed in paragraph 21(23).
- b) Public invitation of bids as detailed in paragraph 22(24).
- c) Site meetings or briefing sessions as detailed in paragraph 22(24).
- d) Handling of bids submitted in response to public invitation as detailed in paragraph 23(25).
- e) Evaluation of bids as detailed in paragraph 28(30).
- f) Award of contracts as detailed in paragraph 29(31).
- g) Administration of contracts
  - (i) After approval of a bid, the accounting officer and the bidder must enter into a written agreement.

21.2. Evaluation of bids that scored equal points

In the event that two or more bids have scored equal total, the successful bid must be the one that scored the highest points for specific goals as outlined in the PPPFA policy

If two or more bids have equal points, including equal preference points for specific goals, the successful bid must be the one scoring the highest points for functionality, if functionality is part of the evaluation process.

In the event that two or more bids are equal in all respects, the award must be decided by drawing lots.

21.3. Cancellation and re-invitation of bids

- (i) cancellation of tender can be due to material irregularities.
- (ii) Magareng Local municipality may cancel a tender for the second time, only with the approval of the relevant treasury.

21.4. Awarding of contracts

A contract must be awarded to the bidder who scored the highest total number of points in terms of the preference point system. In exceptional circumstances

a contract may, on reasonable and justifiable grounds be awarded to a bidder that did not score the highest number of points. The reasons for such a decision must be approved and recorded for audit purposes and must be defensible in a court of law.

#### 21.5. Sale and letting of assets

In instances where assets are sold or leased, by means of a bidding process, the bid must be awarded to the bidder with the highest price

#### 21.6. Proper record keeping

- (i) Original legal copies of written contracts agreements should be kept in a secure place for reference purposes.

### **22. BID DOCUMENTATION FOR COMPETITIVE BIDS**

22.1. The criteria to which bid documentation for a competitive bidding process must comply, must-

a) take into account -

- the general conditions of contract and any special conditions of contract, if specified;
- any Treasury guidelines on bid documentation; and  
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 this SCM Policy 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 R 10 million (VAT included), require bidders to furnish-

- (i) if the bidder is required by law to prepare annual financial

statements for auditing, their audited annual financial statements-

- for the past three years; or
  - since their establishment if established during the past three years;
- (ii) a certificate signed by the bidder certifying that the bidder has no undisputed commitments for municipal services towards a municipality or other service provider in respect of which payment is overdue for more than 30 days;
- (iii) particulars of any contracts awarded to the bidder by an organ of state during the past five years, including particulars of any material 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 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.
- f) The Accounting Officer reserves the right to stipulate such a dispute to be settled utilizing a court of law preferably within the municipal boundaries or as close as possible to the municipal boundaries

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

23.1. 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 include for;
  - (i) **GOODS AND SERVICES:**  
Advertisement of Bids and the Publication of notices in respect of Awards Cancelled Bids, Verification and Extension of existing contracts on the e-Tender Publication Portal and Government Tender Bulletin; and
  - (ii) **WORKS AND INFRASTRUCTURE:**  
Advertisement of Bids and the Publication of notices in respect of Awards, and cancellation of bids on the CIDB i-Tender.
- 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 R 10 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 or the bid document uploaded on the e-tender portal; and
  - (iii) date, time and venue of any proposed site meetings or briefing sessions;

23.2. The accounting officer may determine a closure date for the submission of bids on the grounds of urgency or emergency or any exceptional case where it is impractical or impossible to follow the official procurement process.

23.3. Bids submitted must be sealed.

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

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

24.1. 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.

The designated official opening received bids must -

- record in a register to be provided for this purposes, all bids received before the closing time or period for the submission of same and such register shall contain as least the following information in addition to such information as may be prescribed in terms of section 75 of the Act:
  - the reference number of the bid concerned;
  - the description of the relevant goods, services or works project to be procured;
  - the names of all bidders;

## **25. NEGOTIATIONS WITH PREFERRED BIDDERS**

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

- a) does not allow any preferred bidder a second or unfair opportunity;
- b) is not to the detriment of any other bidder; and
- c) does not lead to a higher price than the bid as submitted.
- d) upon approval to negotiate, the AO/AA must appoint a cross functional negotiation team, with one member appointed to be team leader.
- e) the negotiation team leader must ensure that all members of the negotiating team are clear on the negotiation strategy and desired outcomes.

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

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

26.1. 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.

26.2. 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.

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

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

27.1. 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;

27.2. The accounting officer appoints the members of each committee, taking into account section 117 of the Act; and

27.3. A neutral or independent observer, appointed by the accounting officer, must attend or oversee a committee when this is appropriate for ensuring fairness and promoting transparency.

27.4. The committee system must be consistent with -

a) paragraph 28, 29, 30 and 31 of this Policy; and

b) any other applicable legislation.

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

## **28. BID SPECIFICATION COMMITTEES**

28.1.

The Accounting Officer / Authority is responsible for the appointment of bid committees, and such appointment must be in writing:

1. A bid specification committee must compile the specifications for the procurement of goods or services for infrastructure delivery in accordance with MFMA Circular 77 by the municipality.

2. Determining Specifications/Terms of Reference:

(a) The Bid Specification Committee shall draw up clear and unbiased specifications and terms of reference.

(b) Must take account of any accepted standards such as those issued by Standards South Africa, the International Standards Organisation, or an authority accredited by or recognised by the South Africa National Accreditation System with which the equipment or material or workmanship should comply.

(c) Where possible, it can be described in terms of performance required rather than in terms of descriptive characteristics for design.

(d) May not create trade barriers in contract requirements in the forms of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labelling of conformity

- certification.
- (e) Include clear evaluation criteria prior to the invitation of the quotation/bid as offers may only be evaluated according to the criteria stipulated in the quotation/bid document.
  - (f) It is the responsibility of the end user through the facilitation of the Cross- Functional Team and the Bid Specification Committee to compile detailed and clear specifications with which to source proposals.
  - (g) Specifications should be based on relevant characteristics and/or performance requirements. Reference to brand name, catalogue numbers, or similar classifications to be avoided. If it is necessary to quote a brand name, the words “or equivalent” should be added after the reference.
  - (h) The specification should commit the acceptance of office for goods which have similar characteristics, and which provide performance at least equivalent to those specified. The quality required should not be over-specified to the extent that it will be impossible for others to offer such a product.
  - (i) Must indicate the specific goal for each tender before advertisement takes place in line with the Preferential Procurement Regulation 2022 and as set out in the Preferential Procurement Policy 2024.
  - (j) The Bid Specification Committee must determine the Bid advert days in line with Supply Chain Policy.
  - (k) The Bid Specification Committee may, after due consideration of the circumstances around the already advertised bid, consider extension for the closing of the bid as may be requested by the service provider.
  - (l) The BSC is responsible for the approval of Bid specifications prior to publication of the invitation for bids in terms of this Policy.
  - (m) The specification committee will indicate on a bid document if functionality criteria points need to be used.
  - (n) 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 their own to preside at the meeting provided they form a quorum.
3. A bid specification committee must be composed of 50% + 1 (one) of the appointed members, for a period as determined by the Accounting Officer; the Chairperson; The end user (depending on

the type of specification); SCM practitioner; official from Finance / Budget Office (BTO) and a Secretariat of the BSC and other officials from any cross functional section depending on the number of members.

4. All committee members must declare their interests during the introduction of the meeting either in writing or virtual.
5. BSC members must complete the code of conduct on an annual basis.
6. The Line Managers will be invited as and when their items are presented at the Bid Specification Committee for their presentation.
7. Internal or external advisors with no voting rights can form part of the Bid Specification Committee and the number of specialists is not restricted.
8. A legal expert may be required to provide advisory support to the committee.
9. The Chairperson attending the meeting shall ensure that evaluations are compliant with policy, procedure and process.
10. The specification committee will approve the functionality points that must be used.
11. No person, advisor or corporate entity involved with the bid specification and procurement documentation committee, or director of such a corporate entity, may bid for any resulting contracts.
12. Secretariat of the BSC shall fulfill the professional Secretariat function.
13. For general goods and services that are frequently procured, a specifications library may be compiled, and such specifications revised annually.

### **Exemption From Compliance to Regulation 29**

1. Subject to the conditions in paragraph 2, municipalities and municipal entities are exempted from compliance with regulations 4(3) and 29(2) of the Regulations insofar as the regulations-
  - a) prohibit the delegation or sub-delegation of any supply chain management powers or duties to a person who is not an official of the municipality or municipal entity or to a committee which is not exclusively composed of officials of the municipality or municipal entity; and
  - b) require a bid adjudication committee to consist of four senior managers.

## Conditions

2. When applying paragraph 1, a municipality or municipal entity must implement the following conditions:
  - a) For municipalities with four senior managers approved in their organogram but filled less than four and the posts are funded and are not subject to a moratorium emanating from implementing cost containment measures, the municipality or municipal entity will be given six to 12 months from the date of this exemption to fill the specific positions subject to the bid adjudication committee still having a senior supply chain management practitioner and a technical expert in the relevant field as contemplated in regulation 29(2)(ii) and (iii);
  - b) Where it is not viable for the posts in subparagraph (a) above to be filled, yet there are vacant positions, the municipality or municipal entity may consider appointing an official in an acting capacity to fulfil the role of senior manager in those instances;
  - c) For those municipalities or municipal entities with less than four senior managers approved in their organogram, they may utilise senior managers from neighbouring municipalities in accordance with section 88 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998); and
  - d) Senior Managers who are members of the bid adjudication committee will be allowed to sub-delegate, in writing, their responsibilities to competent staff in cases where they cannot attend specific sittings of the committee.

***NB: This does not apply to municipalities with all 4 senior management positions filled.***

## 29. BID EVALUATION COMMITTEES

### 29.1.

The Accounting Officer / Authority is responsible for the appointment of bid committees, and such appointment must be in writing:

1. Bid Evaluation Committee for infrastructure (construction), **goods and services** must:
  - (a) Evaluate bids in accordance with:
    - (i) The specifications for a specific procurement; and
    - (ii) The point system must be set out in the supply chain management policy of municipality in terms of

regulation 27(2) (f) and as prescribed in terms of the Preferential Procurement Policy 2024.

- (iii) The committee will evaluate each bidder in line with the specific goal setup in the tender document as set out.
- (b) Evaluate each bidder's technical and financial ability to execute the contract.
- (c) Check that the bid under the evaluation is compliant as per bid document.
- (d) Check in respect of the recommended bidder whether municipal rates and taxes are not in arrears for more than 90 days.
- (e) Check in respect of the recommended bidder if there is a valid lease agreement stating who is responsible for the municipal
- (f) mit to the adjudication committee a report and recommendations regarding the award of the bid or any other related matter to the adjudication committee for consideration and/or approval.
- (g) The BEC may, if necessary, authorise communication where clarification is required with bidders prior to recommending the tender to BAC for consideration of award.
- (h) Such communication must go to all bidders if all bidders are affected but in case where one bidder is required to clarify certain information, only that bidder must be communicated with, and such communication must be recorded in the minutes.
- (i) Any communication authorised by the BEC shall be in the form of a written request for clarification on any matter affecting the evaluation of the bid offer.
- (j) A copy of the notice, together with a transmission verification report/proof of posting, shall be submitted to the BEC and be kept for record purposes.
- (k) The BEC members are the custodians of the minutes, although SCM are safe keeping the minutes, and the BEC is accountable to the Municipal Manager, and the Chairperson must attach his or her signature thereto.
- (l) The Chairperson attending the meeting shall ensure that evaluations are compliant with policy, procedure, and process.
- (m) All committee members must declare their interests during the introduction of the meeting either in writing or virtually.
- (n) The BEC must ensure that the recommended bidder(s) are not listed in the National Treasury's Register for tender

- Defaulters or the list of restricted suppliers; and
- (o) The BEC must ensure the declaration of interest (MBD 4) is completed and signed by the bidder and no bid will be accepted by people in the service of the state.
  - (p) All bidders must complete the declaration of interest accurately and honestly, failure to do so may lead to disqualification.
  - (q) The current Compliant Central Supplier database report (CSD).
  - (r) CSD report, BBBEE certificate accredited by South African National Accreditation System (SANAS) or Sworn Affidavit for EMEs and QSEs or BBBEE certificate for EMEs and start-up enterprises; to claim points for specific goals.
  - (s) Medical Certificate where a specific goal for disability is applicable
- (2) A bid evaluation committee composition:
- (a) 50% + 1 (one) as appointed by the Accounting Officer, for the period stated and the quorum is constituted by the **Chairperson, SCM practitioner, official from the Finance division and three (3) other officials** from any cross-functional section, depending on the number of members (user departments).
  - (b) Officials, including an internal specialist from the department, who require the goods and/or services.
  - (c) 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 provided they form a quorum
  - (d) Members of the committee will be appointed for a period determined by the Accounting Officer.
  - (e) All committee members must declare their interests during the introduction of the meeting either in writing or virtual.
  - (f) BEC members must complete the code of conduct on an annual basis.
  - (g) Secretariat of the BEC shall fulfill the professional Secretariat function.
  - (h) A legal expert may be required to provide advisory support to the committee.
  - (i) An official may not be a member of the Bid Evaluation Committee and the Adjudication Committee for the same bid.

## 30. BID ADJUDICATION COMMITTEES

30.1.

The accounting Officer / Authority is responsible for appointments of bid committees, and such appointment must be in writing:

1. A bid adjudication committee for infrastructure (construction), **goods and services must**
  - (a) Consider the report and recommendations of the bid evaluation committee; and either:
    - (i) verify that the procurement process which was followed complies with the provisions of this document.
    - (i) confirm that the report is complete and addresses all considerations necessary to make a recommendation.
    - (ii) depending on its delegations, make a final award or a recommendation to the Accounting Officer to make the final award; or
    - (iii) make another recommendation to the Accounting Officer for the award and on how to proceed with the relevant procurement.
  - (b) A BAC shall ensure that:
    - (i) All bids have been evaluated in a compliant manner.
    - (ii) Disqualifications are justified and that valid and accountable reasons/motivation were furnished for passing over of bids.
    - (iii) Scoring has been fair, consistent and correctly calculated and applied, and
    - (iv) Declarations of interest have been taken into account.
  - (d) A BAC shall ensure, before recommending or awarding a bid, that the bid represents the best value available to the Municipality in terms of price, functionality, local content and specific goals.
  - (e) consider commercial risks and identify any risks that have been overlooked or fall outside of the scope of the report which warrants investigate prior to taking a final decision.
2. A bid adjudication committee composition:  
**must consist of at least four senior managers of the municipality which must include**
  - (i) At least one senior supply chain management practitioner who is an official of the municipality; and another 4 senior

- managers.
- (ii) A technical expert in the relevant field who is an official of the Municipality, if the Municipality has such an expert.
3. Outside technical experts may form part of the adjudication process in case; they must leave the meeting after advice has been given. Only the standing committee members can be involved in final deliberations and recommendations for final approval.
  4. A legal expert may be required to provide advisory support to the committee.
  5. The risk and compliance officer attending the meeting shall ensure that evaluations are compliant to policy, procedure and process.
  6. All committee members must declare their interests during the introduction of the meeting either in writing or virtual.
  7. BAC members must complete the code of conduct on an annual basis.
  8. The Accounting Officer must appoint the chairperson of the committee. If the chairperson is absent from a meeting, the members of the committee who are present must elect one of them to preside at the meeting.
  9. An official may not be a member of the Bid Evaluation Committee and the Adjudication Committee for the same bid.
  10. (a) If the bid adjudication committee decides to award a bid other than the one recommended by the bid evaluation committee, the bid adjudication committee must prior to awarding the bid:
    - (i) check in respect of the preferred bidder whether that bidder's municipal rates and taxes and municipal service charges are not in arrears, and.
    - (ii) notify the Accounting Officer.
  - (b) The Accounting Officer may:
    - (i) after due consideration of the reasons for the deviation, ratify or reject the decision of the adjudication committee referred to in section (1a); 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 and
    - (iii) refer the report back to the evaluation committee for their reconsideration or make an award of a tender with or without conditions if the value is below R10 million. If above R10 million, make recommendation to the Accounting Officer.

11. The Accounting Officer may, at any stage of a bidding process, refer to any recommendation made by the evaluation committee or the adjudication committee back to that committee for reconsideration of the recommendation.
12. The Accounting Officer must comply with section 114 of the MFMA within 10 working days.
13. The Accounting Officer shall appoint an alternative bid committee member for continuity where the appointed member is unavailable.
14. The BAC committee shall consider proposals regarding the variation, cancellation, amendment, extension or transfer of contracts that have been awarded.
15. The BAC committee shall consider the merits of an unsolicited offer and make a recommendation for the Accounting Officer
16. BAC committee shall report to the Accounting Officer any recommendation made to award a contract to a bidder other than the bidder recommended by the evaluation committee, giving reasons for making such a recommendation.
17. The BAC recommendations must be submitted to the AC after the BAC meeting and the AC on a need's basis may refer to the internal audit for quality assurance/ Audit risks to audit the bidding process before the awards in line with circular 62.
18. The BAC committee shall not make a recommendation for an award of a contract or order if the recommended bidder or framework contractor has:
  - (i) made a misrepresentation or submitted false documents in competing for the contract or order; or
  - (ii) been convicted of a corrupt or fraudulent act in competing for any contract during the past five years.
19. The BAC committee may on justifiable grounds and after following due process, disregard the submission of any bidder if that bidder or any of its directors, members
20. BAC must check the CIDB status of the bidder before an award.
21. BAC can only make an award if the bidder's CIDB status is active.

### **31. HIGH-LEVEL RESPONSIBILITIES OF BID SECRETARIAT**

1. Secretariats of the Bid committees shall fulfil the professional Secretariat function.
2. Prepare submission packages, agendas, signed minutes of bid committees' meeting.
3. Ensure timeous distribution of packs to committees.
4. Coordinate meetings to take place in an orderly fashion.
5. Communicate submissions and decisions.
6. Ensure that documentation is aligned with recommendations from the committees.
7. Keep record of all minutes and recordings and follow up on actions items.
8. Manage proper record keeping of the committees.
9. Ensure that minutes are properly filed for audit purposes.

### **32. PROCUREMENT OF BANKING SERVICES**

32.1. 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.

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

32.3. The closure date for the submission of bids may not be less than 60 days from the date on which the advertisement is placed in a newspaper in terms of paragraph 24(1). Bids must be restricted to banks registered in terms of the Banks Act, 1990 (Act No. 94 of 1990):

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

33.1. 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.

33.2. Both parties must enter into a written agreement to regulate the services rendered by, and the payments to be made to, SITA.

33.3. 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).

33.4. 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.

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

34.1. 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.

34.2. Subparagraphs (1)(c) and (d) do not apply if-

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

34.3. The municipality will implement this procurement method using the guidelines provided in the Instruction Note 25/08/2020 and its implementation guide.

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

- 35.1. 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.
- 35.2. 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.

### **36. APPOINTMENT OF CONSULTANTS**

- 36.1. 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.
- 36.2. Consultancy services must be procured through competitive bids if
- a) the value of the contract exceeds R300 000 (VAT included); or
  - b) the duration period of the contract exceeds one year.
- 36.3. 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.
- 36.4. 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.

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

37.1. 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.

37.2. 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.

37.3. Subparagraph (2) does not apply to the procurement of goods and services contemplated in paragraph 12 (2) of this policy.

37.4. Management of expansion or variation of orders against the original contract

- (i) Contracts may be expanded or varied 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 above mentioned thresholds must be reported to council. Any expansion or variation in excess of these thresholds must be dealt with in terms of the provisions of Section 116 (3) of the MFMA which will be regarded as an amendment of the contract.
- (ii) The contents of this paragraph are not applicable to transversal

contracts, facilitated by the relevant treasuries on behalf of municipalities and specific term contracts. The latter refers to orders placed as and when commodities are required and at the time of awarding contracts, the required quantities were unknown.

### **38. UNSOLICITED BIDS**

- 38.1. In accordance with section 113 of the Act there is no obligation to consider unsolicited bids received outside a normal bidding process.
- 38.2. 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.
- 38.3. If the accounting officer decides to consider an unsolicited bid that complies with subparagraph (2) of this policy, the decision must be made public in accordance with section 21A of the Municipal Systems Act, together with -
- a) its 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.
- 38.4. The accounting officer must submit all written comments received pursuant to subparagraph (3), including any responses from the unsolicited bidder, to the National Treasury and the relevant provincial treasury for comment.
- 38.5. 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.

- 38.6. A meeting of the adjudication committee to consider an unsolicited bid must be open to the public.
- 38.7. 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.
- 38.8. 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.
- 38.9. 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.

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

- 39.1. 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, 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 wilfully 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).

39.2. 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.

39.3. The accounting officer [who may delegate the task to the CFO] must, as part of complying with section 62[1][d] of the MFMA set up and maintain a register of

Unauthorised, Irregular, Fruitless and Wasteful Expenditures. The aim with the register is also to serve as a tool for recording all unauthorised, irregular, fruitless and wasteful expenditures and for tracking progress in dealing with the consequences flowing from such expenditures until all the issues that gave rise to the expenditures are properly resolved in accordance with the legal framework. Please also consult National Treasury MFMA Circular 68 dated 10 May 2013 in this regard.

#### 39.4. REMEDIES

The regulation has been enhanced to include sub-regulations related to:

- (i) Giving tenderer an opportunity to make a submission;
- (ii) Informing the relevant treasury in writing of any actions taken against the tenderer;
- (iii) The responsibilities of the treasury after receiving documents from the organ of state concerned.

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

#### **40. LOGISTICS MANAGEMENT**

40.1. 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.
- h) the maintenance and administration of term contracts is co-managed with acquisition management for general goods / services.

#### **41. DISPOSAL MANAGEMENT**

41.1. 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 to be determined by council.

41.2. Assets may be disposed of by –

- a)
  - (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
- b) The accounting officer must stipulate that -
  - (i) immovable property is sold only at market related prices except when the public interest or the plight of the poor demands otherwise;

- (ii) 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;
  - (iii) in the case of free disposal of computer equipment, the provincial department of education must first be approached to indicate within 30 days whether any of the local schools are interested in the equipment; and
  - (iv) in the case of disposal of firearms, the National Conventional Arms Control Committee has approved any sale or donation of firearms to any person or institution within or outside the Republic;
- c) provide that -
- (i) immovable property is let at market related rates except when the public interest or the plight of the poor demands otherwise;
  - (ii) all fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property are annually reviewed;
- d) where assets are traded in for other assets, the highest possible trade-in price is negotiated.

## **42. RISK MANAGEMENT**

42.1. The criteria for the identification, consideration and avoidance of potential risks in the supply chain management system, are to be determined by council

42.2. 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.

### **43. PERFORMANCE MANAGEMENT**

43.1. 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**

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

44.1. No award above R 15 000 [all taxes included], 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.

44.2. Before making an award to a person the accounting officer must first check with SARS whether that person's tax matters are in order.

44.3. 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.

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

45.1. Irrespective of the procurement process followed, no award may be made to a person in terms of this Policy -

- a) who is in the service of the state;
- b) if that person is not a natural person, of which any director, manager, principal shareholder or stakeholder is a person in the service of the state;  
or
- c) a person who is an advisor or consultant contracted with the municipality.

## **46. AWARDS TO CLOSE FAMILY MEMBERS OF PERSONS IN THE SERVICE OF THE STATE**

46.1. The accounting officer must ensure that the notes to the annual financial statements disclose particulars of any award of more than R2000 to a person who is a spouse, child or parent of a person in the service of the state, or has been in the service of the state in the previous twelve months, including -

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

## **47. PANEL OF SERVICE PROVIDERS**

1. A panel of service providers is appointed on functionality, such as consultants, legal services and contractors for maintenance, and the prices are sourced as and when services are required.
2. The SCM requests the price from the pool/panel of appointed Service Providers through an RFQ from the closed tender.
3. The requests for each pool/panel are registered and allocated a project number in the register.
4. The request should be published for a minimum of 5 calendar days.
5. The appointment of a pool or panel for RFQ should be on a rotational basis, if there is a standardized rate or the rating price is included in the document in order to promote fairness of distribution of work or equal participation within the panels or pools.
6. If there is no standardized rate for the project, the tender will be awarded to the highest scoring responsive bidder.
7. No cooling-off period is applicable for any tenders. Refer to the PANEL OF RULES GUIDELINES

## **48. ETHICAL STANDARDS**

48.1. A code of ethical standards as set out in subparagraph (2) is hereby established for officials and other role players in the supply chain management system of the municipality in order to promote -

- a) mutual trust and respect; and

- b) an environment where business can be conducted with integrity and in a fair and reasonable manner.

**Note:**

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

- 48.2. 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 49(1) of this Policy; or
- (iii) any alleged breach of this code of ethical standards.

48.3. Declarations in terms of subparagraphs (2)(d) and (e) -

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

48.4. 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.

48.5. 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.

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

49.1. 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.

49.2. 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.

49.3. Subparagraph (1) does not apply to gifts less than R350 in value.

## **50. SPONSORSHIPS**

50.1. 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.

## **51. OBJECTIONS AND COMPLAINTS**

51.1. 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.

## **52. RESOLUTION OF DISPUTES, OBJECTIONS, COMPLAINTS AND QUERIES**

52.1. 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.

- 52.2. The accounting officer, or another official designated by the accounting officer, is responsible for assisting the appointed person to perform his or her functions effectively.
- 52.3. The person appointed must ~
- a) strive to resolve promptly all disputes, objections, complaints or queries received; and
  - b) submit monthly reports to the accounting officer on all disputes, objections, complaints or queries received, attended to or resolved.
- 52.4. A dispute, objection, complaint or query may be referred to the relevant provincial treasury if -
- a) the dispute, objection, complaint or query is not resolved within 60 days; or
  - b) no response is forthcoming within 60 days.
- 52.5. If the provincial treasury does not or cannot resolve the matter, the dispute, objection, complaint or query may be referred to the National Treasury for resolution.
- 52.6. This paragraph must not be read as affecting a person's rights to approach a court at any time.

### **53. CONTRACTS PROVIDING FOR COMPENSATION BASED ON TURNOVER-**

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

## **54. PROCUREMENT CONTROL MEASURES UNDER COVID**

- 54.1. During the national state of disaster accounting officers must consider the impact any supply chain disruptions may have on finance management operations and develop control measures to address such.
- 54.2. When accounting officers consider invoking provisions in contracts related to “force majeure” for suppliers, legal advice must be sought on a case-by-case basis and accounting officers must guard against the risk of possible fruitless and wasteful expenditure due to payments made for services not rendered or goods not supplied.
- 54.3. Internal controls within the supply chain management (SCM) environment must be reviewed in terms of administrative controls and delegations to ensure required authorisations are done by relevant officials.
- 54.4. Internal control measures must be established to consider and approve any COVID-19 related procurement in the municipality or municipal entity. Prior to generating an order in relation to COVID-19 related procurement, the document must be referred to any other relevant function within the municipality or municipal entity to conduct checks to prevent any possible irregular expenditure.
- 54.5. Emergency requirements may be addressed through the emergency procurement provisions as stipulated in SCM Regulations and MFMA Circulars — Preventing and Combatting Abuse in the SCM System and reiterated further in the National Treasury Circulars.
- 54.6. MFMA Circulars on Preventing and Combating Abuse in the Supply Chain Management System states that accounting officers must only deviate from inviting competitive bids in cases of emergency and sole supplier status. These deviations do not require the approval of the relevant treasuries. It is understood that emergency procurement may occur when there is a serious and unexpected situation that poses an immediate risk to health, life, property or environment which calls on a municipality or municipal entity to action and there is insufficient time to invite competitive bids.
- 54.7. The emergency procurement provisions provide for accounting officers to procure the required goods or services by other means, such as price

quotations or negotiations, in terms of SCM Regulations. The reasons must be recorded and approved by the accounting officer or his/her delegate.

54.8. Section 114 of the MFMA and council policies require accounting officers to report within 10 working days to the relevant treasury and the Auditor-General all cases where goods and services were procured from bidders other than the one recommended. The report must include the description of the goods or services, the name/s of the supplier/s, the amount/s involved and the reasons for dispensing with the prescribed competitive bidding process.

54.9. The principles of fairness, equity, transparency, competitiveness and cost-effectiveness must be maintained. Emergency procurement must be limited to goods, services and works that addresses the programme of preventing the spread of the COVID-19 virus.

#### **55. CIRCULARS AND GUIDELINES**

<b>EFFECTIVE YEAR</b>	<b>DESCRIPTION</b>	<b>CIRCULAR NO</b>
<b>01 July 2021</b>	<b>Local Government Framework for Infrastructure Delivery and Procurement Management</b>	<b>106</b>
<b>18 July 2016</b>	<b>E-Tender Portal</b>	<b>83</b>
<b>November 2016</b>	<b>Cost Containment Measures</b>	<b>82</b>
<b>18 March 2016</b>	<b>Central Supplier Database</b>	<b>81</b>
<b>26 Oct 2015</b>	<b>Model SCM Policy for infrastructure Procurement and Delivery Management</b>	<b>77</b>
<b>13 May 2014</b>	<b>Systems of Delegations</b>	<b>73</b>
<b>10 May 2013</b>	<b>Unauthorised, Irregular, Fruitless and Wasteful Expenditure</b>	<b>68</b>
<b>20 Aug 2012</b>	<b>SCM Enhancing Compliance and Accountability</b>	<b>62</b>
<b>03 Sep 2010</b>	<b>Supply Chain Management – Amended Guidelines on Functionality for Evaluation of Bids</b>	<b>53</b>
<b>30 July 2010</b>	<b>Supply Chain Management – Prohibition of Restrictive Practices</b>	<b>52</b>

17 March 2008	Supply Chain Management – Checking the prohibition status of recommended bidders	46
25 May 2007	Supply Chain Management – Restriction of Suppliers	43
20 Oct 2006	Supply Chain Management Implementation Checklist	40
28 June 2006	Supply Chain Management Issues	34
27 March 2006	Supply Chain Management Issues	33
31 Jan 2006	Supply Chain Management Issues	29
03 Oct 2005	Supply Chain Management Guide and Bid Documents	25
20 April 2005	Supply Chain Management Training	16
25 Aug 2005	Model Policy Supply Chain Management	22

**56. GUIDELINES**


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|----|--|
| 1. | <b>Supply Chain Management: A Guide for Accounting Officers of Municipalities and Municipal Entities</b> |
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**57. COMMENCEMENT**

57.1. This Policy takes effect on 01 July 2026

Implementation of the Policy

DATE OF ADOPTION: 28 MAY 2026

SIGNATURE OF MUNICIPAL MANGER: 

DATE: 28 MAY 2026