

FRANCES BAARD DISTRICT MUNICIPALITY



SUPPLY CHAIN MANAGEMENT POLICY

DATE OF ADOPTION: 27 March 2024

DATE OF IMPLEMENTATION: 27 March 2024

SIGNATURE OF SPEAKER: Kiel

DATE: 22 July 2024

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

Council resolves in terms of section 111 of the Local Government Municipal Finance Management Act (MFMA) (No. 56 of 2003), to adopt the following proposal of the Supply Chain Management Policy of the district Municipality with amendment of regulations regarding supply chain management.

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## **Definitions**

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

“**Accounting officer**” means the Accounting Officer referred to in section 60 of the MFMA, in relation to a municipal entity, means the official referred to in section 93, and includes a person acting as the accounting officer.

“**Acceptable Tender**” mean any tender which, in all respects, complies with the specification and conditions of tender as set out in tender document.

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

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

“**Black people**” has the meaning assigned to it in section 1 of the Broad-Based Black Economic Empowerment Act (No. 53 of 2003).

“**Black designated groups**” has the meaning assigned to it in the codes of good practice issued in terms of section 9 (1) of the BBBEEA.

“**Designated group**” means black designated groups, black people, women, people with disabilities; or small enterprises which are enterprises, owned, managed, and controlled by previously disadvantaged persons and which is overcoming business impediments arising from the legacy of apartheid.

“**Disability**” means in respect of a person, a permanent means, in respect of a person, a permanent impairment of a physical, intellectual, or sensory function, which results in restricted, or lack of, ability to perform an activity in the manner, or within the range, considered normal for a human being.

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

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

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

“**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.

“**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 Accounting Officer must approve.

“**Exempted Micro Enterprise (EME)**” means

- 1) Exempted micro enterprise in terms of a code of a good practice on black economic empowerment issued in terms of section 9 (1) of the BBBEEA.
- 2) An entity with an annual turnover of R10million or less.

**“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 12 (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;

**“highest acceptable tender”** means a tender that complies with all specifications and conditions of tender and that has the highest price compared to other tenders;

**"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;

**“Irregular expenditure”**- means-

[a] expenditure incurred by a municipality or municipal entity in contravention of, that is not in accordance with, a requirement of the MFMA, or that is not in accordance with, a requirement of the MFMA, and which has not been condoned in terms of section 170;

[b] been condoned in terms of that Act;

[c] expenditure incurred by a municipality in contravention of, or that is not in accordance with, a requirement of the Public Office-Bearers Act, 1998[ACT No. 20 of 1998]; or

[d] expenditure incurred by a municipality or municipal entity in contravention of, or that is not in accordance with, a requirement of the supply chain management policy of the municipality or entity or any of the municipality’s by-laws giving effect to such policy; and which has not been condoned in terms of such policy or by-law, but excludes expenditure by a municipality which falls within the definition of “unauthorised expenditure.”

In this context; “expenditure” refers to any use of municipal funds that is in contravention of the following legislation:

-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.

**“Large Enterprises”** is a company with an annual turnover in excess of R50 million.

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

**“Locality”** means the local suppliers and/or service providers that reside within the Municipal area

**“Lowest acceptable tender”** means a tender that complies with all specifications and conditions of tender and that has lowest price compared to other tenders;

**"List of accredited prospective providers"** refers to the list of accredited prospective providers which the municipality must keep in terms of paragraph 14 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.

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

**“Municipality”** refers to the Frances Baard District 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 -

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

**“price”** means an amount of money tendered for goods or services, and includes all applicable taxes less all unconditional discounts;

**“Proof of B-BBEE status level of contributor”** means the B-BBEE status level certificate issued by an authorised body or person

- 1) a sworn affidavit as prescribed by the B-BBEE Codes of Good Practice; or
- 2) any other requirement prescribed in terms of the Broad-Based Black Economic Empowerment Act.

**“Proof of locality”** means a —

- 1) municipal account in the name of the tenderer not older than 90 days;
- 2) lease agreement where the tenderer is the lessee; or
- 3) an official letter from the bank confirming the registered business address of the tenderer;

**“Qualifying Small Enterprise (QSE)”** is a company with a turnover between R10 million and R50 million

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

**“SMME”** means small, medium and micro enterprises namely Exempted Micro Enterprises and Qualifying Small Enterprises

**“specific goals”** means specific goals as contemplated in section 2(1)(d) of the Act which may include contracting with persons, or categories of persons, historically disadvantaged by unfair discrimination on the

basis of race, gender and disability including the implementation of programmes of the Reconstruction and Development Programme as published in Government Gazette No. 16085 dated 23 November 1994;

**“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);

**“The Regulations”** means the Local Government: Municipal Finance Management Act, 2003, Municipal Supply Chain Management Regulations published by Government Notice 10684 of 2017;

**“Transversal contract”** means a contract arranged for more than one department/municipality or for more than one level of government e.g. 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 15 or 11 [3] 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;

[cl] 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 [cl] 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.

**“Unforeseen and unavoidable expenditure”** is discussed in section 29 of the MFMA and reads as follows:

[1] The mayor of a municipality may in an emergency or other exceptional circumstances authorize unforeseen and unavoidable expenditure for which no provision was made in an approved budget.

[2] Any such expenditure-

[a] must be in accordance with any framework that may be prescribed;

[b] may not exceed a prescribed percentage of the approved annual budget;

[c] must be reported by the mayor to the municipal council at its next meeting; and

[d] must be appropriated in an adjustments budget.

[3] If such adjustments budget is not passed within 60 days after the expenditure was incurred, the expenditure is unauthorised and section 32 applies.

**"Formal written price quotation"** means quotations referred to in paragraph 12 (1) (c) of this Policy.

**"Designated group"** means black designated groups, black people, women, people with disabilities; or small enterprises which are enterprises, owned, managed, and controlled by previously disadvantaged persons and which is overcoming business impediments arising from the legacy of apartheid.

**"Disability"** means in respect of a person, a permanent means, in respect of a person, a permanent impairment of a physical, intellectual, or sensory function, which results in restricted, or lack of, ability to perform an activity in the manner, or within the range, considered normal for a human being.

**"Large Enterprises"** is a company with an annual turnover in excess of R50 million.

**"highest acceptable tender"** means a tender that complies with all specifications and conditions of tender and that has the highest price compared to other tenders;

**"Locality"** means the local suppliers and/or service providers that reside within the Municipal area

**"lowest acceptable tender"** means a tender that complies with all specifications and conditions of tender and that has lowest price compared to other tenders;

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

**"Proof of B-BBEE status level of contributor"** means the B-BBEE status level certificate issued by an authorised body or person

- 3) a sworn affidavit as prescribed by the B-BBEE Codes of Good Practice; or
- 4) any other requirement prescribed in terms of the Broad-Based Black Economic Empowerment Act.

**"Proof of locality"** means a —

- 4) municipal account in the name of the tenderer not older than 90 days;
- 5) lease agreement where the tenderer is the lessee; or
- 6) an official letter from the bank confirming the registered business address of the tenderer;

**"Qualifying Small Enterprise (QSE)"** "is a company with a turnover between R10 million and R50 million

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

**"tender"** means a written offer in the form determined by the municipality in response to an invitation to provide goods or services through price quotations (transactions with a value above R10,000.00 up to R200,000.00, VAT inclusive), competitive tendering process or any other method envisaged in legislation;

**"tender for income-generating contracts"** means a written offer in the form determined by the municipality in response to an invitation for the origination of income-generating contracts through any method envisaged in legislation that will result in a legal agreement between the municipality and a third party that produces revenue for the municipality, and includes, but is not limited to, leasing and disposal of assets and concession contracts, excluding direct sales and disposal of assets through public auctions; and

**"the Act"** means the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000).

**"the municipality"** refers to Frances Baard District Municipality.

## CHAPTER 1

### IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY

#### Supply Chain Management policy

2. (1) All officials and other role players in the Supply Chain Management system of the district 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;
    - 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;
    - Reconstruction and Development Programme as published in Government Gazette No. 16085 dated 23 November 1994; and
    - Revised Preferential Procurement Policy Regulations 2022.
  - (e) does not undermine the objective for uniformity in Supply Chain Management systems between organs of state in all spheres; and
  - (f) is consistent with national economic policy concerning the promotion of investments and doing business with the public sector.
- (2) This Policy applies when the district 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.

### **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 council.
  
- (2) If the Accounting Officer submits proposed amendments to the council that differs from the model policy issued by the National Treasury, the Accounting Officer must –
  - (a) ensure that such proposed amendments comply with the Regulations; and
  - (b) report any deviation from the model policy to the National Treasury and the relevant provincial treasury.
  
- (3) When amending this Supply Chain Management policy the need for uniformity in supply chain practices, procedures and forms between organs of state in all spheres, particularly to promote accessibility of Supply Chain Management systems for small businesses must be taken into account.

### **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.
  
- (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).

- (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 district municipality or to a committee which is not exclusively composed of officials of the district municipality;
- (4) This paragraph may not be read as permitting an official to whom the power to make final awards has been delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in paragraph 26 of this policy.

**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.

- (2) The power to make a final award –
  - (a) above R10 million (VAT included) may not be sub delegated by the Accounting Officer;
  - (b) above R2 million (VAT included), but not exceeding R10 million (VAT included), may be sub delegated only to –
    - (i) the chief financial officer;
    - (ii) a senior manager; or
    - (iii) a bid adjudication committee comprises of:
      - Chief Financial Officer ; and
      - Senior managers.

- (c) not exceeding R2 million (VAT included) may be sub-delegated
  - (i) the chief financial officer;
  - (ii) a senior manager; or
  - (iii) a manager directly accountable to the chief financial officer or a senior manager; or -
    - (iii) a bid adjudication committee comprises of:
      - Chief Financial Officer; and
      - Senior managers

(3) An official or bid adjudication committee to which the power to make final awards has been sub delegated in accordance with subparagraph (2) must, within five days of the end of each month, submit

to the official referred to in subparagraph {4} a written report containing particulars of each final award made by such official or committee during that month. Including-

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

(4) A written report referred to in subparagraph (3) must be submitted

(a) to the accounting officer, in the case of an award by -

- (i) the chief financial officer;
- (ii) a senior manager; or
- (iii) a bid adjudication committee of which the chief financial officer or a senior manager is a member: or

(b) to the chief financial officer or the senior manager responsible for the relevant bid.

In the case of an award by-

- (i) a manager referred to in subparagraph {2}{c}(iii); or
- (ii) a bid adjudication committee of which the chief financial officer or a senior manager is not a member.

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

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

(7) 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.

(8) No Supply Chain Management decision-making powers may be delegated to an advisor or consultant.

### **Oversight role of council**

6. (1) The council reserves its right to maintain oversight over the implementation of this policy.

(2) For the purposes of such oversight the Accounting Officer must –

- (i) within 30 days of the end of each financial year, submit a report on the implementation of this policy and the Supply Chain Management policy of

any municipal entity under the sole or shared control of the district municipality, to the council of the district municipality; and

(ii) when-ever there are serious and material problems in the implementation of this policy, immediately submit a report to the council.

(3) The Accounting Officer must, within 10 days of the end of each quarter, submit a report on the implementation of the Supply Chain Management policy to the Executive Mayor.

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

### **Supply Chain Management unit**

7. (1) A Supply Chain Management unit is hereby established to implement this policy.

(2) The Supply Chain Management unit operates under the direct supervision of the Chief Financial Officer or an official to whom this duty has been delegated in terms of section 82 of The Act.

### **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.

## CHAPTER 2

### SUPPLY CHAIN MANAGEMENT SYSTEM

#### Format of Supply Chain Management system

9. This policy provides systems for –
- (i) Demand management;
  - (ii) Acquisition management;
  - (iii) Logistics management;
  - (iv) Disposal management;
  - (v) Risk management;
  - (vi) Performance management;
  - (vii) Asset management; and
  - (viii) Contract Management.

#### *Part 1: Demand management*

#### 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 district municipality supports its operational commitments and its strategic goals outlined in the Integrated Development Plan (IDP).
- (2) The demand management system must –
- a. include timely planning and management processes to ensure that all goods and services required by the district 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 200 000 [all applicable taxes included] per case as described in the Supply Chain Management Guide for Accounting Officer. The procurement plan must be finalized on 01 July every year. The relevant information should preferably be furnished in the format contained in the MFMA Circular 62 (Annexure A and B).

- f. Also refer to National Treasury MFMA Circular 62.

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

### **System of acquisition management**

11. (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 district 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 National and Provincial prescripts [SCM Practice note 2, Explanatory notes: Revised quotation / bid forms]
- (e) that the preference point system used in accordance with the revised Preferential Procurement Policy Regulations of 16 January 2022.
- (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 200 000]

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 in accordance with the revised Preferential Procurement Policy

Regulations of 16 January 2022;

- 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 accordance with the revised Preferential Procurement Policy Regulations of 16 January 2022

(vi) Must be determined separately for each tender; and

May not be so:

- low that it may jeopardise the quality of the required goods and services; or

- high that it is unreasonably restrictive.

(vii) Points scored for functionality must be rounded off to the nearest two decimal places.

(2) When procuring goods or services contemplated in section 110(2) of The Act, the Accounting Officer must make public the fact that such goods or services are procured otherwise than through the municipality's chain management system, including:

(a) the kind of goods or services: and

(b) the name of the supplier.

## **Range of procurement processes**

12. (1) Goods and services may only be procured by way of –

a) petty cash purchases, up to a transaction value of R 2,000 (VAT included)

b) formal written price quotations for procurements of a transaction value over R2 000 up to R200 000 (VAT included); and

c) a competitive bidding process for–

(i) procurements above a transaction value of R200 000 (VAT included); and

(ii) the procurement of long term contracts.

(2) The Accounting Officer may, in writing–

a) lower, but not increase, the different threshold values specified in subparagraph (1); or

b) direct that –

(i) formal written price quotations be obtained for any specific procurement of a transaction value lower than R10 000; or

(ii) a competitive bidding process be followed for any specific procurement of a transaction value lower than R200 000.

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

### **General preconditions for consideration of written quotations or bids**

13. 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) a clearance certificate on municipal rates and taxes or municipal service charges in the name of the bidder or any of its directors to the district municipality

(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.

(ix) Requirements for construction and engineering related bids should be awarded according to CIDB regulations;

(x) The CIDB Act requires that all projects need to be registered with the CIDB;

(xi) Before an award is done to a contractor, the contractor's CIDB grading must be confirmed with the CIDB website;

(ix) The CIDB grading designation is as follows:

<b>Grading designation</b>	<b>Less than or equal to</b>
1	R 200 000
2	R 650 000
3	R 2 000 000
4	R 4 000 000
5	R 6 500 000
6	R 13 000 000

7	R	40 000 000
8	R	130 000 000
9		No Limit

(b) has authorised the district 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)]:

(c) has indicated –

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

#### **Lists of accredited prospective providers**

14. (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;

(b) at least once a year through newspapers commonly circulating locally, the website and any other appropriate ways, invite prospective providers of goods or services to register in the Central Supplier Database (CSD);

(c) invite prospective service providers of goods and services to apply for evaluation and listing as accredited prospective service providers for subcontracting purposes; and

(d) disallow the listing of any prospective provider whose name appears on the National Treasury's database as a person prohibited from doing business with the public sector;

(e) Suppliers may update their CSD status continuously; and

(f) CSD is compiled per commodity and per type of service.

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

(3) The list must be compiled per commodity and per type of service.

## Petty cash purchases

15.

- (1) The conditions for the procurement of goods by means of petty cash purchases referred to in paragraph 12 (1) (a) of this policy will be determined by the Chief Financial Officer; and
- (2) 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.

## Formal written price quotations

17. (1) The conditions for the procurement of goods or services through formal written price quotations are as follows:
- (a) Written quotations must be obtained in writing from at least three different providers whose names are listed on the Central Supplier Database;
  - (b) Quotations may be obtained from providers who are not listed, provided that such providers meet the listing criteria set out in paragraph 14(1)(b) and (c) of this policy;
  - (c) If it is not possible to obtain at least three quotations, the reasons must be recorded and approved by the Accounting Officer or an official designated by the Accounting Officer, and
  - (d) The Accounting Officer must record the names of the potential providers and their written quotations.
- (2) A designated official referred to in subparagraph (1) (c) must, within three days of the end of each month, report to the Chief Financial Officer on any approvals given during that month by that official in terms of that subparagraph.

## Procedures for procuring goods or services through formal written price quotations.

18. The procedure for the procurement of goods or services through formal written price quotations is as follows:
- (a) All requirements in excess of R30 000 up to R200 000 (VAT included) that are to be procured by means of formal written price quotations must, in addition to the requirements of paragraph 17, be advertised for at least seven days on the website and an official notice board of

the district municipality. The revised PPR 2022 prescripts are applicable, e.g. point system and status level verification certificates [score cards] must be applied in the adjudication process.

- (b) When using the list of accredited prospective providers, the Accounting Officer must promote on-going competition amongst providers by inviting providers to submit quotations on a rotation basis;
- (c) Accounting officer must take all reasonable steps to ensure that the procurement of goods and services through formal written price quotations is not abused;
- (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) Minimum requirements for proper record keeping must be complied with.
- (f) Offers received must be evaluated on a comparative basis taking into account unconditional discounts;
- (g) Offers below R30 000 (VAT included) must be awarded based on compliance to specifications and conditions of contract, ability and capability to deliver the goods and services and lowest price;
- (h) acceptable offers, which are subject to the preference points system (PPPFA and revised PPR 2022), 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.

### **Competitive bids**

19. (1) Goods or services above a transaction value of R200 000 (VAT included) may only be procured through a competitive bidding process, subject to paragraph 11(2) of this policy.
- (2) No requirement for goods or services above an estimated transaction value of R200 000 (VAT included), may deliberately be split into parts or items of lesser value merely for the sake of procuring the goods or services otherwise than through a competitive bidding process.
- (3) The 80 / 20 principle is applicable; 80 points for price and 20 points on the basis of specific goals. The points scored for price must be added to the points scored for points on the basis of specific goals to obtain the bidder's total points scored out of 100.

### **Process for competitive bidding**

20. The procedures for the following stages of a competitive bidding process are as follows:
- (a) Compilation of bidding documentation as detailed in paragraph 21;
  - (b) Public invitation of bids as detailed in paragraph 22;

- (c) Site meetings or briefing sessions as detailed in paragraph 22;
- (d) Handling of bids submitted in response to public invitation as detailed in paragraph 23;
- (e) Evaluation of bids as detailed in paragraph 28;
- (f) Award of contracts as detailed in paragraph 29;
- (g) Administration of contracts;
- (i) After approval of a bid, the Accounting Officer and the bidder must enter into a written agreement

### **Bid documentation for competitive bids**

- 21.** The criteria to which bid documentation for a competitive bidding process must comply, must –
- (a) take into account –
    - (i) the general conditions of contract and any special conditions of contract, if specified;
    - (ii) any Treasury guidelines on bid documentation; and
    - (iii) the requirements of the CIBD, in the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure;
  - (b) include the preference points system to be used, goals as contemplated in the revised Preferential Procurement Regulations and evaluation and adjudication criteria, including any criteria required by other applicable legislation;
  - (c) compel bidders to declare any conflict of interest they may have in the transaction for which the bid is submitted;
  - (d) if the value of the transaction is expected to exceed R10 million (VAT included), require bidders to furnish–
    - (i) if the bidder is required by law to prepare annual financial statements for auditing, their audited annual financial statements –
      - (aa) for the past three years; or
      - (bb) since their establishment if established during the past three years;
    - (ii) a certificate signed by the bidder certifying that the bidder has no undisputed commitments for municipal services towards a district 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 district municipality or municipal entity is expected to be transferred out of the Republic; and
- (e) stipulate that disputes must be settled by means of mutual consultation, mediation (with or without legal representation), or, when unsuccessful, in a South African court of law.
  - (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 a possible to the municipal boundaries.

### **Public invitation for competitive bids**

**22.** (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 district municipality or any other appropriate ways which include for:

- (i) Goods and services:

The 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:

The advertisement of bids and the publication of notices in respect of awards, and cancellation of bids on the CIDB e-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 R10 million (VAT included), or which are of a long term nature, or 14 days in any other case, from the date on which the advertisement is placed in a newspaper, subject to subparagraph (2) of this policy;

- (ii) a statement that bids may only be submitted on the bid documentation provided by the district municipality; and

- (iii) date, time and venue of any proposed site meetings or briefing sessions.

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

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

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

23. 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.

### **Negotiations with preferred bidders**

24. (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;
  - (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; and
  - (e) the negotiation team leader must ensure that all members of the negotiating team are clear on the negotiation strategy and desired outcomes.
- (2) Minutes of such negotiations must be kept for record purposes.

### **Two-stage bidding process**

25. (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 (3) years.
- (2) In the first stage technical proposals on conceptual design or performance specifications should be invited, subject to technical, as well as commercial clarifications and adjustments.
- (3) In the second stage final technical proposals and priced bids should be invited.

### **Committee system for competitive bids**

26. (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;
- (2) The Accounting Officer appoints the members of each committee, taking into account section 117 of The Act; and
- (3) A neutral or independent observer, appointed by the Accounting Officer, must attend or oversee a committee when this is appropriate for ensuring fairness and promoting transparency.
- (4) The committee system must be consistent with –
- (a) paragraph 27, 28 and 29 of this policy; and
  - (b) any other applicable legislation.
- (5) The Accounting Officer may apply the committee system to formal written price quotations.

### **Bid specification committees**

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

- (b) must take account of any accepted standards such as those issued by South Africa Bureau of Standards, the International Standards Organisation, or an authority accredited or recognized by the South African National Accreditation System with which the equipment or material or workmanship should comply;
- (c) must, where possible, be described in terms of performance required rather than in terms of descriptive characteristics for design;
- (d) may not create trade barriers in contract requirements in the forms of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labelling of conformity certification;
- (e) may not make reference to any particular trade mark, name, patent, design, type, specific origin or producer unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the word “equivalent”;
- (f) must indicate each specific goal for which points may be awarded in terms of the points system set out in the Preferential Procurement Regulations 2017; and
- (g) must be approved by the Accounting Officer prior to publication of the invitation for bids in terms of paragraph 22 of this policy.

(3) A bid specification committee must be composed of one or more officials of the district municipality, preferably the manager responsible for the function involved, and may, when appropriate, include external specialist advisors.

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

### **Bid evaluation committees**

28. (1) A bid evaluation committee must –

- (a) evaluate bids in accordance with –
  - (i) the specifications for a specific procurement; and
  - (ii) the points system set out in terms of paragraph 27(2)(f).
- (b) evaluate each bidder’s ability to execute the contract;
- (c) check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not in arrears, and;
- (d) submit to the adjudication committee a report and recommendations regarding the award of the bid or any other related matter.

(2) A bid evaluation committee must as far as possible be composed of-

- (a) officials from departments requiring the goods or services; and

- (b) at least one Supply Chain Management practitioner of the district municipality.

### **Bid adjudication committees**

29. (1) A bid adjudication committee must –
- (a) consider the report and recommendations of the bid evaluation committee; and
  - (b) either –
    - (i) depending on its delegations, make a final award or a recommendation to the Accounting Officer to make the final award; or
    - (ii) make another recommendation to the Accounting Officer on how to proceed with the relevant procurement.
- (2) A bid adjudication committee must consist of at least four senior managers of the district municipality which must include –
- (a) the Chief Financial Officer or, if the Chief Financial Officer is not available, another manager in the budget and treasury office reporting directly to the Chief Financial Officer and designated by the Chief Financial Officer; and
  - (b) at least one senior Supply Chain Management practitioner who is an official of the district municipality; and
  - (c) a technical expert in the relevant field who is an official, if such an expert exists. Outside technical experts can also be co-opted, they must leave the meeting after advice has been given. Only standing committee members can be involved in final deliberation and recommendations or final approval.
- (3) The Accounting Officer must appoint the chairperson of the committee. If the chairperson is absent from a meeting, the members of the committee who are present must elect one of them to preside at the meeting.
- (4) Neither a member of a bid evaluation committee, nor an advisor or person assisting the evaluation committee, may be a member of a bid adjudication committee.
- (5) (a) If the bid adjudication committee decides to award a bid other than the one recommended by the bid evaluation committee, the bid adjudication committee must prior to awarding the bid –
- (i) check in respect of the preferred bidder whether that bidder's municipal rates and taxes and municipal service charges are not in arrears; and
  - (ii) notify the Accounting Officer.
- (b) The Accounting Officer may –

- (i) after due consideration of the reasons for the deviation, ratify or reject the decision of the bid adjudication committee referred to in paragraph (a); and
- (ii) if the decision of the bid adjudication committee is rejected, refer the decision of the adjudication committee back to that committee for reconsideration.

(6) The Accounting Officer may at any stage of a bidding process, refer any recommendation made by the evaluation committee or the adjudication committee back to that committee for reconsideration of the recommendation.

(7) The Accounting Officer must comply with section 114 of The Act within 10 working days.

(8) For the purposes of continuity and not to delay meetings, the Accounting Officer may also appoint any official to temporarily replace members that are absent from meetings due to illness, leave, etc. The Accounting Officer may also decide whether or not such an official will have the same powers as committee members.

### **Procurement of banking services**

30. (1) A contract for banking services –
- (a) must be procured through competitive bids;
  - (b) must be consistent with section 7 or 85 of The Act; and
  - (c) may not be for a period of more than five years at a time.
- (2) The process for procuring a contract for banking services must commence at least nine months before the end of an existing contract.
- (3) The closure date for the submission of bids may not be less than 60 days from the date on which the advertisement is placed in a newspaper in terms of paragraph 22(1). Bids must be restricted to banks registered in terms of the Banks Act, 1990 (Act No. 94 of 1990).

### **Procurement of IT related goods or services**

31. (1) The Accounting Officer may request the State Information Technology Agency (SITA) to assist with the acquisition of IT related goods or services through a competitive bidding process.
- (2) Both parties must enter into a written agreement to regulate the services rendered by, and the payments to be made to SITA.
- (3) The Accounting Officer must notify SITA together with a motivation of the IT needs if:

- (a) the transaction value of IT related goods or services required in any financial year will exceed R50 million (VAT included); or
  - (b) the transaction value of a contract to be procured whether for one or more years exceeds R50 million (VAT included).
- (4) If SITA comments on the submission and the district municipality disagree with such comments, the comments and the reasons for rejecting or not following such comments must be submitted to the council, the National Treasury, the relevant Provincial Treasury and the Auditor General.

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

32. (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 a 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.

#### **Procurement of goods necessitating special safety arrangements**

33. (1) The acquisition and storage of goods in bulk (other than water), which necessitate special safety arrangements, including gasses and fuel, should be avoided wherever possible.
- (2) Where the storage of goods in bulk is justified, such justification must be based on sound reasons, including the total cost of ownership, cost advantages and environmental impact and must be approved by the Accounting Officer.

#### **Proudly SA Campaign**

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

#### **Appointment of consultants**

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

- (2) Consultancy services must be procured through competitive bids if:
  - (a) the value of the contract exceeds R200 000 (VAT included); or
  - (b) the duration period of the contract exceeds one year.
  
- (3) In addition to any requirements prescribed by this policy for competitive bids, bidders must furnish particulars of –
  - (a) all consultancy services provided to an organ of state in the last five years; and
  - (b) any similar consultancy services provided to an organ of state in the last five years.
  
- (4) The Accounting Officer must ensure that copyright in any document produced, and the patent rights or ownership in any plant, machinery, thing, system or process designed or devised, by a consultant in the course of the consultancy service is vested in the district municipality.

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

36. (1) The Accounting Officer may –
- (a) dispense with the official procurement processes established by this policy and to procure any required goods or services through any convenient process, which may include direct negotiations, but only –
    - (i) in an emergency;
    - (ii) if such goods or services are produced or available from a single provider only;
    - (iii) for the acquisition of special works of art or historical objects where specifications are difficult to compile;
    - (iv) acquisition of animals for zoos and/or nature and game reserves; or
    - (v) in any other exceptional case where it is impractical or impossible to follow the official procurement processes; and
  - (b) ratify any minor breaches of the procurement processes by an official or committee acting in terms of delegated powers or duties which are purely of a technical nature.
- (2) The Accounting Officer must record the reasons for any deviations in terms of subparagraphs (1) (a) and (b) of this policy and report them to the next meeting of council and include as a note to the annual financial statements.
- (3) Subparagraph (2) does not apply to the procurement of goods and services contemplated in paragraph 11(2) of this policy.

#### **(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.

#### **Unsolicited bids**

37. (1) In accordance with section 113 of The Act there is no obligation to consider unsolicited bids received outside a normal bidding process.

(2) The Accounting Officer may decide in terms of section 113(2) of The Act to consider an unsolicited bid, only if –

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

(3) If the Accounting Officer decides to consider an unsolicited bid that complies with subparagraph (2) of this policy, the decision must be made public in accordance with section 21A of the Municipal Systems Act, together with:

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

(4) The Accounting Officer must submit all written comments received pursuant to subparagraph (3), including any responses from the unsolicited bidder to the National Treasury and the relevant Provincial Treasury for comment.

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

### **Combating of abuse of Supply Chain Management system**

- 38.** (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 district municipality, or to any other district municipality or municipal entity, are in arrears for more than three months; or
    - (ii) who during the last five years have failed to perform satisfactorily on a previous contract with the district 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 district 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).

(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.

(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.

(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; and
- iii. The responsibilities of the treasury after receiving documents from the organ of state concerned.

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

#### **Logistics management**

39. 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.

#### **Disposal management**

40. (1) The criteria for the disposal or letting of assets, including unserviceable, redundant or obsolete assets, subject to sections 14 and 90 of The Act, are as follows:

- (i) by way of a competitive bidding process in terms of the revised Preferential Procurement Policy Regulations 2022;
- (ii) public auction in terms of the revised Preferential Procurement Policy Regulations 2022; and /or
- (iii) donation to non-profit organisations.

(2) Assets may be disposed of by –

- (i) transferring the asset to another organ of state in terms of a provision of The Act enabling the transfer of assets;
- (ii) transferring the asset to another organ of state at market related value or, when appropriate, free of charge;

(iii) selling the asset; or destroying the asset.

(3) The Accounting Officer must ensure that –

- (a) immovable property is sold only at market related prices except when the public interest or the plight of the poor demands otherwise;
- (b) movable assets are sold either by way of written price quotations, a competitive bidding process, auction or at market related prices, whichever is the most advantageous;
- (c) immovable property is let at market related rates except when the public interest or the plight of the poor demands otherwise;
- (e) all fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property are annually reviewed;
- (f) where assets are traded in for other assets, the highest possible trade-in price is negotiated; and
- (g) in the case of the free disposal of computer equipment, the Provincial Department of Education is first approached to indicate within 30 days whether any of the local schools are interested in the equipment.

#### **Risk management**

41. (1) The criteria for the identification, consideration and avoidance of potential risks in the Supply Chain Management system, are as follows:

- (a) Non-compliance with Supply Chain Management policy and regulations;
- (b) Lack of suppliers contract;
- (c) Lack of contract management; and
- (d) Non – performing suppliers.

(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.

## **Performance management**

42. 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***

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

43. (1) No award above R15 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;
- (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; and
- (3) If SARS does not respond within 7 days, such a person's tax matters may for purposes of subparagraph (1) be presumed to be in order.

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

44. 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 district municipality.

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

45. The Accounting Officer must ensure that the notes to the annual financial statements disclose particulars of any award of more than R 2,000 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 five years, 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.

## **Ethical standards**

46. (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 district municipality in order to promote –
- (a) mutual trust and respect; and

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

(2) The purpose of this Code of Conduct is to promote mutual trust and respect and an environment where business can be conducted with integrity and in a fair and reasonable manner.

**(a) General Principles**

(i) the municipality, commits itself to a policy of fair dealing and integrity in the conducting of its business. Officials and other role players involved in supply chain management are in a position of trust, implying a duty to act in the public interest. Officials and other role players should not perform their duties to unlawfully gain any form of compensation, payment or gratuities from any person, or provider/contractor for themselves, their family or their friends.

(ii) Officials and other role players involved in SCM should ensure that they perform their duties efficiently, effectively and with integrity, in accordance with the relevant legislation, policies and guidelines. They should ensure that public resources are administered responsibly.

(iii) Officials and other role players involved in SCM should be fair and impartial in the performance of their functions. They should at no time afford any undue preferential treatment to any group or individual or unfairly discriminate against any group or individual. They should not abuse the power and authority vested in them.

**(b) Conflict of interest**

(i) An official or other role player involved with supply chain management;

(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) 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, 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 declare any business, commercial and financial interests or activities undertaken for financial gain that may raise a possible conflict of interest;
- (h) should not place him/herself under any financial or other obligation to outside individuals or organizations that might seek to influence them in the performance of their official duties; and
- (i) should not take improper advantage of their previous office after leaving their official position.

### **Accountability**

- (i) Practitioners are accountable for their decisions and actions to the public.
- (ii) Practitioners should use public property scrupulously.
- (iii) Only accounting officers or their delegates have the authority to commit The municipality to any transaction for the procurement of goods and or services.
- (iv) All transactions conducted by a practitioner should be recorded and accounted for in an appropriate accounting system. Practitioners should not make any false or misleading entries into such a system for any reason whatsoever.
- (v) Practitioners must assist the accounting officer in combating fraud, corruption, favouritism and unfair and irregular practices in the supply chain management system.
- (vi) Practitioners must report to the accounting officer any alleged irregular conduct in the supply chain management system which that person may become aware of, including:
  - (a) any alleged fraud, corruption, favouritism or unfair conduct;
  - (b) any alleged contravention of the policy on inducements, rewards, gifts and favours to municipalities or municipal entities, officials or other role players; and
  - (c) any alleged breach of this code of conduct.
- (vii) Any declarations made must be recorded in a register which the

Accounting Officer must keep for this purpose. Any declarations made by the accounting officer must be made to the Executive Mayor who must ensure that such declaration is recorded in the register.

### **Openness**

Practitioners should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only if it is in the public interest to do so.

### **Confidentiality**

- i. Any information that is the property of the municipality or its providers should be protected at all times. No information regarding any bid / contract / bidder / contractor may be revealed if such an action will infringe on the relevant bidder's / contractor's personal rights.
- ii. Matters of confidential nature in the possession of officials and other role players involved in SCM should be kept confidential unless legislation, the performance of duty or the provisions of law requires otherwise. Such restrictions also apply to officials and other role players involved in SCM after separation from service.

### **Bid Specification/Evaluation/Adjudication Committees**

- i. Bid specification, evaluation and adjudication committees should implement supply chain management on behalf of the municipality in an honest, fair, impartial, transparent, cost-effective and accountable manner. Bid evaluation / adjudication committees should be familiar with and adhere to the prescribed legislation, directives and procedures in respect of supply chain management in order to perform effectively and efficiently.
- ii. All members of bid adjudication committees should be cleared by the accounting officer at the level of "CONFIDENTIAL" and should be required to declare their financial interest annually.
- iii. No person should-
  - (1) interfere with the supply chain management system of the municipality;
  - (2) amend or tamper with any price quotation / bid after its submission.

### **Combative Practices**

(i) Combative practices are unethical and illegal and should be avoided at all cost.

They include, but are not limited to:

- (a) Suggestions to fictitious lower quotations;
- (b) Reference to non-existent competition;
- (c) Exploiting errors in price quotations I-bids;

(d) Soliciting price quotations I-bids from bidders / contractors whose names appear on the Register for Tender Defaulters.

### **Inducements, rewards, gifts and favours to the district municipality, officials and other role players**

47. (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 district municipality for, or in connection with the award of a contract; or
  - (b) any reward, gift, favour or hospitality to –
    - (i) any official; or
    - (ii) any other role player involved in the implementation of this policy.
- (2) The Accounting Officer must promptly report any alleged contravention of subparagraph (1) to the National Treasury for considering whether the offending person, and any representative or intermediary through which such person is alleged to have acted, should be listed in the National Treasury's database of persons prohibited from doing business with the public sector.
- (3) Subparagraph (1) does not apply to gifts less than R350 in value.

### **Sponsorships**

48. 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.

### **Objections and complaints**

49. 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.

### **Resolution of disputes, objections, complaints and queries**

50. (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 district municipality and other persons regarding -
    - (i) any decisions or actions taken in the implementation of the Supply Chain Management system; or
    - (ii) any matter arising from a contract awarded in the course of the Supply Chain Management system; or
  - (b) to deal with objections, complaints or queries regarding any such decisions or actions or any matters arising from such contract.
- (2) The Accounting Officer, or another official designated by the Accounting Officer, is responsible for assisting the appointed person to perform his or her functions effectively.
- (3) The person appointed must –
- (a) strive to resolve promptly all disputes, objections, complaints or queries received; and
  - (b) submit monthly reports to the Accounting Officer on all disputes, objections, complaints or queries received, attended to or resolved.
- (4) A dispute, objection, complaint or query may be referred to the relevant provincial treasury if -
- (a) the dispute, objection, complaint or query is not resolved within 60 days; or
  - (b) no response is forthcoming within 60 days.
- (5) If the Provincial Treasury does not or cannot resolve the matter, the dispute, objection, complaint or query may be referred to the National Treasury for resolution.
- (6) This paragraph must not be read as affecting a person’s rights to approach a court at any time.

**Contracts providing for compensation based on turnover**

- 51.** If a service provider acts on behalf of a district 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 district municipality must stipulate –
- (a) a cap on the compensation payable to the service provider; and
  - (b) that such compensation must be performance based.

## CHAPTER 3

### PREFERENTIAL PROCUREMENT

Purpose and objectives

3.1 (a) The purpose of this policy is to:

- (i) Provide for categories of preference in awarding of bids;
- (ii) Provide for the advancement of persons or categories of persons disadvantaged by unfair discrimination; and
- (iii) Clarify the mechanisms how the above items in paragraph 3.1 (a) (i) and (ii) will be implemented.

3.2 (b) The objectives as specific goals in line with section 2(1) of the Act and to be achieved through this policy is to:

- (i) Promote Small Medium and Micro Enterprises (SMME's), Joint Ventures, Consortiums, and partnerships.
- (ii) Promote local labour and/ or promotion of enterprises located in the district municipal area, enterprises within Northern Cape outside the district municipal area and enterprises outside Northern Cape.
- (iii) Promote woman.
- (iv) Promote youth.
- (v) Promote race.
- (vi) Promote people with disabilities.

Implement recognised best procurement practises through effective planning, strategic purchasing, and contract management. The policy rests upon certain core principles of behaviour as set out in the Constitution and ratified by the Constitutional Certification Judgements. In this context, the policy will be applied in accordance with a system, which is fair, equitable, transparent, competitive, and cost-effective in terms of Section 217 of the Constitution.

The Supply Chain Management Policy will seek to:

1. give effect to legislation as set out above;
2. ensure that public funds are managed in an efficient way so that all segments of the South African population benefit from such expenditure;
3. address the imbalances of the past;
4. strike a balance between empowering Historically Disadvantaged Individuals (HDIs) and value for money procurement;
5. stimulate and promote local economic development; and
6. promote small and emerging business, especially locally based enterprise.
7. obtain the best services and products at the most competitive prices within the framework of existing legislation applicable to procurement.

(4) Application of preference point system

4.2 The municipality will, in the tender documents, stipulate —

- (a) the preference point system applicable; and
- (b) any specific goal as envisaged in section 2(1)(d) and (e) of the Preferential Procurement Act.

4.3 If it is unclear whether the 80/20 or 90/10 preference point system applies—

- (a) an invitation for tender for income-generating contracts, that either the 80/20 or 90/10 preference point system will apply and that the highest acceptable tender will be used to determine the applicable preference point system; or
- (b) any other invitation for tender, that either the 80/20 or 90/10 preference point system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system.

**5. 80/20 preference point system for acquisition of goods or services with a Rand value equal to or below R50 million**

5.1 The following formula must be used to calculate the points out of 80 for price in respect of an invitation for a tender with a Rand value equal to or below R50 million, inclusive of all applicable taxes:

$$Ps = 80 \left[ 1 - \frac{Pt - P_{min}}{P_{min}} \right]$$

Where-

- Ps Points scored for price of tender under consideration; Price of
- Pt tender under consideration; and
- Pmi Price of lowest acceptable tender.

- 5.2 Promote local labour and/ or promotion of enterprises located in the district municipal area, enterprises within Northern Cape outside the district municipal area and enterprises outside Northern Cape.
- 5.3 The points scored for the specific goal must be added to the points scored for price and the total must be rounded off to the nearest two decimal places.
- 5.4 A tenderer must submit proof for any specific goal as requested in order to claiming point(s) for that specific goal.
- 5.5 A tenderer failing to submit proof with his quotation/tender may not be disqualified but will only score 0 points.
- 5.6 Subject to section 2(1)(f) of the Act, the contract must be awarded to the tenderer scoring the highest points.

**6. 90/10 preference point system for acquisition of goods or services with Rand value above R50 million**

- 6.1 The following formula must be used to calculate the points out 90 for price in respect of an invitation for tender with a Rand value above R50 million, inclusive of all applicable taxes:

$$P_s = 90 \left[ 1 - \frac{P_t - P_{min}}{P_{min}} \right]$$

Where-

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

and

$P_{min}$  Price of lowest acceptable tender.

- 6.2 A maximum of 10 points may be awarded to a tenderer for the specific goal specified for the tender.
- 6.3 The points scored for the specific goal must be added to the points scored for price and the total must be rounded off to the nearest two decimal places.
- 6.4 A tenderer failing to submit proof with his quotation/tender may not be disqualified, but will only score 0 points.
- 6.5 A tenderer failing to submit proof of locality with his quotation/tender may not be disqualified, but will only score 0 points for specific goals.

6.6 Subject to section 2(1)(f) of the Act, the contract must be awarded to the tenderer scoring the highest points.

7. 80/20 preference points system for tenders for income-generating contracts with a Rand value above R10,000.00 up to a Rand value equal to R50 million

7.1 The following formula must be used to calculate the points for price in respect of an invitation for tender for income-generating contracts, with a Rand value above R10,000.00 up to a Rand value equal to R50 million, inclusive of all applicable taxes:

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

Where-

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

$P_t$  = Price of tender under consideration; and

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

7.2 A maximum of 20 points may be awarded to a tenderer for the specific goal specified for the tender.

7.3 The points scored for the specific goal must be added to the points scored for price and the total must be rounded off to the nearest two decimal places.

7.4 A tenderer must submit proof of locality in order to claiming point(s).

7.5 A tenderer failing to submit proof with his quotation/tender may not be disqualified but will only score 0 points.

7.6 Subject to section 2(1)(f) of the Act, the contract must be awarded to the tenderer scoring the highest points.

8. 90/10 preference point system for tenders for income-generating contracts with Rand value above R50 million

8.1 The following formula must be used to calculate the points for price in respect of a tender for income-generating contracts, with a Rand value above R50 million, inclusive of

all applicable taxes:

$$Ps = 90 \left( 1 + \frac{Pt - Pmax}{Pmax} \right)$$

Where-

Ps        Points scored for price of tender under consideration;

Pt        = Price of tender under consideration; and

Pmax     = Price of highest acceptable tender.

- 8.2        A maximum of 10 points may be awarded to a tenderer for the specific goal specified for the tender.
- 8.3        The points scored for the specific goal must be added to the points scored for price and the total must be rounded off to the nearest two decimal places.
- 8.4        A tenderer must submit proof the specific goals in order to claiming point(s).
- 8.5        A tenderer failing to submit proof with his quotation/tender may not be disqualified but will only score 0 points.
- 8.6        Subject to section 2(1)(f) of the Act, the contract must be awarded to the tenderer scoring the highest points.
- (5) 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 district municipality or a municipal entity; and
  - (b)        electricity from Eskom or another public entity, another district municipality or a municipal entity.

### **Commencement**

This policy takes effect on upon approval.

