

SOL PLAATJE MUNICIPALITY



SUPPLY CHAIN MANAGEMENT POLICY

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Reviewed by Council in March 2021*

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

SUPPLY CHAIN MANAGEMENT POLICY REVIEW AND ADOPTION PROCESS

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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 the **Sol Plaatje Municipality**.

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Definitions

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

“black people” is a generic term which means Africans, Coloureds and Indians as defined in the Broad-Based Black 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 Broad-Based Black Economic Empowerment Act. In the context of this policy it shall therefore mean black people; women; people with disabilities; or small enterprises, as defined in section 1 of the National Small Enterprise Act, 1996 2.11. (Act No. 102 of 1996);

“contract” " means the agreement that results from the acceptance of a bid by an organ of state **“competitive bidding process”** means a competitive bidding process referred to in paragraph 12 (1) (d) of this Policy;

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

“designated sector” means a sector, sub-sector or industry or product designated in terms of section 8(1)(a) of Preferential Procurement Regulations of 2017;

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

“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.

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

“formal written price quotation” means quotations referred to in paragraph 12 (1) (c) of this Policy;

“in the service of the state” means to be –

- (a) a member of –
 - (i) any municipal council;
 - (ii) any provincial legislature; or
 - (iii) the National Assembly or the National Council of Provinces;
- (b) a member of the board of directors of any municipal entity;
- (c) an official of any municipality or municipal entity;

- (d) an employee of any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No.1 of 1999);
- (e) a member of the accounting authority of any national or provincial public entity; or
- (f) an employee of Parliament or a provincial legislature;

"Irregular expenditure" means expenditure , other than unauthorized expenditure, incurred in contravention of or that is not in accordance with a requirement of any applicable legislation

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

"list of accredited prospective providers" means the list of accredited prospective providers which the municipality must keep in terms of paragraph 14 of this policy;

"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);

"military veteran" has the meaning assigned to it in section 1 of the Military Veterans Act, 2011 (Act No. 18 of 2011)

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

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

"Sub-contracting" means the primary contractor assigning or leasing or making out work to, or employing another person or contractor to support such primary contractor in the execution of part of the project in terms of the contract.

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

"the Act" means the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);

"the Regulations" means the Local Government: Municipal Finance Management Act, 2003, Municipal Supply Chain Management Regulations published by Government Notice 868 of 2005; **"township"** means an urban living area that any time from the late 19th century until 27 April 1994, was reserved for black people, including areas developed for historically disadvantaged individuals post 27 April 1994;

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

“municipality” means the Sol Plaatje Local Municipality.

“Accounting Officer” in relation to Sol Plaatje Municipality, 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.

“municipal entity” has the meaning assigned to it by section 1 of the Municipal Systems Act, 2000.

“SPLM” means the Sol Plaatje Local Municipality

“sole provider” means a provider of specialized or exclusive goods/services who has a sole distribution/patent/manufacturing rights and copyrights.

“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.

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

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

CHAPTER 1

IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY

2. Supply chain management policy

- (1) All relevant role players in the supply chain management system of the Sol Plaatje 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) Chapter 2 of the Regulations Framework; and
 - (ii) any minimum norms and standards that may be prescribed in terms of section 168 of the Act;
 - (d) is consistent with other applicable legislation;
 - (e) does not undermine the objective for uniformity in supply chain management systems between organs of state in all spheres; and
 - (f) is consistent with national economic policy concerning the promotion of investments and doing business with the public sector.
- (2) This Policy applies when the municipality:
 - (a) procures goods, services or infrastructure deliveries;
 - (b) disposes goods no longer needed;
 - (c) selects contractors to provide assistance in the provision of municipal services otherwise than in circumstances where Chapter 8 of the Municipal Systems Act applies; or
 - (d) selects external mechanisms referred to in section 80 (1) (b) of the Municipal Systems Act for the provision of municipal services in circumstances contemplated in section 83 of that Act.
- (3) This Policy, except where provided otherwise, does not apply in respect of the procurement of goods and services contemplated in section 110(2) of the Act, including –
 - (a) water from the Department of Water Affairs or a public entity, another municipality or a municipal entity; and
 - (b) electricity from Eskom or another public entity, another municipality or a municipal entity.

3. Amendment of the supply chain management policy

- (1) The Accounting Officer must –
 - (a) at least annually review the implementation of this Policy; and
 - (b) when the Accounting Officer considers it necessary, submit proposals for the amendment of this Policy to council.
- (2) If the Accounting Officer submits proposed amendments to 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, chapter 2; 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 municipality must take account of the needs 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

- (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 maximize administrative and operational efficiency in the implementation of this Policy;
 - (c) to enforce reasonable cost-effective measures for the prevention of fraud, corruption, favoritism and unfair and irregular practices in the implementation of this Policy; and
 - (d) to comply with his or her responsibilities in terms of section 115 and other applicable provisions of the Act.
- (2) Sections 79 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 municipality or to a committee which is not exclusively composed of officials of the municipality;

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

5. Sub-delegations

- (1) The Accounting Officer may in terms of section 79 or 106 of the Municipal Finance Management Act and sections 4 and 5 of the Supply Chain Management Regulations as well as the Delegation Register of the municipality 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 sub-paragraph (2) of this paragraph and paragraph 4 of this Policy.
- (2) The power to make a final award –
- (a) above R10 000 000 (VAT included) may not be sub-delegated by the Accounting Officer.
 - (b) above R200 000 (VAT included) but not exceeding R10 000 000 (VAT included) must be sub-delegated to the bid adjudication committee.
 - (c) above R30 000 (VAT included) but not exceeding R200 000 (VAT included) may be procured by inviting formal written quotations from as many possible service providers on the list of accredited prospective service providers by the supply chain unit, must be done in accordance with Preferential Procurement Regulations of 2011 and final evaluations and must be approved by head of supply chain management, or his/her delegate. The chief financial officer must be provided monthly with a list of all procurements.
 - (d) above R10,000 (VAT included) but not exceeding R30,000 (VAT included) may be procured by inviting formal written quotations from at least 3 (three) prospective service providers. All quotations invited must be recorded and approved by the head of supply chain management, or his/her delegate.
 - (e) above R2,000 (VAT included) but not exceeding R10,000 (VAT included) may be procured by inviting verbal or written quotations from at least 3 (three) prospective service providers.
- (3) The bid adjudication committee to which the power to make final awards has been sub-delegated in accordance with subparagraph (2) must within **five days** after each award submit to the Accounting Officer, 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; or a senior manager or delegate.
 - (ii) a bid adjudication committee of which the chief financial officer or a senior manager is a member; or
- (5) Subparagraphs (3) and (4) of this policy do not apply to procurements out of petty cash. 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.
- (6) No supply chain management decision-making powers may be delegated to an advisor or consultant.

6. Oversight role of council

- (1) The council reserves its right to maintain oversight over the implementation of this Policy.
- (2) For the purposes of such oversight the Accounting Officer must –
 - (a) (i) within 30 days of the end of each financial year, submit a report on the implementation of this Policy and the supply chain management policy of any municipal entity under the sole or shared control of the municipality, to the council of the municipality; and
 - (ii) Whenever there are serious and material problems in the implementation of this Policy, immediately submit a report to council.
- (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.
- (5) For the purposes of oversight in accordance with MFMA Circular 77 the Accounting Officer must: –
 - (a) within **30 days of the end of each financial year**, submit a report on the implementation of this Policy and the equivalent policy to the council;
 - (b) whenever there are serious and material problems in the implementation of this Policy, immediately submit a report to the council;
 - (c) within **10 days of the end of each quarter**, submit a report on the implementation of the Policy to the Executive Mayor; and
 - (d) make the reports public in accordance with section 21A of the Municipal Systems Act Of 2000.

7. Supply chain management unit

- (1) A supply chain management unit is hereby established to implement this Policy.
- (2) The supply chain management unit operates under the direct supervision of the Chief Financial Officer or an official to whom this duty has been delegated in terms of section 82 of the Act.

8. Training of supply chain management officials

The Accounting Officer and all other officials of the municipality involved in the implementation of the SCM Policy must meet the prescribed competency levels in terms of the National Treasury Competency Regulations-

- (i) The municipality must provide opportunities and resources for training of officials preferred to meet the relevant prescribed supply chain management competency levels.
- (ii) That National and Provincial Treasury or any other accredited body may assist the municipality in the training of officials in meeting the relevant prescribed supply chain management competency levels.

CHAPTER 2 SUPPLY CHAIN MANAGEMENT SYSTEM

9. Format of supply chain management System

This Policy provides systems for –

- (i) demand management;
- (ii) acquisition management;
- (iii) logistics management;
- (iv) asset/disposal management;
- (v) risk management; and
- (vi) performance management.

Part 1: Demand management

10. System of demand management

- (1) The Accounting Officer must establish and implement an effective system of demand management in order to ensure that the resources required by **the municipality** support its operational commitments and its strategic goals outlined in the Integrated Development Plan.
- (2) The demand management system must –
 - (a) include timely planning and management processes through the proper implementation of the consolidated procurement plan as well as the Quotation Procurement Request Plan 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) Must undertake appropriate industry analysis and research to ensure that innovations and technological benefits are maximized.

Part 2: Acquisition management

11. System of acquisition management

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

12. Range of procurement processes

- (1) Goods and services may only be procured by way of –
 - (a) petty cash purchases as determined by Section 12(1)(a) of the Regulations, up to a transaction value of R2 000 (VAT included) per case but physical cash expenditure limited to R200 (VAT inclusive) per case as determined by the Accounting Officer in terms of Section 12(2)(a) of the Regulation and Section 12(2)(i) of the Policy.
 - (b) written or verbal quotations for procurements of a transaction value over R2 000 up to R10 000 (VAT included);
 - (c) formal written price quotations for procurements of a transaction value over R10 000 up to R200 000 (VAT included); and
 - (d) a competitive bidding process for–
 - (i) procurements above a transaction value of R200 000 (VAT included); and
 - (ii) the procurement of long term contracts (Referred to in section 5) .
- (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.

13. General preconditions for consideration of written quotations or bids

- (1) A written quotation or bid may not be considered unless the provider who submitted the quotation or bid –
- (a) has furnished the municipality with that provider's –
 - (i) full name;
 - (ii) identification number or company or other registration number;
 - (iii) tax reference number and VAT registration number, if any; and
 - (iv) Original valid Tax Compliance Status (TCS) pin certificate from the South African Revenue Services.
 - (v) check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not in arrears;
 - (vi) Current compliant CSD registration certificate; and
 - (vii) Original BBBEE certificate accredited by SANAS or an original certified Sworn Affidavit for EME'S
 - (b) Requirements for construction and engineering related bids should be awarded according to CIDB Regulations;
 - (c) And 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; 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.
- (iii) Any person or service provider who fails to disclose his or her employment status with organs of state, his or her contract will be terminated immediately, the service provider shall be deregistered and shall not be allowed to bid for a period not less than three years and shall be reported to National Treasury for blacklisting.

14. Lists of accredited prospective providers

- (1) The Accounting Officer must –
 - (a) keep a list of accredited prospective providers of goods and services that must be used for the procurement requirements through written or verbal quotations and formal written price quotations; and
 - (b) at least once a year through newspapers commonly circulating locally, the website and any other appropriate ways, invite prospective providers of goods or services to apply for evaluation and listing as accredited prospective bidders.
 - (c) specify the minimum listing criteria for accredited prospective providers:
 - (i) physical trading address,
 - (ii) ownership and HDI status,
 - (iii) goods/ services provide a valid updated tax certificate from SARS, or any other means as may be guided or regulated by National Treasury and SARS in this regard.
 - (iv) The municipality shall accept the SARS Tax Compliance Status (TCS) pin-code for tax status validation and for bidders to qualify, a green tax status is acceptable to confirm this information.
 - (v) references of services provided,
 - (vi) municipal accounts up to date.
 - (vii) Any other criteria that may be added.
 - (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, in accordance with the MFMA Circular 46 (as amended from time to time).
- (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.
- (4) In the case where the supplier database is maintained by a government department, in this case, National Treasury, through the Central Supplier Database, the municipality shall keep records of service providers at the level of detail that will ensure minimum compliance requirements in as far as status of the municipal account, declaration of interest, relatedness to people in service of state.

15. Petty cash purchases

- (1) The conditions for the procurement of goods by means of petty cash purchases referred to in paragraph 12 (1) (a) of this Policy, are as follows –
- (a) Council determines the terms on which a manager may delegate responsibility for petty cash to an official reporting to the manager; petty cash threshold to be delegated per month is R2000 per case;
 - (b) Council determines the maximum number of petty cash purchases or the maximum amounts per month for each manager; threshold per month is R2000 in total per case;
 - (c) a monthly reconciliation report from the acquisition 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.
 - (d) insert any other conditions determined by the council.

16. Written or verbal quotations

- (1) The conditions for the procurement of goods or services through written or verbal quotations, are as follows:
- (a) that quotations must be obtained from at least three different service providers preferably from, but not limited to, service providers whose names appear on the list of accredited prospective service providers of the municipality, provided that if quotations are obtained from service providers who are not listed, such service providers must meet the listing criteria set out in paragraph 14(1)(b) and (c) of this Policy and be registered on the CSD;
 - (b) where no suitable accredited service providers are available from the list, quotations may be obtained from other possible service providers not on the list, provided that such service providers meet the listing criteria set out in paragraph 14(1)(b) and (c) of this Policy and be registered on the CSD;
 - (c) quotations must be invited on a rotation basis;
 - (d) to the extent feasible, providers must be requested to submit such quotations in writing;
 - (e) if it is not possible to obtain at least three quotations, the reasons must be recorded and reported quarterly to the Accounting Officer or another official designated by the Accounting Officer;
 - (f) the Accounting Officer must record the names of the potential providers requested to provide such quotations with their quoted prices; and
 - (f) if a quotation was submitted verbally, the order may be placed only against written confirmation by the selected provider.

17. Formal written price quotations

- (1) The conditions for the procurement of goods or services through formal written price quotations are as follows:
 - (a) A central supply chain management unit will obtain in writing quotations from at least three different service providers whose names appear on the list of accredited prospective providers of the municipality;
 - (b) that quotations must be obtained from at least three different providers preferably from, but not limited to, providers whose names appear on the list of accredited prospective providers of the municipality, provided that if quotations are obtained from providers who are not listed, such providers must meet the listing criteria set out in paragraph 14(1)(b) and (c) of this Policy, be registered on CSD and SPM financial system as an approved service provider;
 - (c) if it is not possible to obtain at least three quotations, the reasons must be recorded and approved by the relevant senior manager, in the absence of whom must be a senior official or an official designated by the Municipal Manager
 - (d) the head of Supply Chain Management 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.

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

- (a) When using the list of accredited prospective service providers the Accounting Officer must promote ongoing competition amongst providers by inviting providers to submit quotations on a rotation basis;
- (b) All requirements in excess of R30 000 (VAT included) that are to be procured by means of formal written price quotations must, in addition to the requirements of paragraph 17, be advertised for at least seven (7) **calendar** days on the website and an official notice board of the municipality; evaluation will be on 80:20 point system where 80 points is for price and 20 points for BBBEE status level as per the Preferential Procurement Regulations of 2017.
- (c) Offers received must be evaluated on a comparative basis taking into account only unconditional discounts;
- (d) the Accounting Officer or chief financial officer must on a monthly basis be notified in writing of all written or verbal quotations and formal written price quotations accepted by an official acting in terms of a sub-delegation;
- (e) A cooling off period of 30 calendar days be applied on all re-advertised procurement through formal written quotations

- (h) After approval of a bid, the Accounting Officer or an official delegated by the Accounting Officer must enter into a written agreement prior to the implementation thereof.
- (i) Proper record keeping;
 - (i) Original / legal copies of written contracts agreements should be kept in a secure place for reference purposes.

21. Bid documentation for competitive bids

- (1) In addition to regulation 13 the criteria to which bid documentation for a competitive bidding process must –
 - (a) take into account –
 - (i) the general conditions of contract and any special conditions of contract, if specified;
 - (ii) any Treasury guidelines on bid documentation; and
 - (iii) the requirements of the Construction Industry Development Board, in the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure;
 - (b) include the preference points system to be used, as contemplated in the Preferential Procurement Regulations of 2017 and evaluation and adjudication criteria, including any criteria required by other applicable legislation;
 - (c) compel bidders to declare any conflict of interest they may have in the transaction for which the bid is submitted;
 - (d) if the value of the transaction is expected to exceed R10 million (VAT included), require bidders to furnish–
 - (i) if the bidder is required by law to prepare annual financial statements for auditing, their audited annual financial statements –
 - (aa) for the past three years; or
 - (bb) since their establishment if established during the past three years;
 - (ii) a certificate signed by the bidder certifying that the bidder has no undisputed commitments for municipal services towards a municipality or other service provider in respect of which payment is overdue for more than 30 days;
 - (iii) particulars of any contracts awarded to the bidder by an organ of state during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract;
 - (iv) a statement indicating whether any portion of the goods or services are expected to be sourced from outside the Republic, and, if so, what portion and whether any portion of payment from the municipality or municipal entity is expected to be transferred out of the Republic; and

- (e) stipulate that disputes must be settled by means of mutual consultation, mediation (with or without legal representation), or, when unsuccessful, in a South African court of law. The Accounting Officer reserves the right to stipulate that such a dispute to be settled utilizing a court of law within the Sol Plaatje municipal district.

22. Public invitation for competitive bids

- (1) Timely notification of bidding opportunities is essential in competitive bidding. Bids should be advertised for a minimum period of thirty (30) calendar days (above R10 million or longer than twelve (12) months) before closure in at least the Government Tender Bulletin, e-Tender Publication, CIDB i-Tender system for construction-related tenders, and in any other appropriate media that the *Accounting Officer shall* deem it necessary to ensure greater exposure to potential bidders except in urgent cases when bids may be advertised for such shorter periods as the *Accounting Officer* may determine.
- (2) The shortened tender period cannot be less than fourteen (14) calendar days (less than R10 million and a maximum of 12 months). The *relevant section* will bear the responsibility for advertising costs. The *department* will maintain a list of responses to the advertisement. The related pre-qualification or bidding document should be available on the publication date of the advertisement.
- (3) The procedure for the invitation of competitive bids is as follows:
 - (a) Any invitation to prospective providers to submit bids must be by means of a public advertisement in newspapers commonly circulating locally, the website of the municipality **or** any other appropriate ways which may include the Government Tender Bulletin.
 - (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 thirty (30) calendar days in the case of transactions over R10 million (VAT included), or which are of a long-term nature, or fourteen (14) calendar days in any other case, from the date on which the advertisement is placed in a newspaper, subject to subparagraph 2.;
 - (ii) a statement that bids may only be submitted on the bid documentation provided by the municipality; and
 - (iii) date, time and venue of any proposed site meetings or briefing sessions.;

- (4) The Accounting Officer may determine a closure date for the submission of bids which is less than the thirty (30) or fourteen (14) calendar days requirement, but only if such shorter period can be justified on the grounds of urgency or emergency or any exceptional case where it is impractical or impossible to follow the official procurement process, not less than seven (7) calendar days.
- (5) Bids submitted must be sealed; the envelope must contain the bid number and closing date.
- (6) Where bids are requested in electronic format, such bids must be supplemented by sealed hard copies.

23. Procedure for Handling, opening and recording of bids

The time for the bid opening should be the same as the deadline for receipt of bids, or promptly thereafter and should be announced, together with the place for bid opening, in the invitation to bid. To standardize the closing of bids, bids should close at 11:00.

All bids must be opened in public at the stipulated time and place, if practical. Notwithstanding the number and volume of the bids received, bidders or their representatives should be allowed to be present at the bid opening meeting at 12:00.

The names of the bidders and if practical, the total price of each bid and of any alternative bids, should be read aloud.

Immediate after opening a current CSD report for proof of compliancy to SARS be printed by SCM officials

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 be recorded and but 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, only for construction bids each bidder's total bidding price will be read out as well;
- (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
- (iv) publish the entries in the register and the bid results on the website of the municipality.

24. Two-stage bidding process

- (1) A two-stage bidding process is allowed for –
 - (a) large complex projects;
 - (b) projects where it may be undesirable to prepare complete detailed technical specifications; or
 - (c) long term projects with a duration period exceeding three years.
- (2) In the first stage technical proposals on conceptual design or performance specifications should be invited, subject to technical as well as commercial clarifications and adjustments.
- (3) In the second stage final technical proposals and priced bids should be invited.

25. Negotiations with preferred bidders

- (1) The Accounting Officer may, in terms of this Supply Chain Management Policy negotiate the final terms of a contract with bidders identified through a competitive bidding process as preferred bidders, provide that such negotiation –
 - (a) does not allow any preferred bidder a second or unfair opportunity
 - (b) is not to the detriment of any other bidder; and
 - (c) does not lead to a higher price than the bid as submitted.
- (2) Minutes of such negotiations must be kept for record purposes.

26. Committee system for competitive bids

- (1) A committee system for competitive bids shall consist of the following committees:
 - (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 cannot be sub-delegated except for the CFO in the adjudication committee who can appoint a sub-delegate
 - (a) All members of the three committees are appointed for 2 years and may be re-appointed for another 2 years and must declare their financial interest, sign the SCM code of conduct, and also declare business interest(s). Technical experts must, if the Municipality has such an expert, form part of the bidding process.
- (2) Members of all the bid committees are jointly responsible for the decisions made by the committees in which they serve.
- (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. Such an observer must ensure there is no conflict of interest and should not participate in any government procurement processes.

- (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.
- (6) Quorum: The Bid Committees cannot undertake business without a quorum present, consisting of half plus one of its total members with voting powers (rounded to the nearest whole number).

27. Bid specification and Procurement documentation committees

- (1) A bid specification committee must compile the specifications for the procurement of goods or services and a procurement documentation committee for infrastructure delivery in accordance with MFMA Circular 77 by the municipality.
- (2) Specifications –
 - (a) must be drafted in an unbiased manner to allow all potential suppliers to offer their goods, services and infrastructure;
 - (b) must take account of any accepted standards such as those issued by Standards South Africa, the International Standards Organization, or an authority accredited or recognized by the South African National Accreditation System with which the equipment or material or workmanship should comply;
 - (c) must, where possible, be described in terms of performance required rather than in terms of descriptive characteristics for design;
 - (d) may not create trade barriers in contract requirements in the forms of specifications, plans, drawings, designs, testing and test methods, packaging, marking or 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 the pre-qualification criteria for preferential procurement as set out in the Preferential Procurement Regulations 2017; and
 - (g) must be approved by the Accounting Officer or may be delegated to the specification committee prior to publication of the invitation for bids in terms of paragraph 22 of this Policy.
- (7) A bid specification committee must be composed of 50% + one of the appointed members, for a period as determined by the Accounting Officer; one of which is the Chairperson; one official from the Financial Services Directorate; one of which is a SCM practitioner; one is a co-opted procurement official (Line Manager / delegated official) responsible for the function which requested the goods or services and an internal or external advisor with no voting rights. The number of co-opted officials or specialists is not restricted.

- (8) A procurement documentation committee must be composed of 50% + one of the appointed members, for a period as determined by the Accounting Officer; one of which is the Chairperson; one of which is from the Infrastructure and Services Directorate or Strategy, Economic Development Directorate, a co-opted procurement official (Line Manager / delegated official) responsible for the Infrastructure and a SCM practitioner;
- (9) The specification and procurement documentation committee will approve the functionality points that must be used and the applicable ratios.
- (10) 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.
- (11) Minutes of the specifications and procurement documentation committee meetings must be kept.
- (12) For general goods and services that are frequently procured, a specifications library may be compiled, and such specifications revised annually

28. Prequalification criteria for preferential procurement

If the Bid Specification or any other Committee as appointed by the Accounting Officer decides to apply pre-qualifying criteria to advance certain designated groups, the bid shall therefore be advertised with a specific tendering condition that only to one or more of the following tenderers may respond-

- (1) a tenderer having a stipulated minimum B-BBEE status level of contributor;
 - (2) an EME or a QSE
 - (3) a tenderer subcontracting a minimum of 30% to-
 - a. an EME or QSE which is at least 51% owned by black people;
 - b. an EME or QSE which is at least 51% owned by black people who are youth; (or an EME or QSE which is at least 51% owned by black people who are women;
 - c. an EME or QSE which is at least 51% owned by black people with disabilities;
 - d. an EME or QSE which is 51% owned by black people living in rural or underdeveloped areas or townships;
 - e. a cooperative which is at least 51% owned by black people;
 - f. an EME or QSE which is at least 51% owned by black people who are military veterans; an EME or QSE.
 - (4) A tender that fails to meet any pre-qualifying criteria stipulated in the tender documents is an unacceptable tender.
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29. Bid evaluation and Evaluation committees

- (1) A bid evaluation committee for 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 Framework Act.
 - (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) An evaluation committee for infrastructure must review and compile the evaluation reports by verifying the following: -
- (a) the capability and capacity of the bidders;
 - (b) tax and municipal rates compliance status;
 - (c) the compulsory declaration has been completed;
 - (d) the tenderer is not listed in the National Treasury's Register for tender Defaulters or list of restricted suppliers.
 - (e) An original B-BBEE certificates credited by SANAS, or certified copy thereof OR
 - (f) An original certified B-BBEE sworn affidavit for EME's
- (3) A bid evaluation committee for goods and services must as far as possible be composed of-
- a) 50% + one of the appointed members, for a period as determined by the Accounting Officer; of which one should be the Chairperson; of which one should be a SCM practitioner, an official from the Financial Services Directorate and three (3) other officials from any cross functional section.
 - (b) Officials including an internal specialist from the department who require the goods and/or services.
 - (c) The Accounting Officer in consultation with the Senior Managers will appoint the members to the bid evaluation committee and its chairperson; in the absence of the appointed chairperson, members of the committee will elect one of their members to preside as the chairperson
 - (d) Members of the committee will be appointed for a period determined by the Accounting Officer.
- (4) An evaluation committee for infrastructure shall comprise of 50% + one of the appointed members, for a period as determined by the Accounting Officer. The chairperson shall be an employee of the municipality with required skills. Other members shall include a SCM practitioner and three (3) officials from the department requiring Infrastructure delivery.

30. Validity period

- (1)(a) Bidders should be required to submit bids valid for a period not exceeding **ninety (90) days**. This period should be sufficient to enable the bid committees to complete the comparison and evaluation of bids, review the recommendation and - ward the contract. For construction related tenders, the validity period shall generally not exceed ninety (90) days and in exceptional circumstances, it may be extended beyond the ninety days to hundred and **twenty (120) days** due to the verification of supporting documents and complexity of the tender document.
- (b) An extension of bid validity, if justified in exceptional circumstances, should be requested in writing from all bidders before the expiration date. The extension should not exceed thirty (30) days to complete the evaluation, obtain the necessary approvals and award the contract.
- (c) In the case of fixed price contracts, requests for second and subsequent extensions should be permissible only if the request for extension provides for an appropriate adjustment mechanism of the quoted price to reflect changes of inputs for the contract over the period of extension. Bidders should have the right to refuse such an extension without forfeiting their bid security, but those who are willing to extend the validity of their bids should be required to provide a suitable extension of bid security, if applicable.

REVIEW OF CONTRACTS

- (2) (a) In terms of section 116 (1) of the MFMA, a contract or agreement procured through the Supply Chain Management system must have a periodic **review once every three years** in the case of a contract or agreement that are longer than three years.
- (b) Extension period of a contract could only be extended **once by 3 months**
- (c) The Contract Owner (Municipal Manager/Executive Directors) or Contract Champion (Line Managers) must conduct, as appropriate, within 3 months after the expiry of contracts, post contract reviews.

31. Evaluation of bids based on functionality as a criterion

In general, the need to invite bids based on functionality as a criterion depends on the nature of the required commodity or service considering quality, reliability, viability and durability of a service and the bidder's technical capacity and ability to execute a contract.

When the municipality invites a bid that will also be evaluated based on functionality as a criterion, the *Accounting Officer or the Bid Specifications Committee* must clearly specify the following aspects in the bid documents:

a) Evaluation criteria for measuring functionality

The evaluation criterion may include criteria such as the consultant's relevant experience for the assignment, the quality of the methodology; the qualifications of key personnel; transfer of knowledge, etc.

b) Weight of each criterion

The weight allocated to each criterion should not be generic but should be determined separately for each bid on a case by case basis.

c) Applicable value

The applicable values that will be utilized when scoring each criterion should be objective. As a guide, values ranging from 1 being poor, 2 being average, 3 being good, 4 being very good and 5 being excellent, may be utilized.

d) Minimum qualifying score for functionality

The minimum qualifying score that must be obtained for functionality in order for a bid to be considered should not be generic. It should be determined separately for each bid or on a case by case basis. The minimum qualifying score must not be prescribed so low that it may jeopardize the quality of the service required nor so high that it may be restrictive to the extent that it jeopardizes the fairness of the SCM system.

The evaluation criteria for measuring functionality must be objective. The tender documents must specify-

- The evaluation criteria for measuring functionality;
- The points for each criteria and, if any, each sub-criterion; and
- The minimum qualifying score for functionality.
- The minimum qualifying score for functionality for a tender to be considered further-

Points scored for functionality must be rounded off to the nearest two decimal places. A tender that fails to obtain the minimum qualifying score for functionality as indicated in the tender documents is not an acceptable tender.

Each tender that obtained the minimum qualifying score for functionality must be evaluated further in terms of price and the preference point system and any objective criteria envisaged in section 11 of Preferential Procurement Regulation of 2017.

32. Unsolicited proposals

An unsolicited proposal *or* concept means any proposal or concept received by an institution

Outside its normal procurement process. An unsolicited bid is mainly or is expected to be submission that must be innovative, unique and provided by a sole supplier.

The municipality is not obliged to consider an unsolicited proposal but may consider such a proposal only if it meets the following requirements:

- a. A comprehensive and relevant project feasibility study has established a clear business case; and
- b. The product or service involves an innovative design; or
- c. The product or service involves an innovative approach to project development and management; or
- d. The product or service presents a new and cost-effective method of service delivery.

The *Accounting Officer must* reject the unsolicited proposal if the proposal relates to known institutional requirements that can, within reasonable and practicable limits, be acquired by conventional competitive bidding methods. The following are example of unsolicited bids that may be rejected by the Accounting Officer or Delegate;

- a. Relates to products or services which are generally available;
- b. Does not fall within the institution's powers and functions;
- c. Has not been submitted by a duly authorized representative of the proponent; or
- d. Contravenes the provisions of any law.

If the *Accounting Officer or Delegate* decides to reject the unsolicited proposal, he or she must:

- a. Notify the authorized representative of the proponent by registered post that the municipality has rejected the unsolicited proposal;
- b. Ensure that the *municipality or user department* does not make use of any of the intellectual property or proprietary data in the unsolicited proposal; and
- c. Return to the proponent by registered mail all documents received in the unsolicited proposal including any copies of these documents.

If the *Accounting Officer* decides to consider the unsolicited proposal, he or she must send a registered letter to the proponent confirming the decision to consider the unsolicited proposal. If the unsolicited proposal agreement is concluded, the user department must prepare, and issue bid documents.

33. Bid adjudication and tender committees

- (1) A bid adjudication committee for goods and services 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 for goods and services is appointed for period determined by the Accounting Officer and must consist of **at least four senior managers** of the municipality which must include –
 - (a) the chief financial officer or, if the chief financial officer is not available, another manager in the budget and treasury office reporting directly to the chief financial officer and designated by the chief financial officer; and
 - (b) at least one senior supply chain management practitioner who is an official of the municipality; and any other 3 senior managers.
 - (c) a technical expert in the relevant field who is an official of the Municipality if such a person is available;
- (3) Outside technical experts must form part of the adjudication process; 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) 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.
- (5) 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.

- (6) (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.
- (7) 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.
- (8) The Accounting Officer must comply with section 114 of the Act within 10 working days.
- (9) 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.
- (10) A tender committee for Infrastructure delivery must: -
- (a) consider the report and recommendations of the evaluation committee and:
 - (i) verify that the procurement process which was followed complies with the provisions of this document;
 - (ii) confirm that the report is complete and addresses all considerations necessary to make a recommendation;
 - (iii) confirm the validity and reasonableness of reasons provided for the elimination of tenderers;
 - (iv) consider commercial risks and identify any risks that have been overlooked or fall outside of the scope of the report which warrant investigation prior to taking a final decision; and
 - (b) 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 under R10 000 000. If above R10 000 000, make recommendation to the Accounting Officer.
- (11) The tender committee shall consider proposals regarding the cancellation, amendment, extension or transfer of contracts that have been awarded.
- (12) The tender committee shall consider the merits of an unsolicited offer and make a recommendation Accounting Officer.

- (13) The tender committee shall report to the Accounting Officer any recommendation made to award a contract to a tenderer other than the tenderer recommended by the evaluation committee giving reasons for making such a recommendation.
- (14) The tender committee shall not make a recommendation for an award of a contract or order if the recommended tenderer 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
- (15) The Tender committee may on justifiable grounds and after following due process, disregard the submission of any tenderer if that tenderer or any of its directors, members or trustees or partners has abused the delivery management system or has committed fraud, corruption or any other improper conduct in relation to such system. The National Treasury and the provincial treasury shall be informed where such tenderers are disregarded.
- (16) The Tender committee shall comprise of the same persons as for the bid adjudication committee and will deal with tenders both for general goods and services and for infrastructure.

34. Procurement of banking services

- (1) A contract for the provision of banking services –
 - (a) must be procured through competitive bids;
 - (b) must be consistent with section 7 or 85 of the Act; and
 - (c) may not be for a period of more than five years at a time.
- (2) The process for procuring a contract for banking services must commence at least nine months before the end of an existing contract.
- (3) The closure date for the submission of bids may not be less than sixty (60) calendar 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).

35. Procurement of IT related goods or services

- (1) The Accounting Officer may request the State Information Technology Agency (SITA) to assist with the acquisition of IT related goods or services through a competitive bidding process.
- (2) The 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 of the municipality if –
 - (a) the transaction value of IT related goods or services required by the municipality in any financial year will exceed R50 million (VAT included); or

- (b) the transaction value of a contract to be procured by the municipality whether for one or more years exceeds R50 million (VAT included).
- (4) If SITA comments on the submission and the municipality disagree with such comments, the comments and the reasons for rejecting or not following such comments must be submitted to the council, the National Treasury, the relevant provincial treasury and the Auditor General.

36. Procurement of goods and services under contracts secured by other organs of state

- (1) The Accounting Officer may procure goods or services for the municipality 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) the municipality has no reason to believe that such contract was not validly procured;
 - (c) there are demonstrable discounts or benefits for the municipality to do so; and
 - (d) that other organ of state and the provider have consented to such procurement in writing.
- (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.

37. Procurement of goods necessitating special safety arrangements

- (1) The acquisition and storage of goods in bulk (other than water), which necessitate special safety arrangements, including gasses and fuel, must be restricted where ever possible.
- (2) Where the storage of goods in bulk is justified, such justification must be based on sound reasons, including the total cost of ownership and cost advantages for the municipality.

38. Local Production and Content

- (1) The municipality must where the Department of Trade and Industry in consultation with National Treasury assigned designated sectors, sub-sectors or industries or products for local production and content advertise the invitation to tender with a specific condition that only locally produced goods or locally manufactured goods with a stipulated minimum threshold for local production and content will be considered.
- (2) The threshold referred to in paragraph (1) must be in accordance with the standards determined by the Department of Trade and Industry in consultation with National Treasury.
- (3) A tender that fails to meet the minimum stipulated threshold for local content and production is an unacceptable tender.

39. Compulsory subcontracting

1) For bids above R30 million, the municipality will apply a compulsory subcontracting to advance designated groups, unless it is impractical to do so. The Bid Specification Committee will report any deviation from this requirement to the Accounting Officer or his designate, being the Chief Financial Officer.

2) If the municipality applies the subcontracting as contemplated in subsection (30.1), the municipality must advertise the tender with a specific tendering condition that the successful tenderer must subcontract a minimum of 30% of the value of the contract to-

- i. an EME or QSE;
- ii. an EME or QSE which is at least 51% owned by black people;
- iii. an EME or QSE which is at least 51% owned by black people who are youth;
- iv. an EME or QSE which is at least 51% owned by black people who are women;
- v. an EME or QSE which is at least 51% owned by black people with disabilities;
- vi. an EME or QSE which is 51% owned by black people living in rural or underdeveloped areas or townships ;
- vii. a cooperative which is at least 51% owned by black people;
- viii. an EME or QSE which is at least 51% owned by black people who are military veterans; or
- ix. more than one of the categories referred to in paragraphs (a) to (h).

3) The *municipality* will make available the list of all suppliers registered on a database approved by the National Treasury to provide the required goods or services in respect of the applicable designated groups from which the tenderer must select a supplier sub-contracting after award of tender.

4) A person awarded a contract may only enter into a subcontracting arrangement with the approval of the municipality.

5) A person awarded a contract in relation to a designated sector, may not subcontract in such a manner that the local production and content of the overall value of the contract is reduced to below the stipulated minimum threshold:

6) A person awarded a contract may not subcontract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level of Contributor than the person concerned unless the contract is subcontracted to an EME that has the capability and ability to execute the subcontract

40. Appointment of consultants

Clarification of specific provisions within the MCCR (MFMA Circular 97 – Cost Containment Policy)

Use of Consultants

Regulation 5 provides for municipalities and municipal entities' use of consultants. It should be made clear that the MCCR do not prohibit the use of consultants, but require municipalities and municipal entities, before procuring the services of a consultant, to assess the need thereof against the available internal capacity for the specific services required. Failure to undertake the latter assessment will result in the expenditure incurred being classified as irregular expenditure.

- (1) The Accounting Officer may procure consulting services provided that National Treasury guidelines in respect of consulting services are taken into account when such procurements are made.
 - (2). Consultancy services must be procured through competitive bidding or by deviating by using a roster system in accordance with the Supply Chain Management Regulations, section 36 which provides that if is impractical to invite competitive bids, the Municipality will procure the required goods or services by other means using a roster system, provided that the reasons for deviating from inviting competitive bids must be recorded and approved by the Accounting Officer and must be reported to Council. Such a roster system provides that where services are required on a recurring basis, a panel of consultants/list of approved service providers for the rendering of these services may be established.
 - (3) The Municipality may utilize a roster system to procure consultancy services with a value up to five (R5) million for projects inclusive of professional fees. For all consultancy services not listed, competitive bidding procedures will prevail subject to the following provisions:
 - (a) the value of the contract exceeds R200 000 (VAT included); or
 - (b) the duration period of the contract exceeds one year.
- (3.1) **Category's for registration will be as follows:**
- (i) For projects up to R1 000 000 (incl)
 - (ii) For projects from R1 000 000 – R2 000 000 (incl)
 - (iii) For projects from R2 000 000 – R3 000 000 (incl)
 - (iv) For projects from R3 000 000 – R5 000 000 (incl)
- (3.2) An annual roster will be compiled of consultants within various professional categories and three quotations will be obtained per project on a rotational basis.
- (a) To compile a roster, advertisements will be placed annually in the local newspapers, Government Tender Bulletin and the website inviting enterprises to register.

- (b) Potential service providers must provide the following details to register,
 - (i) Composition of firm in terms of shareholding,
 - (ii) Staff complement,
 - (iii) Representation of expertise in respect of disciplines required and Curriculum Vitae's (CV),
 - (iv) National/ international acceptability of expertise in the various professions,
 - (v) Experience as reflected in the projects already dealt with and financial value,
 - (vi) Proof of financial viability of the firm
 - (vii) Original valid Tax Compliance Status (TCS) pin certificate
 - (viii) A fee structure, as regulated by a professional body.

(3.3) Types of consultancy services that will be procured on a roster system:

(a) Construction related projects:

- (i) Town Planners
 - (ii) Land Surveyors
 - (iii) Environmental Consultants
 - (iv) Civil Engineers
 - (v) Architects
 - (vi) Quantity Surveyors
 - (vii) Electrical Engineers
 - (viii) Mechanical Engineers
 - (ix) Project Management Specialists
- Fee structure charged as approved by professional bodies.

(b) Audit and Financial services

- (i) Auditors and Internal Auditors
 - (ii) Accountants and Accounting Services.
- Fee structure charged as approved by the Auditor-General.

(c) Other professional services

- (i) Specialist in Economic Development and Planning
- (ii) Skills Development
- (iii) Strategist
- (iv) Research Consultants
- (v) Policy Development Specialists.

- Fee structure charged as approved by DPSA Guide on hourly fee rates for consultants, annually published January and July.
Website: <http://www.dpsa.gov.za/>
https://www.saica.co.za/portals/0/documents/Circular_01_2018_Guideline_on_AGSA_Fees.pdf
www.dpsa.gov.za/dpsa2g/consultant_fees.asp
Projects/sdi/consultants.htm

(4) For projects exceeding five million (VAT incl) consultancy services must be procured through competitive bids.

- (5) In addition to any requirements prescribed by this policy for competitive bids or roster listing bidders must furnish the municipality with 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
- (6) 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.
- (7) In categories where there is limited service providers registered and services offered are not satisfactory, normal supply chain management acquisitioning procedures will be followed.
- (8) When consultants are appointed, an accounting officer must -
 - (a) appoint consultants on a time and cost basis with specific start and end dates;
 - (b) where practical, appoint consultants on an output- specified basis, subject to specific measurable objectives and associated remuneration;
 - (c) ensure that contracts with consultants include overall cost ceilings by specifying whether the contract price is inclusive or exclusive of travel and subsistence disbursements;
 - (d) ensure the transfer of skills by consultants to the relevant officials of a municipality or municipal entity;
 - (e) undertake all engagements of consultants in accordance with the Municipal Supply Chain Management Regulations, 2005 and the municipality or municipal entity's supply chain management policy; and
 - (f) develop consultancy reduction plans to reduce the reliance on consultants.

(6) All contracts with consultants must include a fee retention or penalty clause for poor performance.

41. Conflict of interest

- 1) Consultants are required to provide professional, objective and impartial advice and at all times hold the client's interest's paramount, without any consideration for future work and strictly avoid conflicts with other assignments or their own corporate interests. Consultants should not be hired for any assignment that would conflict with their prior obligations to other clients, or that may place them in a position of not being able to carry out the assignment in the best interest of the State. Without limitation on the generality of this rule, consultants will not be hired under the following circumstances:

2) A firm, which has been engaged by the *Accounting Officer* to provide goods or works for a project and any of its affiliates, should be disqualified from providing consulting services for the same project. Similarly, a firm hired to provide consulting services for the preparation or implementation of a project and any of its affiliates, should be disqualified from subsequently providing goods or works or services related to the initial assignment (other than a continuation of the firm's earlier consulting services) for the same project, unless the various firms (consultants, contractors, or suppliers) are performing the contractor's obligations under a turnkey or design-and-build contract;

3) Consultants or any of their affiliates should not be hired for any assignment which, by its nature, may conflict with another assignment of the consultants. As an example, consultants hired to prepare an engineering design for an infrastructure project should not be engaged to prepare an independent environmental assessment for the same project, and consultants assisting a client in the privatization of public assets should not purchase, nor advise purchasers of such assets.

4) If the assignment includes an important component for training or transfer of skills, the Terms of Reference (TOR) should indicate the objectives, nature, scope and goals of the training programme, including details of trainers and trainees, skills to be transferred, time-frames and monitoring and evaluation arrangements. The cost for the training should be included in the consultant's contract and in the budget for the assignment

42. Deviation from, and ratification of minor breaches of, procurement processes

- (1) The Accounting Officer may –
 - (a) dispense with the official procurement processes established by this Policy and to procure any required goods or services through any convenient process, which may include direct negotiations, but only –
 - (i) in an emergency;
 - (ii) if such goods or services are produced or available from a single provider only;
 - (iii) for the acquisition of special works of art or historical objects where specifications are difficult to compile;
 - (iv) acquisition of animals for zoos; 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 official or committee acting in terms of delegated powers or duties which are purely of a technical nature.
- (2) The Accounting Officer must record the reasons for any deviations in terms of subparagraphs (1)(a) and (b) of this policy and report them to the next meeting of the council and include as a note to the annual financial statements.
- (3) Subparagraph (2) does not apply to the procurement of goods and services contemplated in paragraph 11(2) of this policy.
- (4) If an accredited agent must be used to perform maintenance services for equipment or vehicles as part of its guarantee or warranty or to obtain genuine parts, a list of such procurements for amounts above R2000.00 must be supplied monthly to the Accounting Officer for information purposes. The type of service, cost, and reason for using one supplier only must be stated.

43. Unsolicited bids

- (1) In accordance with section 113 of the Act the municipality is not obliged to consider unsolicited bids received outside a normal bidding process.
- (2) If an Accounting Officer decides 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 for the municipality;
 - (c) the person who made the bid is the sole provider of the product or services for the municipality; and
 - (d) the reasons for not going through the normal bidding processes are found to be sound by the Accounting Officer.
- (3) Where 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.
- (4) Once the Accounting Officer has received written comments, it must submit such comments to the National Treasury and the relevant provincial treasury.
- (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 (7) 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.

44. Combating of abuse of supply chain management system

- (1) The Accounting Officer must–
- (a) take all reasonable steps to prevent abuse of the supply chain management system;
 - (b) investigate any allegations against an official or other role player of fraud, corruption, favouritism, unfair or irregular practices or failure to comply with this Policy, and when justified –
 - (i) take appropriate steps against such official or other role player; or
 - (ii) report any alleged criminal conduct to the South African Police Service;
 - (c) check the National Treasury’s database prior to awarding any contract to ensure that no recommended bidder, or any of its directors, is listed as a person prohibited from doing business with the public sector;
 - (d) reject any bid from a bidder–
 - (i) if any municipal rates and taxes or municipal service charges owed by that bidder or any of its directors to the municipality, or to any other municipality or municipal entity, are in arrears for more than three months; or
 - (ii) who during the last five years has failed to perform satisfactorily on a previous contract with the municipality or any other organ of state after written notice was given to that bidder that performance was unsatisfactory;
 - (e) reject a recommendation for the award of a contract if the recommended bidder, or any of its directors, has committed a corrupt or fraudulent act in competing for the particular contract;
 - (f) cancel a contract awarded to a person if –
 - (i) the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract; or
 - (ii) an official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of the contract that benefited that person; and
 - (g) reject the bid of any bidder if that bidder or any of its directors –
 - (i) has abused the supply chain management system of the municipality or has committed any improper conduct in relation to such system;
 - (ii) has been convicted for fraud or corruption during the past five years;
 - (v) has wilfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or 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)

The Accounting Officer must inform the National Treasury and relevant provincial treasury in writing of any actions taken in terms of subparagraphs (1)(b)(ii), (e) or (f) of this policy

Part 3: Logistics, Disposal, Risk and Performance Management

45. Logistics management

- (1) The Accounting Officer must establish and implement an effective system of logistics management, which must include –
 - (a) the monitoring of spending patterns on types or classes of goods and services incorporating, where practical, the coding of items to ensure that each item has a unique number;
 - (b) the setting of inventory levels that includes minimum and maximum levels and lead times wherever goods are placed in stock;
 - (c) the placing of manual or electronic orders for all acquisitions including 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.

46. Disposal management

- (1) The criteria for the disposal or letting of assets, including unserviceable, redundant or obsolete assets are subject to sections 14 and 90 of the Act.
 - (a) Two separate disposal committees may be appointed by the Accounting Officer for the disposal of movable and immovable capital assets for a period so determined by the Accounting Officer.
 - (b) For movable capital assets, the composition would be consistent with the Asset Management Policy;
 - (c) Before disposal of immovable assets refer to section 14 of the MFMA and the Municipal Asset Transfer Regulations (no. R.878);

- (d) Such a disposal committee are advisory committees to the Municipal Manager on the disposal of capital assets and do not replace any of the bidding committees.
- (2) (a) Assets may be disposed of by –
- (i) transferring the asset to another organ of state in terms of a provision of the Act enabling the transfer of assets;
 - (ii) transferring the asset to another organ of state at market related value or, when appropriate, free of charge;
 - (iii) selling the asset; or
 - (iv) destroying the asset.
- (b) The Accounting Officer must ensure that –
- (i) immovable property may be sold only at market related prices except when the public interest or the plight of the poor demands otherwise in accordance with section 14 of the MFMA;
 - (ii) movable assets may be sold either by way of written price quotations, a competitive bidding process, auction or at market related prices, whichever is the most advantageous to the municipality;
 - (vi) in the case of disposable computer equipment, the provincial department of education must first be approached to indicate within 30 calendar days whether any local schools are interested in the equipment; and
 - (iv) in the case of disposable firearms, National Conventional Arms Control Committee has approved any sale or donation of fire arms to any person or institution within or outside the Republic; provided that
- (c) (i) immovable property is let at market related rates except when the public interest or the plight of the poor demands otherwise; and
- (ii) all fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property are annually reviewed; and
- (d) (i) ensure that where assets are traded in for other assets, the highest possible trade-in price is negotiated.
- (3) **Competitive bids: The sale and letting of assets**
- (a) The sale and letting of assets above a transaction value of R200 000 (VAT included) and long-term contracts may only be procured through a competitive bidding process, subject to paragraph 11(2) of this Policy.
 - (b) The sale and letting of assets above an estimated transaction value of R200 000 (VAT included), may not be deliberately split into parts or items of lesser value

merely for the sake of selling or letting such assets otherwise than through a competitive bidding process.

- (c) The preference point systems prescribed in the PPPFA and the Preferential Procurement Regulations, 2011 are not applicable to the sale and letting of assets.
- (d) In instances where assets are sold or leased by means of advertised complete bids or written price quotations or by auctions the award must be made to the highest bidder.

47 Risk management

- (1) SCM will develop its own risk management strategy that will be aligned with the organizational wide policy and updated annually.
- (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.

48. Performance management

- (1) The Accounting Officer must establish and implement an internal monitoring system in order to determine, on the basis of a retrospective analysis, whether the authorised supply chain management processes were followed and whether the objectives of this Policy were achieved. It will be aligned with the organizational wide policy.

Part 4: Other matters

49. Prohibition on awards to persons whose tax matters are not in order

- (1) No award above R15 000 may be made in terms of this Policy to a person whose tax matters have not been declared by the South African Revenue Service to be in order.
- (2) Before making an award to a person the Accounting Officer must first check with SARS whether that person's tax matters are in order.
- (3) If SARS does not respond within 7 calendar days such person's tax matters may for purposes of subparagraph (1) be presumed to be in order.
- (4) No award will be made in terms of this policy to a person who's municipal rates, taxes and service fees are not paid-up or arrangements have been made with the relevant Municipality to paid-up arrears.

50. Prohibition on awards to persons in the service of the state

- (1) Irrespective of the procurement process followed, no award may be made to a person in terms of this Policy –
 - (a) who is in the service of the state;
 - (b) if that person is not a natural person, of which any director, manager, principal shareholder or stakeholder is a person in the service of the state; or
 - (c) a person who is an advisor or consultant contracted with the municipality.
- (2) Any person or service provider who fails to disclose his or her employment status with organs of state, his or her contract will be terminated immediately, the service provider shall be deregistered and shall not be allowed to bid for a period not less than three years and shall be reported to National Treasury for blacklisting.

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

- (1) The Accounting Officer must ensure that the notes to the annual financial statements disclose particulars of any award of more than R2000 (incl. VAT) 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.

52. Ethical standards

- (1) A code of ethical standards as set out in the “*SPLM’s code of conduct for supply chain management practitioners and other role players involved in supply chain management*” is attached as annexure c 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) 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.
- (3) All committee members and SCM practitioners may be vetted by the National Intelligence Agency (N.I.A).
- (4) A “Confidential” financial declaration of interest form may be completed by all Bid Adjudication members and submitted to the Accounting Officer annually.
- (5) A cooling off period for former employees and councillors will apply: they will be prohibited for a period of 12 months after leaving the municipal services to participate in any SCM activities e.g. rendering goods /services or consulting services to the Municipality or its entity if established.

53. Inducements, rewards, gifts and favours to municipalities and other role players

- (1) No person who is a provider or prospective provider of goods or services, or a recipient or prospective recipient of goods disposed or to be disposed of may either directly or through a representative or intermediary promise, offer or grant –
- (a) any inducement or reward to the municipality for or in connection with the award of a contract; or
 - (b) any reward, gift, favour or hospitality to –
 - (i) any official; or
 - (ii) any other role player involved in the implementation of this Policy.
- (2) The Accounting Officer must promptly report any alleged contravention of subparagraph (1) to the National Treasury for considering whether the offending person, and any representative or intermediary through which such person is alleged to have acted, should be listed in the National Treasury’s database of persons prohibited from doing business with the public sector.
- (3) Subparagraph (1) does not apply to gifts less than R350 in value.

- (4) All supply chain practitioners and bid committee members must disclose annually rewards, gifts and favours to the Accounting Officer or his delegate who will maintain a Gift Register.
- (5) The Accounting Officer will disclose any such gifts and or favours annually to the Executive Mayor.

54. Sponsorships

- (1) The Accounting Officer must promptly disclose to the National Treasury and the relevant provincial treasury any sponsorship promised, offered or granted, whether directly or through a representative or intermediary, by any person who is –
 - (a) a provider or prospective provider of goods or services; or
 - (b) a recipient or prospective recipient of goods disposed or to be disposed.

55. Objections and complaints

- (1) Persons aggrieved by decisions or actions taken in the implementation of this supply chain management system, may lodge within fourteen (14) calendar days of the decision or action, a written objection or complaint against the decision or action to the Accounting Officer, on the prescribed grievance forms. Unsuccessful notices be published on the website

56. Resolution of disputes, objections, complaints and queries

- (1) The Accounting Officer must appoint an independent and impartial person, not directly involved in the supply chain management processes –
 - (a) to assist in the resolution of disputes between the municipality and other persons regarding -
 - (i) any decisions or actions taken in the implementation of the supply chain management system; or
 - (ii) any matter arising from a contract awarded in the course of the supply chain management system; or
 - (c) 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. A complaints register must be implemented and maintained per annum.
- (3) The person appointed must –
 - (a) strive to resolve promptly all disputes, objections, complaints or queries received; and
 - (b) submit monthly reports to the Accounting Officer on all disputes, objections, complaints or queries received, attended to or resolved.

- (4) A dispute, objection, complaint or query may be referred to the relevant provincial treasury if –
 - (a) the dispute, objection, complaint or query is not resolved within 60 days; or
 - (b) no response is forthcoming within 60 days.
- (5) If the provincial treasury does not or cannot resolve the matter, the dispute, objection, complaint or query may be referred to the National Treasury for resolution.
- (6) This paragraph must not be read as affecting a person's rights to approach a court at any time.
- (7) Publish bid results on Municipal website e.g. company name, price, brand name.

57. Contracts Providing for compensation based on turnover

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

58. Promotion of Environmentally Friendly Procurement

- (1) The Municipality commits itself to environmentally friendly procurement when procuring goods and services, including, but not limited to:
 - (a) the incorporation of energy efficiency measures when procuring electrical supplies such as bulbs, globes etc.
 - (b) the adoption of an integrated waste management strategy such as investigating recycling options and the handling of hazardous substances.
 - (c) compliance with green building guidelines and standards (SANS).
 - (d) sourcing and using resources that are renewable as far as possible.
 - (e) consider the extent of pollution of using the type, quantity and energy of materials procured.
 - (f) source vehicles and equipment that are more energy efficient and produce less pollution.

59. Cost containment measures (MFMA Circular no 97)

The *Accounting Officer* must, as a minimum, institute cost containment measures to minimize operational expenditure of the municipality. As such, the Accounting Officer must implement cost containment measures issued by National Treasury to:

- a) Minimize the use of consultants in the municipality and the expenditure thereof;
- b) Reduce travel and subsistence expenditure;
- c) Reduce expenditure related to advertising, newspaper and other publication;
- d) Reduce expenditure related to telephones, cellular phones and data facilities;
- e) Reduce expenditure related to catering, events and venue hiring; and
- f) Reduce other non-core operational expenditure.

60. Breach of Policy

- (1) Any person in the employ of the Municipality who breaches this Supply Chain Management Policy shall be liable for disciplinary charges and/or being subject to criminal or civil charges.