


# MORETELE LOCAL MUNICIPALITY



## SUPPLY CHAIN MANAGEMENT POLICY

Policy Adoption Date : 31 May 2022  
Policy Number : BTO-09-2022  
Resolution Number : 1200101-05-2022  
Expected review Date : 31 May 2023  
Version control number : BTO-09-06-2022

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## 1. DEFINITIONS

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

**“competitive bidding process”** means a competitive bidding process referred to in section

7.2.2.3 of this policy;

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

**“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 price written;

**“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;

**“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 section 7.2.1 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);

**“public-private partnership”** means a commercial transaction between a municipality and a private party in terms of which the private party –

(a) performs a municipal function for or on behalf of a municipality, or acquires the management or use of municipal property for its own commercial purposes, or

both;

(b) assumes substantial financial , technical and operational risks in connection with –

(i) the performance of the municipal function;

(ii) the management or use of the municipal property; or

(iii) both; and

(c) receives a benefit from performing the municipal function, or from utilising the municipal property or from both, by way of –

(i) consideration to be paid or given by the municipality;

(ii) charges or fees to be collected by the private party from users or customers

of a service provided to them; or

(iii) a combination of the benefits referred to in (i) and (ii) above;

**“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;

**“value for money”** means that the performance of a private party in terms of the public-private partnership agreement will result in a net benefit to the municipality in terms of cost, price,

quality, quantity, risk transfer or any combination of these factors;

**“written or verbal quotations”** means price quotations

## 2. OBJECTIVES OF THE POLICY

This policy is formulated and is implantable in compliance with and to give effect to the provisions of the following pieces of legislation:-

- a) The Constitution of South Africa, Act 108 of 1998
- b) The Preferential Procurement Policy Framework Act, 2000, No.5 of 2000;
- c) Local Government: Municipal Finance Management Act 2003, No. 56 of 2003;
- d) The Broad-Based Black Economic Empowerment Act, 2003 No.53 of 2003; and
- e) National Treasury guidelines.

The objective of the policy is to provide a framework to maintain a supply chain management system which is transparent, efficient, equitable, competitive, ensures best value for money for the municipality, applies the highest possible ethical standards, and promotes local economic development, in terms of section 62 (1) (f) (iv) of the Municipal Finance Management Act, Act 56 of 2003.

By adopting this policy the council are delegating supply chain management powers and duties to the accounting officer in order to enable the accounting officer to

- maximize administrative and operational efficiency in the implementation of the supply chain management policy;
- enforce reasonable cost-effective measures for the prevention of fraud, corruption, favouritism and unfair and irregular practices in the implementation of the supply chain management policy; and
- comply with his/her responsibilities in terms of section 115 and other applicable provisions of the Act.

Further pledges itself and the municipal administration to the observance of all applicable national legislation, including specifically the:

- Preferential Procurement Policy Framework Act No. 5 of 2000 and its regulations;
- Broad Based Black Economic Empowerment Act No. 53 of 2003 and any applicable code of practice promulgated in terms of that Act;
- Municipal Finance Management Act No. 56 of 2003; including the regulations relating to the prescribed framework for supply chain management.

The municipality shall not act otherwise than in accordance to this policy when:

- Procuring goods or services;
- Disposing of goods no longer needed; and
- Selecting Service Providers to provide assistance in the provision of municipal services.



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

3.1 The accounting officer must –

3.1.1 at least annually review the implementation of this policy; and

3.1.2 when the accounting officer considers it necessary, submit proposals for the amendment of this policy to the Council.

3.2 If the accounting officer submits proposed amendments to the Council that differ from the model policy issued by the National Treasury, the accounting officer must –

3.2.1 ensure that such proposed amendments comply with the regulations; and

3.2.2 report any deviation from the model policy to the National Treasury and the relevant provincial treasury.

3.3 When amending this supply chain management policy the need for uniformity in supply chain practices, procedures and forms between organs of state in all spheres, particularly to promote accessibility of supply chain management systems for small businesses must be taken into account.

### 4. THE DELEGATIONS OF SUPPLY CHAIN MANAGEMENT POWERS AND DUTIES

4.1 Council shall delegate powers and duties to the accounting officer so as per chapter 8 and 10 of the Municipal Finance Management Act.

a) to discharge the supply chain management responsibilities conferred on accounting officers in terms of:-

i) chapter 8 or 10 of the Municipal Finance Management Act; and

ii) the supply chain management policy of the municipality or municipal entity;

b) to maximise administrative and operational efficiency in the implementation of the supply chain management policy

- c) to enforce reasonable cost-effective measures for the prevention of fraud, corruption, favouritism and unfair and irregular practices in the implementation of the supply chain management policy; and
- d) to comply with his or her responsibilities in terms of section 115 and other applicable provisions of the Act.
- e) The accounting officer must:-
  - i) promptly prepare and submit a supply chain management policy complying with treasury regulations to the Council of the municipality, for adoption;
  - ii) at least annually review the implementation of the policy; and
  - iii) when the accounting officer considers it necessary, submit proposals for the amendment of the policy to the Council.
- f) The accounting officer must in terms of sections 62 (1)(f) (iv) and 99 (2) (h) of the Act, take all reasonable steps to ensure that the municipality and its entities have and implement a supply chain management policy.
- g) The reports of a municipality must be made public in accordance with section 21 A of the Municipal Systems Act. The reports of a municipal entity must be made public in a similar way.

## 5. SUBDELEGATION

5.1 The accounting officer may in terms of section 79 of the Act sub-delegate

any supply chain management powers and duties, including those delegated to the accounting officer in terms of this policy, but any such sub-delegation must be consistent with subparagraph (2) and paragraph 4 of this policy.

5.2 The power to make a final award –

- (a) above R10 million (VAT included) may not be sub-delegated by the accounting officer;
- (b) above R2 million (VAT included), but not exceeding R10 million (VAT included), may be sub-delegated but only to –
  - (i) the chief financial officer;
  - (ii) a senior manager; or
  - (iii) a bid adjudication committee of which the chief financial officer or a senior manager is a member; or
- (c) not exceeding R2 million (VAT included) may be sub-delegated but only to-
  - (i) the chief financial officer;
  - (ii) a senior manager;
  - (iii) a manager directly accountable to the chief financial officer or a senior manager; or
  - (iv) a bid adjudication committee.

5.3 An official or bid adjudication committee to which the power to make final awards has been sub-delegated in accordance with subparagraph (2) of this policy must within ten (10) working days of the end of each month submit to the official referred to in subparagraph (4) of this policy a written report containing particulars of each final award made by such official or committee during that month, including–

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

5.4 A written report referred to in subparagraph (3) of this policy must be submitted –

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

(i) the chief financial officer;

(ii) a senior manager; or

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

(b) to the chief financial officer or the senior manager responsible for the relevant bid, in the case of an award by –

(i) a manager referred to in subparagraph (2)(c)(iii) of this policy; or

(ii) a bid adjudication committee of which the chief financial officer or a senior manager is not a member.

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

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

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

## 6. OVERSIGHT ROLE OF COUNCIL

The Council reserves its right to maintain oversight over the implementation of this policy. For the purposes of such oversight the accounting officer must –

6.1 within 30 days of the end of each financial year, submit a report on the implementation of this policy to the Council; and

6.2 whenever there are serious and material problems in the implementation of this policy, immediately submit a report to the Council.

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

6.4 The reports must be made public in the official languages determined by the Council,

## 7. SUPPLY CHAIN MANAGEMENT UNIT

7.1 The Municipality will establish a supply chain management unit to implement its supply chain management policy.

7.2 The supply chain management unit shall be under the direct supervision of the chief financial officer or an official duly delegated to deal with that function.

## 8. TRAINING OF SUPPLY CHAIN MANAGEMENT OFFICIALS

8.1 The training of officials involved in implementing a supply chain management policy shall be in accordance with any Treasury guidelines on supply chain management training.

8.2 The Municipality shall provide for such training in its workplace skills plans.

## 9. FORMAT OF THE SUPPLY CHAIN MANAGEMENT SYSTEM

This policy provides systems for –

- demand management;
- acquisition management;
- logistics management;
- disposal management;
- risk management; and
- performance management.

## 10. SYSTEM OF DEMAND MANAGEMENT

10.1. The accounting officer must establish and implement an appropriate demand

management system to ensure that the resources required by the municipality support its operational commitments and its strategic goals outlined in the Integrated Development Plan.

10.2 The demand management system must –

10.2.1 include timely planning and management processes to ensure that all goods and services required by the municipality are quantified, budgeted for and timely and effectively delivered at the right locations and at the critical delivery dates, and are of the appropriate quality and quantity at a fair cost;

10.2.2 take into account any benefits of economies of scale that may be derived in the

case of acquisitions of a repetitive nature; and

10.2.3 provide for the compilation of the required specifications to ensure that its needs

are met.

10.2.4 ensure that appropriate industry analysis and research is undertaken to ensure

that innovations and technological benefits are maximized.

10.2.5 The municipality must compile a Procurement Plan containing all planned

procurement for the financial year in respect of the procurement of goods, services and infrastructure projects which exceed R 200 000 [all applicable taxes included] per case as described in the Supply Chain Management Guide for Accounting Officers. The procurement plan must be finalized on the 1 July every year. The relevant information should preferably be furnished in the format contained in the Procurement Plan Template enclosed as Annexure A.

## 11. ACQUISITION MANAGEMENT

The accounting officer must implement a system of acquisition management that ensures that –

- 11.1 goods and services are procured by the municipality in accordance with authorised processes only;
- 11.2 expenditure on goods and services is incurred in terms of an approved budget;
- 11.3 the threshold values for the different procurement processes are complied with;
- 11.4 bid documentation, evaluation and adjudication criteria, and general conditions of a contract, are in accordance with any applicable legislation;
- 11.5 any treasury guidelines on acquisition management are properly taken into account;
- 11.6 when procuring goods or services under contracts secured by other organs of state, the accounting officer makes public the kind of goods or services procured and the name of the supplier; and
- 11.7 the fact that such goods or services are procured otherwise than through the municipality's supply chain management system is made public.



## 12. RANGE OF PROCUREMENT PROCESSES

12.1 The municipality shall use any of the following ways in procuring goods and services:-

- a) Nominal purchases of up to a transaction value of **R 2 000.00** (VAT included); which shall be procured through petty cash. Department may motivate petty cash to a maximum cash of R5000 per day.
- b) One written and two verbal quotations for procurements of a transaction value over **R 2 000.00** up to **R 10 000.00** (VAT included);
- c) Three Formal written price for procurements of a transaction value over **R 10 000.00** up to **R 30 000.00** (VAT included);
- d) A competitive bidding process for procurements of a transaction value over **R 30 000.00** up to **R 200 000.00** (VAT included);
- e) A competitive bidding process for-
  - i) procurements above a transaction value of **R 200 000.00** (VAT included);
  - ii) the procurement of long term contracts.

12.2 The accounting officer may lower but not to increase, the different threshold values specified above.

The accounting officer may direct that:

- a) formal written price quotations be obtained for any specific procurement of a transaction value lower than **R 10 000.00**;
- b) a competitive bidding process be followed for any specific procurement of a transaction value lower than **R 200 000.00**.

12.3 Goods or services may not deliberately be split into parts or items of a lesser value merely to avoid complying with the requirements of this policy.

12.4 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.

12.5 This supply chain management policy, except where provided otherwise it 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;
- b) electricity from Eskom or another public entity, another municipality or a municipal entity.

12.6 Should the municipality procure goods or services contemplated in section 110(2) of the Act otherwise than through the supply chain management system, it must make public the fact that it procures such goods or services. The public notice should include:-

- a) declare this anomaly and reasons for such action;
- b) the kind of goods or services; and
- c) the name of the supplier.

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

The municipality may not consider a written quotation or bid unless the provider who submitted the quotation or bid:

- a) has furnished the municipality with :-
  - i) full names
  - ii) identification number or company or other registration number; and
  - iii) a valid original tax clearance certificate indicating relevant reference numbers and that the provider's tax matters are in order; and
  
- b) has indicated:-
  - i) whether he or she is in the service provider of the state, or has been in the service of the state in the previous twelve months;
  - ii) if the provider is not a natural person, whether any of its directors, managers, principal shareholders or stakeholder is in the service of the state, or has been in the service of the state in the previous twelve months; or
  - iii) whether a spouse, child or parent of the provider or of a director, manager, shareholder or stakeholder referred to in subparagraph (ii) is in the service of the state, or has been in the service of the state in the previous twelve months.

**i)The following principles shall be followed to commit an expenditure:**

<b>LIMITS</b>	<b>AUTHORIZATION</b>
<p>Up to R 2 000,00 (One written quotation and two quotations).</p>	<p>Recommended by :                    Departmental Manager or delegated Divisional head;  Checked by :                            Divisional Head Expenditure  Approved by :                           Chief Financial Officer</p>
<p>Between R2000 and R 10 000,00 (One written quotation and two quotations)</p>	<p>Recommended by :                    Departmental Manager or delegated Divisional head;  Approved by :                           Chief Financial Officer</p>
<p>Between R 10 000,01 and R 30 000,00 (Three written quotations)</p>	<p>Recommended by :                    Director/ or delegated Departmental Manager;  Approved by :                           Chief Financial Officer</p>
<p>Between R 30 000,01 and R 200 000.00 (Three written quotations)</p>	<p>Recommended by :                    Director or Delegated Departmental Manager ;  Approved by :                           Chief Financial Officer and Municipal Manager</p>

Above R 200 000.00  (Competitive bid)	Recommended by :	Director or Delegated Departmental Manager ;
	Checked by :	Bid Specification Committee
	Approved by :	Municipal Manager

**ii)The following principles shall be followed to approve an orders and Bids:**

<b>LIMITS</b>	<b>AUTHORIZATION</b>
Up to R 10 000,00  (One written quotation and two quotations)	Approved by :  SCM Practioner
Between R 10 000,01 and  R 30 000,00	Approved by :  Head SCM
Between R 30 000,01 and  R 200 000.00	Recommended by: SCM Committee which include SCM Manager, Officer and representative of End User  Approved by :  Chief Financial Officer
Above R 200 000.00	Recommended by: Bid Evaluation and Adjudication Committee  Approved by :  Municipal Manager

**a) For a quotation to be considered, it must:**

- i. be in writing,
- ii. be signed by a person with the necessary authority to act on behalf of the prospective supplier,
- iii. if the quantity of quotations cannot be obtained as required above, a written motivation from the head of the department must accompany the order,
- iv. the quotations must be from the list of accredited prospective suppliers on the CSD website,
- v. the departmental manager must certify that the supplier possesses the skills and resources to execute the bid properly.

**b) Specifications of orders:**

Orders have to be completed in full detail of which the following are important:

- i. Name and address of supplier;
- ii. The date on which the order was placed;
- iii. The expected date of delivery;
- iv. The expenditure vote number;
- v. A certificate of the Departmental Manager to indicate that sufficient
- vi. provision has been made within the budget;
- vii. The signature of the person requested the order;
- viii. the person authorized to sign the order on behalf of the Departmental
- ix. Manager and the authorization signature of the officials as indicated

- x. The date on which the order was authorized;
- xi. Motivation for items to be purchased;
- xii. The quotations shall be attached to the pink copy of the order.

## 14. LIST OF ACCREDITED PROSPECTIVE PROVIDERS

14.1 The municipality shall use the Central Supplier Database (CSD) as a single database source of all supplier information for all spheres of government.

14.2 The accounting officer must at least once a year through newspapers commonly circulating locally, the website and any other appropriate ways, invite prospective providers of goods or services to register on the CSD;

## 15. PETTY CASH PURCHASES

15.1 Petty cash purchases shall be up to a transaction value of up to **R 2000.00** (VAT included).

15.2 A manager may delegate responsibility for petty cash to an official reporting to the manager subject to powers of delegations of the municipality.

15.2.1 The maximum amount per day for each Department may not exceed **R 5 000.00**.

15.3 A manager expenditure must submit monthly petty cash reconciliation reports to the chief financial officer, including:

- a) the total amount of petty cash purchases for that month; and
- b) receipts and appropriate documents for each purchase.

15.4 Managers to keep their own records for reconciliation purposes.

## 16. WRITTEN QUOTATIONS

The conditions for the procurement of goods or services through written quotations, are as follows –

- (a) quotations must be obtained from at least three different providers preferably from, but not limited to, providers whose names appear on the list of accredited prospective providers of the municipality, provided that if quotations are obtained from providers who are not listed, such providers must meet the listing criteria in the supply chain management policy required by 14(1)(b) and (c) of this policy;
- (b) to the extent feasible, providers must be requested to submit such quotations in writing;
- (c) if it is not possible to obtain at least three quotations, the reasons must be recorded and reported quarterly to the accounting officer or another official designated by the accounting officer; and
- (d) the accounting officer must record the names of the potential providers requested to provide such quotations with their quoted prices.

## 17. PROCUREMENT THROUGH WRITTEN, VERBAL OR FORMAL WRITTEN PRICE QUOTATIONS

17.1 The conditions for the procurement of goods or services through written, verbal or formal price quotations are as follows –

- (a) Quotations must be obtained from at least three different providers preferably from, but not limited to, providers whose names appear on the CSD, provided that if quotations are obtained from providers who are not listed, such providers must first register on the CSD before an order can be issued to them. Where no suitable accredited service providers are available from the CSD, quotations may be obtained from other possible providers not on the CSD, provided that such service providers meet the listing criteria set out on the CSD database.



(b) to the extent feasible, providers must submit the quotations in writing and if a quotation was submitted verbally, the order may be placed only against written confirmation by the selected provider;

(c) if it is not possible to obtain at least 3 quotations, the reasons must be recorded and reported quarterly to the accounting officer or another official designated by the accounting officer; and

(d) the accounting officer must record the names of the potential providers requested to provide quotations together with their quoted prices.

17.2) A designated official referred to in subparagraph (17.1) (c) must within five (5) working 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. GENERAL PRE-CONDITIONS FOR CONSIDERATION OF WRITTEN PRICE QUOTATIONS OR BIDS

A written quotation or bid may not be considered unless the provider who submitted the quotation or bid –

(a) has furnished that provider's –

(i) full name;

(ii) identification number or company or other registration number; and

(iii) tax reference number and VAT registration number, if any;

(b) has authorized the municipality to obtain a tax clearance from the South African Revenue Services that the provider's tax matters are in order;

(c) has furnished a clearance certificate to certify that the provider is up to date in relation to municipal rates and taxes; and

(d) 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 12 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 12 months;  
or

(iii) whether a spouse, child or parent of the provider or of a director, manager, shareholder or stakeholder is in the service of the state, or has been in the service of the state in the previous 12 months.

## 19. PROCEDURES FOR PROCURING GOODS OR SERVICES THROUGH WRITTEN, VERBAL AND FORMAL WRITTEN PRICE QUOTATIONS

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

(a) when using the list of accredited prospective providers, the accounting officer

must promote on going competition amongst providers by inviting providers to

submit quotations on a rotation basis;

(b) all requirements in excess of R30 000 (incl. VAT) that are to be procured by means

of formal written price quotations must be advertised for at least 7 days on the

municipal website or the official notice board;

(c) offers received must be evaluated on a comparative basis taking into account unconditional discounts by SCM Committee;

(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) offers below R30 000 (incl. VAT) must be awarded based on compliance to specifications and conditions of contract, ability and capability to deliver the goods and services and lowest price;

(f) acceptable offers must be awarded to the bidder who scored the highest points and should abide by Council requirements for proper record keeping;

(g) a designated official by the chief financial officer must within 5 days of the end of each month report to the chief financial officer on any approvals given during that month.

## 20. COMPETITIVE BIDS

20.1 Goods and Services above a transaction value of **R 200 000.00** (VAT included) and long term contracts may be procured by the municipality only through a competitive bidding process, subject to regulation.

20.2 Goods or services above an estimated transaction value of **R 200 000.00** (VAT included), may not deliberately be split into part or items of lesser value merely for the sake of procuring the goods or services otherwise than through a competitive bidding process.

## 21. BID DOCUMENTATION FOR COMPETITIVE BIDS

21.1 Bid documentation for a competitive bidding process must comply with requirements stated in item 7 above

21.2 In addition the bid documentation must take into account:

- a) the general conditions of contract;
- b) any Treasury guidelines on bid documentation; and

- c) the requirements of the Construction Industry Development Board in the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure:

21.3 Bid documentation must include evaluation and adjudication criteria including any criteria required by other applicable legislation.

21.4 Bidders are compelled to declare any conflict of interest they may have in the transaction for which the bid is submitted.

21.5 Where the value of the transaction is expected to exceed **R 10 million** (VAT included) bidders are required to furnish:-

- a) if the bidder is required by law to prepare annual financial statements for auditing, their audited annual financial statements for the past three years or since their establishment if established during the past three years;
- b) a certificate signed by the bidder certifying that the bidder has no undisputed commitments for municipal services towards the municipality or other service provider in respect of which payment is overdue for more than 30 days;
- c) 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;
- d) a statement indicating whether any portion of the goods or services are expected to be sourced from outside the Republic, and, if so, what portion and whether any portion of payment from the municipality is expected to be transferred out of the Republic, and

21.6 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.

## 22. PUBLIC INVITATION FOR COMPETITIVE BIDS

22.1 Any invitation to prospective providers to submit bids be by means of a public advertisement in newspapers commonly circulating locally, the website of the municipality or any other appropriate ways (which may include an advertisement in the Government Tender Bulletin)

22.2 The information a public advertisement must contain, which must include:

- a) the closure date for the submission of bids, which may not be less than 30 days in the case of transactions over **R 10 million** (VAT included), or which are of a long term nature, or 14 days in any other case, from the date on which the advertisement is placed in a newspaper.
- b) a statement that bids may only be submitted on the bid documentation provided by the municipality.

22.3The accounting officer may determine a closure date for the submission of bids which is less than the 30 or 14 days requirement but only if such shorter period can be justified on the grounds of urgency or emergency or any exceptional case where it is impractical or impossible to follow the official procurement process.

22.4Bids submitted to the municipality must be sealed.

22.5Where bids are requested in an electronic format, such bids must be supplemented by sealed hard copies.

## 23. PROCEDURE FOR HANDLING, OPENING AND RECORDING OF BIDS

23.1 Bids may be opened only in public

23.2 Bids must be opened at the same time and as soon as possible after the period for the submission of bids has expired

23.3Any bidder or member of the public has the right to request that the names of the bidders who submitted bids in time must be read out and, if practical, also each bidder's total bidding price.

23.4 The accounting officer must:

- a) record in a register all bids received in time
- b) make the register available for public inspection; and
- c) publish the entries in the register and the bid results on the website of the municipality.

## 24. NEGOTIATIONS WITH PREFERRED BIDDERS

24.1 The accounting officer may negotiate the final terms of a contract with bidders identified through a competitive bidding process as preferred bidders provided that such negotiations:

- a) does not allow any preferred bidder a second or unfair opportunity;
- b) is not to the

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

## 25. TWO-STAGE BIDDING PROCESS

25.1 The Municipality may utilise a two-stage bidding process 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.

25.2 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.

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

## 26. COMMITTEE SYSTEM FOR COMPETITIVE BIDS

26.1 The Municipality shall establish the following committees for competitive bids:

- a) a bid specification committees;
- b) a bid evaluation committee; and
- c) a bid adjudication committee;

26.2 The accounting officer shall within his delegated powers appoint members of each committee, taking into account section 117 of the MFMA.

26.3 The accounting officer may appoint or allow a neutral or independent observer when this is appropriate for ensuring fairness and promoting transparency.

26.4 Unless otherwise directed, the committees shall apply to formal written price quotations.

## 27. BID SPECIFICATION COMMITTEE

27.1 A bid specification committee must compile the specifications for each procurement of goods or services by the municipality.

27.2 Specifications:

- a) must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services;
- b) must take account of any accepted standards such as those issued by Standards South Africa, the International Standards Organisation, or an authority accredited or recognised

by the South African National Accreditation System with which the equipment or material or workmanship should comply;

- c) 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 sufficient precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the words "equivalent"; except on servicing and repairs of vehicles or machinery and equipment, there should be a service level agreements on maintenance with the dealer. In cases where warranty has expired, the parts will be procured directly from the brand dealer or
- f) must indicate each specific goal for which points may be forwarded in terms of the points system set out in the supply chain management policy of the municipality; and
- g) must be approved by the accounting officer prior to publication of the invitation for bids;

27.3A bid specification committee will be composed of one or more officials of the municipality, manager responsible for the function involved and, and may, when appropriate, include external specialist advisors,

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

27.5 Bid specification committees shall sit and consider requisitions within five (5) days after the relevant department had submitted the request for tenders.



## 28. BID EVALUATION COMMITTEES

28.1 A bid evaluation committee must:

- a) evaluate bids in accordance with-
  - i) the specifications for a specific procurement; and
  - ii) the procurement points system of the municipality.
- 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 services 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.

28.2 A bid evaluation committee will as far as possible be composed of:-

- a) officials from departments requiring the goods or services; and
- b) at least one supply chain management employee, and may, when appropriate, include external specialist advisors.
- c) Bid evaluation committees shall sit and evaluate the received within 60 days or less after the tender has been closed.

## 29. BID ADJUDICATION COMMITTEES

29.1 A bid adjudication committee must:

- a) consider the report and recommendations of the bid evaluation committee; and
- b) either
  - i) depending on its delegations, make a final award or a recommendation to the accounting officer to make the final award; or
  - ii) make another recommendation to the accounting officer how to proceed with the relevant procurement.

29.2 A bid adjudication committee must consist of:

- 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;
- b) all departmental heads of the municipality
- c) at least one senior supply chain management employee who is an official of the municipality; and
- d) a technical expert in the relevant field who is an official of the municipality, if the municipality has such an expert.

29.3 The accounting officer must appoint the chairperson of the committee. If the chairperson is absent from a meeting, the members of the committee who are present must elect one of them to preside at the meeting.

29.4 Neither a member of a bid evaluation committee, nor an advisor or person assisting the evaluation committee, may be a member of a bid adjudication committee.

29.5 If a 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 check in

respect of the preferred bidder whether that bidder's municipal rates and taxes and municipal services charges are not in arrears; and notify the accounting officer.

29.6 The accounting officer may after due consideration of the reasons for the deviation, ratify or reject the decision of the bid adjudication and if the decision of the bid adjudication committee is rejected, refer the decision of the adjudication committee back to that committee for reconsideration.

29.7 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.

29.8 Bid evaluation committees shall sit and recommend the appointment of service providers to the accounting officer.

29.9 **Invitations to submit expressions of interest or tender offers**

29.9.1 All invitations to submit tenders where the estimated value of the contract exceeds R200 000 including VAT, except where a confined tender process is followed, and expressions of interest shall be advertised on the municipality's website and in the newspaper. Advertisements shall be placed by Manager SCM

29.9.2 Where deemed appropriate by the Manager SCM, an invitation to tender and a call for an expression of interest shall be advertised in suitable local and national newspapers. Advertisements shall be placed by Manager SCM.

29.9.3 Such advertisements shall be advertised for a period of at least 30 days before closure, except in urgent cases when the advertisement period may be shortened as determined by the municipal manager.

29.9.4 Invitations to submit expressions of interest or tender offers shall be issued not less than 10 working days before the closing date for tenders and at least 5 working days before any compulsory clarification/briefing meeting.

29.9.5            **Publication of submissions received and the award of contracts**

29.9.6            The Manager Supply Chain shall publish within 10 working days of the closure of any advertised call for an expression of interest or an invitation to tender where the estimated value of the contract exceeds R200 000 including VAT on the municipality's website, the names of all tenderers that made submissions to that advertisement, and if practical or applicable, the total of the prices and the preferences claimed. Such information shall remain on the website for at least 30 days.

29.9.7            The Manager Supply Chain shall publish the award of a contracts following on the Municipality's website

- a)     the contract number;
- b)     contract title;
- c)     brief description of the goods, services or works;
- d)     the total of the prices, if practical;
- e)     the names of successful tenderers and their B-BBEE status level of contribution;
- f)     duration of the contract; and
- g)     brand names, if applicable.

## 30. PROCUREMENT OF BANKING SERVICES

30.1            A contract for the provision of banking services to the municipality.

- a)     must be procured through competitive bids;
- b)     must be consistent with sections 7 or 85 of the Act; and
- c)     may not be for a period of more than five years at a time.

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

30.3 The closure date for the submission of bids may not be less than 60 days from the date on which the advertisement is placed in a newspaper in terms of regulation 22(1). Bids must be restricted to banks registered in terms of the Banks Act 1990 (Act No. 94 of 1990).

## 31. PROCUREMENT OF IT RELATED GOODS OR SERVICES

31.1 The accounting officer may request the State Information Technology Agency (SITA) to assist the municipality with the acquisition of IT related goods or services through a competitive bidding process.

31.2 The municipality will enter into a written agreement to regulate the services rendered by, and the payments to be made to SITA.

31.3 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 50 million (VAT included); or
- b) the transaction value of a contract to be procured by the municipality whether for one or more years exceeds 50 million (VAT included).

30.4 If SITA comments on the submission and the municipality disagrees with such comments, the comments and the reasons for rejecting or not following such comments must be submitted to the council, the National Treasury, the relevant provincial treasury and the Auditor General.

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

32.1 The accounting officer may procure goods or services for the municipality under a contract secured by another organ of state, but only if:

- a) That contract has been secured by that other organ of state by means of a competitive bidding process applicable to that organ of the 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.
- e) The contract must be valid
- f) The municipality must confirm the duration of the contract between the service provider/s and the other organ of state and determine the remaining term of the contract. Once this has been confirmed, the municipality must assess whether the remaining period will be sufficient for the service provider/s to deliver on its requirements. In other words, the participating municipality will only be permitted to utilise the contract of the other organ of state for the balance of the remaining period of the contract.
- g) The goods or services must be the same and the quantity may not be increased
- h) The shared contract must have the same dispute resolution mechanism to settle contractual disputes, a combined periodic contract management performance review to appraise the shared contract, and to regularly report to the council of the participating municipality, on the management of the contract, service level agreement and the performance of the shared contractor/s.

32.2 The above provisions do not apply where the municipality or its entity procures goods or services through a contract secured by its parent municipality.

32.3 Director requesting the use of Regulation 32, will provide motivation and specification to the accounting officer for approval. After Bid Specification Committee review the specification, Accounting Officer, will require approval from the identified state organ.

### 33. PROCUREMENT OF GOODS NECESSITATING SPECIAL SAFETY ARRANGEMENTS

33.1 The acquisition and storage of goods in bulk (other than water) which necessitate special safety arrangements, including gasses and fuel is restricted.

33.2 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.

### 34. PROUDLY SA CAMPAIGN

A supply chain management policy must stipulate to what extent the municipality supports the Proudly SA Campaign.

### 35. CONTRACT MANAGEMENT

35.1 Any increase in the approved contract sum or contract period (in respect of bids) that may become necessary as a result of exceptional circumstances during the contract period, the End User Department must submit it to the Chief Financial officer for recommendation and Accounting Officer for final approval.

35.2 The period of extension of contract may not exceed a period of more than twenty four ( 24 months).

### 36. APPOINTMENT OF CONSULTANTS

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

36.2 A contract for the provision of consultancy services to the municipality must be procured through competitive bids it:

- a) the value of the contract exceeds **R 200 000.00** (VAT included); or

b) the duration period of the contract exceeds one year.

36.3 In addition to any requirements prescribed by this policy for competitive bids, bidders must furnish 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.

36.4 The municipality must ensure that copyright in any document produced, and the patent rights or ownership in any plant machinery, thing, system or process designed or devised, by a consultant in the course of the consultancy service is vested in the municipality.

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

### **Single-source Selection**

37.1 National Treasury Guidelines provide for single-source selection in exceptional cases. The justification for single-source selection must be examined in the context of the overall interests of the Municipality and the project.

37.2 Single-source selection may be appropriate only if it presents a clear advantage over competition:

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

37.4 The reasons for single-source selection must be fully motivated in a report and approved by the CFO and Municipal Manager prior to conclusion of a contract, provided that if the award is for an amount of R200 000 (VAT inclusive).

37.5 The Municipal Manager may dispense with the official procurement processes established by this Policy, and procure any required goods or services through any convenient process, which may



include direct negotiation, but only in respect of:

- i. any contract relating to an emergency (as described in clauses 285 and 286 below) where it would not be in the interests of the Municipality to invite bids,
- ii. any goods or services which are available from a single provider only,
- iii. the acquisition of animals for zoos, or
- iv. the acquisition of special works of art or historical objects where specifications are difficult to compile;
- v. any other exceptional circumstances where it is impractical or impossible to follow the official procurement process, including:
- vi. any purchase on behalf of the Municipality at a public auction sale;
- vii. any contract in respect of which compliance therewith would not be in the public interest;
- viii. ad-hoc repairs to plant and equipment where it is not possible to ascertain the nature or extent of the work required in order to call for bids; and
- ix. any contract in respect to accommodation, travel agencies and courier services.
  
- x. any acquisition in respect of show stalls.

37.6 The Municipal Manager may condone a deviation from the procurement processes, provided that such deviation is limited to the circumstances referred to in clause 37.5.

37.7 The conditions warranting Emergency dispensation should include the existence of one or more of the following:

- a. the possibility of human injury or death;
- b. the prevalence of human suffering or deprivation of rights;

- c. the possibility of damage to property, or suffering and death of livestock and animals;
- d. the interruption of essential services, including transportation and communication facilities or support services critical to the effective functioning of the Municipality as a whole;
- e. the possibility of serious damage occurring to the natural environment;
- f. the possibility that failure to take necessary action may result in the Municipality not being able to render an essential community service; and
- g. the possibility that the security of the state could be compromised.

37.8 The prevailing situation, or imminent danger, should be of such a scale and nature that it could not readily be alleviated by interim measures, in order to allow time for the formal procurement process. Emergency dispensation shall not be granted in respect of circumstances other than those contemplated above.

37.9 Where possible, in an emergency situation, three quotes in accordance with general acquisition management principles should be obtained and a report submitted to the Municipal Manager for approval. However, where time is of the essence, the emergency shall be immediately addressed, and the process formalised in a report to the Municipal Manager as soon as possible thereafter.

37.10 The accounting officer must record the reasons for any deviations in terms of and report them to the next meeting of the Council, and include such deviations as a note to the annual financial statements.

## 38. UNSOLICITED BIDS

The municipality is not obliged to consider unsolicited bids received outside a normal bidding process.

38.1 Should the municipality consider an unsolicited bid, this may be done 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 advantage for the municipality;
- c) the person who made the bid is the sole provider of the product or service; and the reasons for not going through the normal bidding processes are found to be sound by the accounting officer.

38.2 If a municipality decides to consider an unsolicited bid, the municipality must take its decision 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 for the municipality were it to accept the unsolicited bid; and
- c) an invitation to the public or other potential suppliers to submit their comments within 30 days of the notice.

38.3 Once the municipality has received written comments relating 24.3 above, it must submit such comments, including any responses from the unsolicited bidder, to the National Treasury and the relevant provincial treasury for comment

38.4 The adjudication committee must consider the unsolicited bid and may award the bid or make a recommendation to the accounting officer, depending on its delegations.

38.5 A meeting of the adjudication committee to consider an unsolicited bid must be open to the public.

38.6 When considering the matter, the adjudication committee must take into account:

- a) any comments submitted by the public; and

- b) any written comments and recommendations of the National Treasury or the relevant provincial treasury.

38.7 If any recommendations of the National Treasury or provincial treasury are rejected or not followed, the accounting officer must submit to the Auditor General, the relevant provincial treasury and the National Treasury the reasons for rejecting or not following those recommendations.

38.8 Such submission must be made within seven days after the decision on the award of the unsolicited bid is taken, but no contract committing the municipality to the bid may be entered into or signed within 20 days of the submission.

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

39.1 The accounting officer must:

- a) take all reasonable steps to prevent such abuse of the supply chain management process;
- b) investigate any allegations against an official or other role player of fraud, corruption, favouritism, unfair or irregular practices or failure to comply with the supply chain management policy, and when justified-
  - i) take appropriate steps against such official or other role players; or
  - ii) report any alleged criminal conduct to the South African Police Service;
- c) check the National Treasury database prior to awarding any contract to ensure that no recommended bidder, or any of its directors, is listed as a person prohibited from doing business with the public sector;
- d) reject any bid from a bidder-
  - i) if any municipal rates and taxes or municipal service charges owed by that bidder or any of its directors to the municipality or to any other municipality are in arrears for more than three months; or

- ii) who during the last five years has failed to perform satisfactorily on a previous contract with the municipality or any other organ of state after written notice was given to that bidder that performance was unsatisfactory;
- e) reject a recommendation for the award of a contract if the recommended bidder, or any of its directors, has committed a corrupt or fraudulent act in competing for the particular contract;
- f) cancel a contract awarded to a person if-
  - i) the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract; or
  - ii) an official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of the contract that benefited that person; and
- g) reject the bid of any bidder if that bidder or any of its directors-
  - i) has abused the supply chain management system of the municipality or has committed any improper conduct in relation to such system;
  - ii) has been convicted for fraud or corruption during the past five years;
  - iii) has wilfully neglected reneged on or failed to comply with any government municipal or other public sector contract during the past five years; or
  - iv) has been listed in the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act, No. 12 of 2004.
- h) Contracts above the value of R10 million (all applicable taxes included) may only be awarded to the preferred bidder after the Chief Financial Officer has verified in writing that budgetary provision exists for the acquisition of the goods, infrastructure projects and/or services and that it is consistent with the Integrated Development Plan.
- i) During competitive bidding and adjudication processes or before the award of a contract, the accounting officer must specifically request the internal audit function to carry out audit procedures and provide an opinion on compliance of the bidding process with the Municipal Supply Chain Management Regulations for all bids above **R10 million**.

39.2 The accounting officer must inform the National Treasury and relevant provincial treasury in writing of any actions taken in terms of policy.

## 40. LOGISTICS MANAGEMENT

### 40.1 Introduction

40.1.1 Logistics management must provide for an effective system in order to provide for the setting of inventory levels, placing of orders, receiving and distribution of goods, stores and warehouse management, expediting orders, transport management, vendor performance, and maintenance and contract administration.

### **40.2 Inventory levels**

40.2.1 Stock items shall be systematically replenished as when the stock is at an acceptable minimum level.

### **40.3 Placing of orders**

40.3.1 All purchase orders will be captured on the financial system exclusive of VAT.

40.4.4 Purchase order approvals will be systems based and will involve the procurement department only.

### **40.5 Receiving and distribution of goods**

40.5.1 Goods will be received on the finance system with reference to purchase orders.

### **40.6 Stock management**

40.6.1 The Supply Chain Management Unit must ensure proper financial and budgetary control; uphold the principle of effective administration, proper stock holding and control, product standardisation, quality of products and a high standard of service levels.

#### **40.7 Expediting orders**

40.7.1 The purchasing expeditor will be required to monitor and expedite outstanding purchase orders.

#### **40.8 Transport management**

48.1 The Municipality's fleet management policy which will be developed and must be adhered to at all times.

#### **40.9 Vendor performance**

40.9.1 Municipality will evaluate vendors' performance with regard to certain pre-determined criteria developed by Office of Municipal Manager.

40.9.2 The information will be available for contract negotiations and regular feedback to the vendors.

40.9.3 Maintenance and contract administration.

40.9.3.1 The contract management provisions below are applicable only to contracts for the provision of goods or services (excluding construction work contracts).

40.9.3.2 All contracts must be administered by an official(s) in departments having the necessary competencies to ensure effective management of the contract.

40.9.3.3 The use of fixed price, fixed term contracts will be promoted and expenditure will be driven towards contracts versus once-off purchases.

40.9.3.3 Contract price adjustments shall be processed only in accordance with contract terms and conditions.

## **41. DISPOSAL MANAGEMENT**

41.1 Immovable property may be sold only at market related prices except when the public interest or the plight of the poor demands otherwise.

41.2 Movable assets may be sold either by way of written price quotations, a competitive bidding process, auction or market related prices whichever is the most advantageous to the municipality.

41.3 Any obsolete movable assets that may not be sold, will be disposed as scrap.

41.4 In the case of the free disposal of computer equipment, the provincial department of education must first be approached to indicate within 30 days whether any of the local schools are interested in the equipment.

41.5 In the case of the disposal of firearm, the National Conventional Arms Control Committee has approved any sale or donation of firearms to any person or institution within or outside the Republic;

41.6 Immovable property will be let at market related rates except when the public interest or the plight of the poor demands otherwise.

41.7 All fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property shall be reviewed annually.

41.8 Where assets are traded in for other assets, the highest possible trade-in price shall be negotiated.

## 42. RISK MANAGEMENT

The Municipality shall establish a risk management system which includes:

- a) the identification of risks on a case-by-case basis;
- b) the allocation of risks to the 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 and the provision of adequate cover for residual risks; and



- e) the assignment of relative risks to the contracting parties through clear and unambiguous contract documentation.

#### 43. PERFORMANCE SUPPLY CHAIN MANAGEMENT

The Municipality shall install an internal monitoring system in order to determine, on the basis of a retrospective analysis whether the authorised supply chain management processes are being followed and whether the desired objectives are being achieved.

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

44.1 The Municipality, irrespective of the procurement process followed, may not make any award above **R 15 000.00** to a person whose tax matters have not been declared by the South African Revenue Service to be in order.

44.2 Before making an award to a person, the service provider must submit a valid original tax clearance certificate.

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

The Municipality, irrespective of the procurement process followed, may not make any award to a person:

- a) 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
- b) who is an advisor or consultant contracted with the municipality.

- c) Declaration should be done on MBD4 form.

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

The notes to the annual financial statements of the municipality must disclose particulars of any award of more than **R 2 000.00** 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.
- d) MBD 4 have to be submitted with all quotations.

## 47. CODE OF ETHICAL STANDARDS FOR OFFICIALS AND OTHER ROLE PLAYERS IN THE SUPPLY CHAIN MANAGEMENT

47.1 An officials and other role players in the supply chain management must conduct the affairs of the municipality in a manner that will promote:

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

47.2 An official or other role player involved in the implementation of the supply chain management policy of the municipality:

- a) must treat all providers and potential providers equitably;

- b) may not use his or her position for private gain or to improperly benefit another person;
  - c) may not accept any reward, gift, favour, hospitality or other benefit directly or indirectly, including to any close family member, partner or associate of that person.
- 47.3 Officials and other role players must declare to the accounting officer details of any reward, gift, favour, hospitality or other benefit promised, offered or granted to that person or to any close family member, partner or associate of that person.
- 47.4 Officials and other role players must declare to the accounting officer details of any private or business interest which that person, or any close family member, partner or associate, may have in any proposed procurement or disposal process of, or in any award of a contract by, the municipality;
- 47.5 Officials and other role players must immediately withdraw from participating in any manner whatsoever in a procurement or disposal process or in the award of a contract in which that person, or any close family member, partner or associate, has any private or business interest.
- 47.6 An official or role player must be scrupulous in his or her use of property belonging to the municipality.
- 47.7 An official or role player must assist the accounting officer in combating fraud, corruption, favouritism and unfair and irregular practices in the supply chain management system and must report to the accounting officer any alleged irregular conduct in the supply chain management system which that person may become aware of including-
- i) any alleged fraud, corruption, favouritism or unfair conduct:
  - ii) any alleged contravention of treasury regulations; or
  - iii) any alleged breach of the code of ethical standards
- 47.8 All declarations must be recorded in a register which the accounting officer must keep for this purpose.
- 47.9 All declarations by the accounting officer must be made to the mayor of the municipality and ensure that such declarations are recorded in the register.

47.10 The municipality shall take appropriate action against any official or other role player who commits a breach of the above ethical standards.

47.11 In implementing this code of conduct the municipality will take into account the National Treasury's code of conduct for supply chain management practitioners.

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

48.1 No person who is a provider or prospective provider of goods or services to a municipality, or a recipient or prospective recipient of goods disposed or to be disposed of by a municipality 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 of the municipality; or
  - ii) any other role player involved in the implementation of the supply chain management policy of the municipality

48.2. The accounting officer of a municipality must promptly report any alleged contravention to the National Treasury for considering whether the offending person, and any representative or intermediary through which such person is alleged to have acted, should be listed in the National Treasury's database of persons prohibited from doing business with the public sector.

#### 49. SPONSORSHIPS

49.1 The accounting officer of a municipality must promptly disclose to the National Treasury and the relevant provincial treasury any sponsorship promised, offered or granted to the municipality, whether directly or through a representative or intermediary, by any person who is:

- a) a provider or prospective provider of goods or services to the municipality; or
- b) a recipient or prospective recipient of goods disposed or to be disposed, of by the municipality.

## 50. BIDDERS COMMITMENTS

All prospective bidders of the municipality shall -

- (a) abide to the mission and vision of the municipality and shall assist the municipality to realise and meet its objectives;
- (b) after an award of any contract for more than R200 000, the service provider shall commit himself or herself to a social responsibility programme; and the accounting officer shall ensure compliance with section 35 of this policy.
- (c) ensure and promote good relations with all structures established in terms of the municipal processes, the Municipal Systems Act, and the Municipal Structures Act;
- (d) promote the employment of local people, reimburse their services taking into consideration the minimums standards set by the Department of labour through the Sectoral Determination Act.
- e) **Collusive tendering** -Any submissions made by a respondent or tenderer who fails to declare in the Compulsory Declaration that the tendering entity:
  - i) is not associated, linked or involved with any other tendering entity submitting tender offers; or
  - ii) has not engaged in any prohibited restrictive horizontal practices including consultation, communication, agreement, or arrangement with any competing or potential tendering

entity regarding prices, geographical areas in which goods and services will be rendered, approaches to determining prices or pricing parameters, intentions to submit a tender or not, the content of the submission (specification, timing, conditions of contract etc.) or intention to not win a tender shall be rejected.

## 51. OBJECTIONS AND COMPLAINTS

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

### 51.1 Right of Appeal

51.1 In terms of Section 62 of the Systems Act, a person whose rights are affected by a decision taken by the Municipality, in terms of a delegated authority, in the implementation of its supply chain management system, may appeal against that decision by giving written notice of the appeal and reasons to the Municipal Manager .

51.2 Tender documents must state that any appeal in terms of clause 225 must be submitted to the Municipal Manager at the address stated, and must contain the following:

- a. reasons and/or grounds for the appeal;
- b. the way in which the appellants rights have been affected; and
- c. the remedy sought by the appellant.

### 51.3 Cancellation of Bids

51.3.1 If it becomes necessary to cancel or re-advertise formal bids, then a report to this effect shall be submitted to the Bid Adjudication Committee for decision.

51.3.2 If bids have been cancelled, then all bidders must be notified in writing.

51.3.3 It is not necessary to notify original bidders when calling for new bids,

51.3.4 No bid may be re-advertised before the expiry of the validity period of the original bid, or any extended validity period.

51.3.5 Notwithstanding clause 236, where no valid bids are received or where all bidders have indicated in writing that they have no objection to the re-advertisement of the bid, then the bid may be re-advertised forthwith.

51.3.6 In the case of bids for construction related works, and where the Bid Adjudication Committee resolved that there were no responsive tenders received, then the bid may be re-advertised forthwith.

#### **51.4 Placing of contractors under restrictions**

**51.4.1** If any tenderer which has submitted a tender offer or a contractor which has concluded a contract has, as relevant:

- a) offered, promised or given a bribe in relation to the obtaining or the execution of such contract;
- b) acted in a fraudulent, collusive or anti-competitive or improper manner or in bad faith towards Moretele Local Municipality; or
- c) made any incorrect statement in any affidavit or declaration with regard to a preference claimed and is unable to prove to the satisfaction of Moretele Local Municipality that the statement was made in good faith or reasonable steps were taken to confirm the correctness of the statements,
- d) Chief Financial Officer or Chief Internal Audit shall prepare a report on the matter and make a recommendation to the municipal manager for placing the contractor or any of its principals under restrictions from doing business with the Moretele Local Municipality.

51.4.2 The municipal manager may, as appropriate, upon the receipt of a recommendation made in terms of 51.4.1 and after notifying the contractor of such intention in writing and giving written reasons for such action, suspend a contractor or any principal of that contractor from submitting a tender offer to Moretele Local Municipality for 5 years.

**51.5** Supply Chain Management Unit **shall:**

51.5.1 record the names of those placed under restrictions in an internal register which shall be accessible to employees and agents of Municipality who are engaged in procurement processes; and

51.5.2 notify the National Treasury and the North West provincial treasury and, if relevant, the Construction Industry Development Board, of such decision and provide them with the details associated therewith.

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

52.1 In the case of a dispute the municipality may appoint an accounting officer or an independent and impartial person not directly involved in the supply chain management processes of the municipality:

- a) to assist in the resolution of disputes between the municipality and other persons regarding-
  - i) any decisions or actions taken by the municipality in the implementation of its supply chain management system; or
  - ii) any matter arising from a contract awarded in the course of its supply chain management system; or
- b) to deal with objections, complaints or queries regarding any such decisions or actions or any matters arising from such contract.

52.2 The person appointed must strive to resolve promptly all disputes, objections, complaints or queries received and submit monthly reports to the accounting officer on all disputes, objections, complaints or queries received, attended to or resolved. The accounting officer or another responsible official designated is responsible for assisting the appointed person to perform his or her duties.

52.3 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 received from the municipality within 60 days.



52.4 If the provincial treasury does not or cannot resolve the matter, the dispute, objection, complaint or query may be referred to the National Treasury for resolution.

52.5 This regulation must not be read as affecting a person's rights to approach a court at any time.

52.7 All complaints regarding the Moretele Local Municipality's infrastructure delivery management system shall be addressed to the municipal manager. Such complaints shall be in writing.

52.8 The Legal Manager shall investigate all complaints regarding the infrastructure procurement and delivery management system and report on actions taken to the Municipal Manager who will decide on what action to take.

### 53. CONTRACTS ON COMPENSATION BASED ON TURNOVER

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.

### 54. COMPLIANCE WITH CIRCULARS

All MFMA Circulars issued by National Treasury from time-to-time are applicable within this policy where practical.

### 55. COMMENCEMENT OF THE POLICY

This policy takes effect after council approval.