

# **MORETELE LOCAL MUNICIPALITY**



## **REVISED SUPPLY CHAIN MANAGEMENT POLICY FINANCIAL YEAR 2023-2024**

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## 1. DEFINITIONS

In this Policy, unless the context otherwise indicates, a word or expression to which a meaning has been assigned in the Municipal Finance Management Act, no 56 of 2003, has the same meaning as in the Act, and –

<b>“Accounting Officer”</b>	in relation to a Municipality means the Accounting Officer as described in Section 60 of the Local Government: Municipal Finance Management Act, no 56 of 2003 as well as Section 82 of the Municipal Structures Act, no 117 of 1998.
<b>“Bid”</b>	means a written offer in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of services, works or goods
<b>Close Family Member”</b>	means: (i) spouse or partner, (ii) child, (iii) parent
<b>“Close Members of the Family for GRAP Disclosure”</b>	means those family members who may be expected to influence, or be influenced by that person in their dealings with the entity. As a minimum, a person is considered to be a close member of the family of another person if they: (a) are married or live together in a relationship similar to a marriage; or (b) are separated by no more than two degrees of natural or legal consanguinity or affinity.
<b>“Competitive Bidding Process”</b>	means a competitive bidding process referred to in paragraph 12 (1) (d) of this Policy;
<b>“Competitive Bid”</b>	means a bid in terms of a competitive bidding process;
<b>“Consultants”</b>	<b>“Consultants”</b> means consulting firms, engineering firms, legal firms, construction managers, management firms, procurement agents, inspection agents, auditors, other multinational organizations, investments and merchant banks, universities, research agencies, government agencies, non-governmental (NGO's) and individuals.
<b>“Contract”</b>	means the agreement that results from the acceptance of a bid by the Municipality;
<b>“IDP”</b>	means Integrated Development Plan
<b>“Irregular Expenditure”</b>	For the purpose of this Policy means expenditure incurred by the municipality in contravention of, or that is not in accordance with, a requirement of the Supply Chain Management Policy of the municipality, and which is not been condoned in terms of the Policy
<b>“Long Term Contract”</b>	means a contract with a duration period exceeding one year;
<b>“Municipality”</b>	means Moretele Local Municipality

<b>“Municipal Systems Act”</b>	means the Local Government: Municipal System Act 32 of 2000
<b>“Notice Boards”</b>	means the official notice boards at the municipal offices, libraries and any notice boards at the dedicated directorates
<b>“Other Applicable Legislation”</b>	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); c) the Construction Industry Development Board Act, 2000 (Act No.38 of 2000); d) the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003); e) the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000); f) the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998); g) the Prevention and Combating of Corrupt Activities Act, 2000 (Act No. 12 of 2004); h) the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003): Municipal Supply Chain Management Regulations; i) the Preferential Procurement Regulations, 2017 j) the Competitions Act 1998 (Act No. 89 of 1998)
<b>“Policy”</b>	means the Supply Chain Management Policy of the Moretele Local Municipality
<b>“Quotation”</b>	means a stated price that a supplier expects to receive for the provision of specified services, works or goods;
<b>“Single source”</b>	refers to when competition exist in the market, but from a selected few suppliers due to technical capabilities and abilities comply with the requirements of the municipality;
<b>“Sole Supplier”</b>	means the only supplier in the South African market that can provide a particular product or service; there is no competition in the market; with sole distribution rights and/or patent rights or manufacturer;
<b>“specific goals”</b>	means specific goals as contemplated in section 2(1)(d) of the Act which may include contracting with persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of race, gender and disability including the implementation of programmes of the Reconstruction and Development Programme as published in Government Gazette No. 16085 dated 23 November 1994;

<b>“Supply chain management practitioners”</b>	includes the Chief Financial Officer, the Head of the Budget and Treasury Office and the Head of Supply Chain Management as well as other supply chain officials;
<b>“Tender”</b>	means ‘bid’ or ‘quotation’ in relation to ‘Tender Box’
<b>“Treasury Guidelines”</b>	means any guidelines on supply chain management issued by the Minister in terms of Section 168 of the Act;
<b>“Supply chain management practitioners”</b>	includes the Chief Financial Officer, the Head of the Budget and Treasury Office and the Head of Supply Chain Management as well as other supply chain officials;
<b>“Validity period”</b>	means the period for which a bid is to remain valid and binding as stipulated in the relevant tender document. The validity period for all Moretele tenders will be until the day the tender is awarded.

## 2.OBJECTIVES OF THE POLICY

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

- i. The Constitution of South Africa, Act 108 of 1998
- ii. The Preferential Procurement Policy Framework Act, 2000, No.5 of 2000;
- iii. Local Government: Municipal Finance Management Act 2003, No. 56 of 2003;
- iv. The Broad-Based Black Economic Empowerment Act, 2003 No.46 of 2013; and
- v. National Treasury guidelines.

2.2. 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.

2.3. 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

2.4. maximize administrative and operational efficiency in the implementation of the supply chain management policy;

2.5. 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 service

### **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.

#### **4.1.1. To discharge the supply chain management responsibilities conferred on accounting officers in terms of:-**

- a. chapter 8 or 10 of the Municipal Finance Management Act: and
- b. the supply chain management policy of the municipality or municipal entity;
- c. to maximise administrative and operational efficiency in the implementation of the supply chain management policy.



- d. 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 to comply with his or her responsibilities in terms of section 115 and other applicable provisions of the Act.

**4.1.2. The accounting officer must: -**

- a. promptly prepare and submit a supply chain management policy complying with treasury regulations to the Council of the municipality, for adoption
- b. at least annually review the implementation of the policy; and
- c. When the accounting officer considers it necessary, submit proposals for the amendment of the policy to the Council.
- d. 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. 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

5.1.1. 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 –

5.2.1. above R10 million (VAT included) may not be sub-delegated by the accounting officer;

5.2.2. above R2 million (VAT included), but not exceeding R10 million (VAT included), may be

**sub-delegated but only to –**

5.2.2.1. the chief financial officer.

5.2.2.2. a senior manager; or

5.2.2.3. a bid adjudication committee of which the chief financial officer or a senior manager is a member; or

5.2.3. not exceeding R2 million (VAT included) may be sub-delegated but only to-

5.2.3.1. the chief financial officer.

5.2.3.2. a senior manager.

5.2.3.3. 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–

- 5.3.1. the amount of the award;
- 5.3.2. the name of the person to whom the award was made; and
- 5.3.3. 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 to the chief financial officer or the senior manager responsible for the relevant bid, in the case of an award by –
    - a manager referred to in subparagraph (2)(c)(iii) of this policy; or
    - a bid adjudication committee of which the chief financial officer or a senior a member. manager is not.

5.5. 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.

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

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

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

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

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

6.1.3. 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.

6.1.4. 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**

9.1. 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 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**

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

11.1.1. goods and services are procured by the municipality in accordance with authorized processes only;

11.1.2. expenditure on goods and services is incurred in terms of an approved budget;

11.1.3. the threshold values for the different procurement processes are complied with:

11.1.3.1. bid documentation, evaluation and adjudication criteria, and general conditions of a contract, are in accordance with any applicable legislation;

11.1.3.2. any treasury guidelines on acquisition management are properly taken into account

11.1.3.3. 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

11.1.3.4. 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: -**

12.1.1. Transaction above R1 to R10 000(VAT inclusive), one quotation can be sourced.

12.1.2. Transaction above R10 000(VAT inclusive) to R30 000(VAT Inclusive, three quotations is required.

12.1.3. Transaction above R30 000(VAT inclusive) to R300 000(VAT inclusive) the request for quotation must be sources through seven (7) days public advertisement.

12.1.4. A competitive bidding process for procurements of a transaction value above R 300 000.00 (VAT inclusive);

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

12.2.1. The accounting officer may direct that:

- a. formal written price quotations be obtained for any specific procurement of a transaction value lower than R 300 000.00.
- b. a competitive bidding process be followed for any specific procurement of a transaction value above than R 300 000.00.

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. Offers from R 1 up to R50,000,000.00 are subject to the preference points system (Government Gazette:47452) and must be awarded to the bidder who scored the highest points based on the **80/20** Preference Points System.

12.5. Offers above R50,000,000.00 are subject to the preference points system (Government Gazette:47452) and must be awarded to the bidder who scored the highest points based on the **90/10** Preference Points System.



### 13. REFERENCE POINTS IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2022

#### 13.1. SPECIFIC GOALS FOR 80/20

13.1.1. Regulation 3 of PPR 2022 state: An organ of state must, in the tender documents, stipulate—

- (a) the applicable preference point system as envisaged in regulations 4, 5, 6 or 7.
- (b) the specific goal in the invitation to submit the award for which a point may be awarded, and the number of points that will be awarded to each goal, and proof of the claim for such goal.

13.1.2. The specific goals based on the IDP for Moretele local municipality are as per following:

- a) The points granted as per the specific goals should not **exceed 20 points** for procurement below R50 000 000.
- b) The points granted as per the specific goals should not **exceed 10 points** for procurement above R50 000 000.
- c) The bidder should submit the attached verification document to be granted points

#### 13.1. 3. SPECIFIC GOALS POINTS.

Specific goals	Points	Verification criteria
Black ownership	5 points	CK certificate indicating the shareholder percentage
Women	5 points	Certified ID copy and CK
Youth	5 points	Certified copy (under 35 years)
Locality	5 Points	Proof of Municipal account
Disability	5 Points	Proof of SASSA approval or Doctors confirmation of the disability.

#### 13.2. THE FINANCIAL OFFER WILL BE SCORED USING THE

**Scoring for 80/20 preferential points are as follows:**

**Where-**

**Ps** = Points scored for price of tender under consideration.

**Pt** = Price of tender under consideration; and

**Pmax** = Price of highest acceptable tender.

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

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

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

13.2.4. **80/20** preference points system for tenders for income-generating contracts with Rand value equal to or below R50 million.

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

### 13.3. The 90/10 Preference Point System

13.3.1. Will be applicable to bids with a Rand Value above R50 000 000.00 are subject to the preference points system (Government Gazette:47452) and must be awarded to the bidder who scored the highest points based on the **90/10 Preference Points System** and will be calculate

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

as follows; (**All applicable Taxes Included**) and will be calculated as follows:

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

#### **Where:**

***P<sub>s</sub>*** = Points scored for comparative price of bid or offer under consideration

***P<sub>t</sub>*** = Comparative price of bid or offer under consideration

***P<sub>min</sub>*** = Comparative price of lowest acceptable bid or offer

12.3.2 A maximum of 10 points may be awarded to a tenderer for the specific goal specified for the tender.

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

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

12.3.5. **90/10 preference** points system for tenders for income-generating contracts with Rand value equal to or above R50 million.

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

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

### **13. CRITERIA FOR BREAKING DEADLOCK IN SCORING**

13.1. If two or more tenderers score an equal total number of points, the contract must be awarded to the tenderer that scored the highest points for specific goals.

13.2. If two or more tenderers score equal total points in all respects, the award must be decided by the drawing of lots.

### **14. REMEDIES**

14.1 If an organ of state is of the view that a tenderer submitted false information regarding a specific goal, it must—

- (a) inform the tenderer; accordingly, and
- (b) give the tenderer an opportunity to make representations within 14 days as to why the tender may not be disqualified or, if the tender has already been awarded to the tenderer, the contract should not be terminated in whole or in part.

14.2. After considering the representations referred to in subregulation (14.1) (b), the organ of state may, if it concludes that such information is false—

- (a) disqualify the tenderer or terminate the contract in whole or in part; and
- (b) if applicable, claim damages from the tenderer.

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

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

has furnished the municipality with:-

- full names of the company and directors
- identification number or company or other registration number; and
- a valid original tax clearance certificate indicating relevant reference numbers and that the provider's tax matters are in order; and **(Tax pin and CSD number )**

has indicated: -

- 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.
- 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
- 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.
- 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;
- 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
- 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.

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

LIMITS	AUTHORIZATION	
Between R 1 and to R300,000.00	Specification approval by:	Chief financial Officer
	Requested by	Director of the department
Delegation of committing the expenditure	From R1 to R30,000.00	SCM admin
	Above R30,000.00	SCM practitioner and SCM Manager
.(Three quotation)	Approved by:	Chief financial Officer

ii)The following principles shall be followed to approve a Bids:

LIMITS	AUTHORIZATION	
		Demand report signed by the departmental Director.
above R 300,000.00	Specification	Approved by the BID specification committee.
<b>Competitive bidding</b>	Evaluated	BID evaluation
	Recommended by	BID adjudication
	Approved by	Municipal Manager ( <b>Accounting Officer</b> )

### **15.2. For a quotation to be considered, it must:**

- be a written quote,
- be signed by a person with the necessary authority to act on behalf of the prospective supplier,
- The specification from **R1 to R300,000.00** be signed by the Chief financial officer and the specification above **R300,000.00** be approved by the BID Accounting Officer
- if the quantity of quotations cannot be obtained as required above, a written motivation from the head of the department must accompany the order,
- the quotations must be from the list of accredited prospective suppliers on the CSD website,

### **15.3. Specifications of order.**

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

- Name and address of supplier;
- The date on which the order was placed;
- The expenditure vote number;
- Quantity of the goods
- A certificate of the Departmental Manager to indicate that sufficient provision has been made within the budget;
- The signature of the Director who requested the order;
- the person authorized to sign the order on behalf of the Departmental Manager and the authorization signature of the officials as indicate
- The date on which the order was authorized;
- Motivation for items to be purchased if not forming part of the procurement plan;

## **16. LIST OF ACCREDITED PROSPECTIVE PROVIDERS**

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

16.2 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.

## **17. PROCUREMENT THROUGH FORMAL WRITTEN QUOTATIONS**

### **17.1. 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 15.2 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.
- e. 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. PROCEDURES FOR PROCURING GOODS OR SERVICES THROUGH WRITTEN FORMAL WRITTEN PRICE QUOTATIONS**

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

18.1.1. 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;

18.1.2. offers received must be evaluated on a comparative basis taking into account unconditional discounts by SCM Committee.

18.1.3. Transaction above R1 to R10 000(VAT inclusive), one quotation can be sourced.

18.1.4. Transaction above R10 000(VAT inclusive) to R30 000(VAT Inclusive, three quotations is required.

18.1.5. Transaction above R30 000(VAT inclusive) to R300 000(VAT inclusive) the request for quotation must be sources through seven (7) days public advertisement.

18.1.6. A competitive bidding process for procurements of a transaction value above R 300 000.00 (VAT inclusive

18.1.7. acceptable offers must be awarded to the bidder who scored the highest points and should abide by Council requirements for proper record keeping.

18.1.8. 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.

## **19. COMPETITIVE BIDS**

19.1. Goods or services above a transaction value of R300 000 and long term contracts may only be procured through a competitive bidding process, subject to Paragraph 12.1.2 of this Policy.

19.2. The bid documentation will be prepared by the SCM Manager in consultation with the relevant directorate and displayed on notice boards, placed on the council's website, and advertised in commonly circulated local and/or provincial newspapers with a closing date of at least 14 days after the date that the advertisement first appears.

19.3. No requirement for goods or services above an estimated transaction value of R300 000 may deliberately be split into parts or items of lesser value merely for the sake of procuring the goods or services otherwise than through a competitive bidding process.

## **20. PROCESS OF COMPETITIVE BIDDING**

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

- a. Compilation of bidding documentation as detailed in Section 21;
- b. Public invitation of bids as detailed in Section 22;
- c. Handling of bids submitted in response to public invitation as detailed in Section 23;
- d. Negotiations with preferred bidders Section 24
- e. Two-stages of bidding in section 25
- f. Committee systems for competitive bidding in section 26
- g. procurement of banking services in section 27;
- h. Procurement of It Related Goods or Services Award in Section 28;
- i. Administration of contracts; after approval of a bid, the Accounting Officer and the bidder must enter into a written agreement.
- j. Proper record keeping; Original / legal copies of written contract agreements should be kept in a secure place for reference purposes.

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

1) The criteria with which bid documentation for a competitive bidding process must comply, must –

(a) take into account –

- (i) the general conditions of contract and any special conditions of contract, if specified;
- (ii) any Treasury guidelines on bid documentation; and

(iii) the requirements of the Construction Industry Development Board, in the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure;

(b) include the preference points system to be used, specific goals as contemplated in the Preferential Procurement Regulations and evaluation and adjudication criteria, including any criteria required by other applicable legislation;

(c) include the compulsory submission of B-BBEE status level verification certificates or certified copies thereof, Letters from auditors or a sworn affidavit or companies indicating that the B-BBEE certificate lapsed, verifying the B-BBEE level, will not be accepted and bidders will score zero (0) points for B-BBEE;

(d) include evaluation and adjudication criteria, including any criteria required by other applicable legislation;

(e) include evaluation criteria for measuring of functionality (where applicable);

(f) include conditions for sub-contracting according to applicable legislation;

(g) ensure that a due diligence process is conducted to determine whether the preferred bidders have the capability and ability to execute the contract;

(h) compel bidders to declare any conflict of interest they may have in the transaction for which the bid is submitted;

(i) 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; and**

(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.

- (j) 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;
- (k) a requirement to supply tax references, tax clearance certificates, VAT registration numbers and identification or registration numbers;
- (l) details of any contracts above R300 000 carried out on behalf of the municipality within the last five years;
- (m) contract management processes and procedures including provision for the Accounting Officer to cancel the contract on the grounds of unsatisfactory performance; and
- (n) any other matters as required by the MFMA and the Supply Chain Management Regulations.

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

(1) The procedure for the invitation of competitive bids is as follows:

- (a) Any invitation to prospective providers to submit bids must be by means of a public advertisement in newspapers commonly circulating locally, the website of the municipality or any other appropriate ways (which may include an advertisement in the Government Tender Bulletin); and
- (b) the information contained in a public advertisement, must include –
  - (i) the closure date for the submission of bids, which may not be less than 30 days in the case of transactions over R10 million, or which are of a long term nature (longer than 1 years), or 14 days in any other case, from the date on which the advertisement is placed in a newspaper, subject to Sub-Section (2) of this policy;
  - (ii) a statement that bids may only be submitted on the bid documentation provided by the municipality; and
  - (iii) date, time and venue of any proposed site meetings or briefing sessions.

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

(3) Bids submitted must be sealed.

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

(1) The procedures for the handling, opening and recording of bids, are as follows:

(a) Bids–

- (i) must be opened only in public;
  - (ii) must be opened at the same time and as soon as possible after the period for the submission of bids has expired; and
  - (iii) received after the closing time should not be considered and returned unopened immediately.
- (b) Any bidder or member of the public has the right to request that the names of the bidders who submitted bids in time must be read out and, if practical, also each bidder's total bidding price;
- (c) No information, except the provisions in Sub-Section (b), relating to the bid should be disclosed to bidders or other persons until the successful bidder is notified of the award; and
- (d) The Accounting Officer must –
- (i) record in a register all bids received in time;
  - (ii) make the register available for public inspection; and
  - (iii) publish the entries in the register and the bid results on the website.
- (2) For a bid to be considered it must comply with all the requirements of the bid documentation and be placed in the official tender box located at the Supply Chain Management Unit in Clyde Street.
- (3) The Municipality charges a non-refundable fee for provision of bid documents. This is subject to annual review. Values of the fees will be determined annually and included in the official lists of tariffs.
- (4) Bid documents must be made available on Council's Website at no charge, as far as possible.
- (5) The Manager: Supply Chain will ensure that tender boxes are sealed until the time of their official opening, and ensure that they are properly secured.
- (6) At the advertised time, the tender box will be unlocked by officials from the Supply Chain Management Unit.
- (7) A Supply Chain Management practitioner will open bid documents in the presence of bidders or other interested parties.
- (8) The tender box may be opened without any members of public being present provided that the appropriate procedure for advertising the time and venue has been followed.
- (9) Unmarked or incorrectly marked tenders will not be opened
- (10) The names and total bid amounts will be read out and recorded in the tender register, which will be available for public inspection on request.
- (11) A copy of the record must be kept in the office of the SCM Manager and a complete schedule provided as soon as is practical.
- (12) Bid results will be published on the municipality's website.

## 24. NEGOTIATIONS WITH PREFERRED BIDDERS

The Accounting Officer may negotiate the final terms of a contract with bidders identified through a competitive bidding process as preferred bidders, provided that such negotiation –

- (a) does not allow any preferred bidder a second or unfair opportunity;
- (b) is not to the detriment of any other bidder; and
- (c) does not lead to a higher price than the bid as submitted.

(2) Minutes of such negotiations must be kept for record purposes.

## 25. TWO-STAGE BIDDING PROCESS

25.1. A two-stage bidding process is allowed for –

- (a) large, complex projects;
- (b) projects where it may be undesirable to prepare complete detailed technical specifications; or
- (c) long term projects with a duration period exceeding three 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. the requirements of the Construction Industry Development Board in the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure:

## 26. COMMITTEE SYSTEM FOR COMPETITIVE BIDS

26.1. The Accounting Officer is required to establish a committee system for competitive bids of at least-

26.1.(i) **a Bid Specification Committee.**

- The bid specification committee must compile the specifications for each procurement transaction of goods or services by the municipality. 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 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; 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”;

e. must indicate each specific goal for which points may be awarded in terms of the points system set out in the Preferential Procurement Regulations 2017; and

f. must be approved by the Bid Specification Committee prior to publication of the invitation for bids in terms of Section 22 of this Policy.

- A bid specification committee must be composed of at least four (4) officials of the municipality. The attendance of the relevant Project Manager is compulsory and the Committee may, when appropriate, include external specialist advisors.
- 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
- The quorum for each meeting of the specification committee is 50% of the members plus one. One member from the Supply Chain Management Unit and one member of the directorate as minimum. A member of the specification committee can also be a member of either the Bid Evaluation or Bid Adjudication Committee (but not both committees) that considers any of the bids for the same goods or services.
- The advertisement must be approved by the Accounting Officer, prior to advertisement of the bid.

26.1. (ii) a Bid Evaluation Committee; and

- The bid evaluation committee must –
    - (a) evaluate bids in accordance with –
      - (i) the specifications for a specific procurement; and
      - (ii) the points system set out in terms of Section 27(2)(f);
    - (b) evaluate each bidder’s ability to execute the contract;
    - (c) check in respect of each bidder whether municipal rates and taxes and municipal service charges are not in arrears,
    - (d) check in respect of each bidder that their tax matters are in order and;
    - (e) may use the following remedies where a bidder does not comply to any or
- certain requirements–

- (i) disqualify bidders from the bidding process;
  - (ii) recover all costs, losses or damages the municipality has suffered from the bidder's non-compliance;
  - (iii) claim any damages as a result of having to make less favourable arrangements
- (f) submit to the adjudication committee a report and recommendations regarding the award of the bid or any other related matter.
- A bid evaluation committee must as far as possible be composed of-
  - (a) officials from departments requiring the goods or services; and
  - (b) at least one supply chain management practitioner of the municipality,
  - (c) Technical experts, consultants or advisors, provided that these experts can only actively contribute to discussions, and not vote on the items
  - (d) The BEC must be at least the Manager from the Procuring department, a senior SCM practitioner, the project manager for the tender from the user department and an official from another directorate.
  - (e) Attendance of the relevant project manager is compulsory
  - (f) Members of the bid evaluation committees may not serve on any adjudication committee that adjudicates on any of the items that has been considered at a bid evaluation committee.
  - (g) Notwithstanding the above requirements for consideration, bids not according to specification may not be accepted and the evaluation committee may recommend that new tenders be called if necessary.

**26.1. (iii) a Bid Adjudication Committee.**

- The 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.
- The Bid Adjudication Committee must consist of at least four senior managers of the municipality which must include –
  - (a) the Chief Financial Officer or, if the Chief Financial Officer is not available, another manager in the budget and treasury office reporting directly to the Chief Financial Officer and designated by the Chief Financial Officer; and
  - (b) at least one senior supply chain management practitioner who is an official of the municipality; and
  - (c) a technical expert in the relevant field who is an official, if such an expert exists.
- 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.



- 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.
- 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,
  - (ii) check in respect of the preferred bidder whether the bidder's taxation matters are in order,
  - (iii) notify the Accounting Officer.
- 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.
- 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.
- The Accounting Officer must comply with Section 114 of the Act within 10 working days.

26.2. The Accounting Officer appoints the members of each committee, taking into account Section 117 of the Act.

26.3. 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.

26.4. The committee system must be consistent with –

- (a) Section 27, 28 and 29 of this Policy; and
- (b) any other applicable legislation.

26.5. The Accounting Officer may apply the committee system to formal written price quotations.

## **27. PROCUREMENT OF BANKING SERVICES**

27.1. A contract for banking services –

- (a) must be procured through competitive bids;

(b) must be consistent with Section 7 of the Act; and

(c) may not be for a period of more than five years at a time.

27.2. 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 Section 22(1). Bids must be restricted to banks registered in terms of the Banks Act, 1990 (Act No. 94 of 1990).

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

28.1. 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.

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

28.3. The Accounting Officer must notify SITA together with a motivation of the IT needs if –

(a) the transaction value of IT related goods or services required in any financial year will exceed R50 million (VAT included); or

(b) the transaction value of a contract to be procured whether for one or more years exceeds R50 million (VAT included).

28.4. SITA may comment on the procurement needs submitted per Sub-Section (3)

28.5. If the municipality disagrees with comments made by SITA, the comments and the reasons for rejecting or not following such comments must be submitted to the Council, the National Treasury, the Provincial Treasury and the Auditor-General.

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

29.1. The Accounting Officer may procure goods or services under a contract secured by another organ of state, but only if –

(a) the contract has been secured by that other organ of state by means of a competitive bidding process applicable to that organ of state;

(b) there is no reason to believe that such contract was not validly procured;

(c) there are demonstrable discounts or benefits to do so; and

(d) that other organ of state and the provider have consented to such procurement in writing.

29.2. Sub-Sections (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. 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; 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; 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

29.2. 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 of a public advertisement must contain, which must include:

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.

a statement that bids may only be submitted on the bid documentation provided by the municipality.

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

22.4 Bids submitted to the municipality must be sealed.

22.5 Where 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.

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

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

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

30.2 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.

### **31. PROUDLY SA CAMPAIGN**

31.1 The municipality supports the Proudly SA Campaign to the extent that, all things being equal, preference is given to procuring local goods and services from:

- (a) Firstly – suppliers and businesses within the municipality or district;
- (b) Secondly – suppliers and businesses within the relevant province;
- (c) Thirdly – suppliers and businesses within the Republic.

### **32. CONTRACT MANAGEMENT**

32.1 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.

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

### **33. APPOINTMENT OF CONSULTANTS**

33.1. 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.

33.2. Consultancy services must be procured through competitive bids if:

- (a) the value of the contract exceeds R300 000; or
- (b) the duration period of the contract exceeds one year.

33.3. In addition to any requirements prescribed by this policy for competitive bids, bidders must furnish particulars of –

- (a) all consultancy services provided to an organ of state in the last five years; and
- (b) any similar consultancy services provided to an organ of state in the last five years.

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

33.5. The appointment of advisors must also follow the same competitive bidding process as set out in this Policy.

33.6. No advisor will take any part in the final decision-making process regarding the award of bids.

33.7. No decision-making authority may be delegated to an advisor.

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

34.1. 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 which is considered an unforeseeable and sudden event with materially harmful or potentially materially harmful consequences for the municipality which requires urgent action to address.
- (ii) where it can be demonstrated that goods or services are produced or available from a single source / sole supplier only;
- (iii) for the acquisition of special works of art or historical objects where specifications are difficult to compile;
- (iv) acquisition of animals for zoos and/or nature and game reserves; or
- (v) in any other exceptional case where it is impractical or impossible to follow the official procurement processes.

(b) ratify any minor breaches of the procurement processes by an official or committee acting in terms of delegated powers or duties which are purely of a technical nature; and

(c) may condone any irregular expenditure incurred in contravention of, or that is not in accordance with a requirement of this

Policy, provided that such condonation and the reasons therefore shall be reported to Council at the next ensuing meeting.

34.2. The Accounting Officer must record the reasons for any deviations in terms of Sub-Sections 34(1)(a) and (b) of this policy and report them to the next meeting of Council and include as a note to the annual financial statements.

34.3. Sub-Section (2) does not apply to the procurement of goods and services contemplated in Section 11(2) of this policy.

#### 34.4. Procurement process for deviation

Process	Responsible person
Procurement processes will be guided by the needs analysis conducted and may include: (i) Direct negotiation (ii) Requisitioning of quotes per delivery (iii) Rotation basis of delivery (iv) Panel of service providers	Requestor
Motivation  Procurement process and governance processes must be recorded as part of approval submission	Requestor
The reason for non-compliance can only be one of the following: (i) Emergency - followed by the justification; (ii) Sole supplier – followed by the justification; (iii) Acquisition of animals for zoos and /or nature and game reserves; (iv) Acquisition of special works of art or historical objects; (v) Exceptional cases where it is impractical or impossible to follow the official procurement processes - followed by the justification;	Deviation memo must be attached reflecting the reason and including a justification. Must be signed off by the relevant Manager & Director. Approvals will be within the delegated framework.
<b>Statutory: Payments that MUST be made. Legislative requirement</b>  <b>Statutory:</b> Magalies, Eskom, vehicle licence and registration fees, Salga, Transnet, interest and redemption, medical aid payments, Eden shop stewards, Auditor - General, Investments made by the Municipality, SITA, Telkom, Compensation Commissioner, SABC, ICASA, other municipalities, Registrar of Deeds, NHLS, SAMRO, all government departments – both national and provincial, Juba and	Approvals will be within the delegated framework.  Requisition to be completed by initiator & authorizer. Invoice to be attached to requisition.

Company, Lexis Nexus, HPSA, SESI, claims from legal firms before, during and after litigation, attendance at conferences and professional bodies municipal officials belong to.	
Approval of submission	Accounting Officer

### **35. ESTABLISHMENT OF A PANEL/ LIST OF APPROVED SERVICE PROVIDERS**

35.1. Where goods or 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. These panels/lists should be established through the competitive bidding process.

35.2. The intention to establish a panel/list of approved service providers is published in the Government Tender Bulletin, e tender portal and the closing time and date for inclusion in the panel/list of approved service providers should be indicated inline with SCM policy and regulations.

35.3. Requirements for admission to the list and criteria should be linked to the numeric value in terms of which applicants will be measured, for example qualifications, experience, acceptability, facilities and resources, etc. A pre-determined standard method of awarding points should be followed.

35.4. The applications received should be evaluated and any rejection of applicants should be motivated and recorded.

35.5. Once the panel/list of service providers has been approved, only the successful applicants are approached, depending on the circumstances, either by obtaining quotes or on a rotation basis, or according to the bid procedure when services are required, with the exception that the requirement is not advertised again.

### **36. UNSOLICITED CONTRACT**

36.1. In accordance with Section 113 of the Act there is no obligation to consider unsolicited bids received outside a normal bidding process.

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

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

36.3. If the Accounting Officer decides to consider an unsolicited bid that complies with Sub-Section (2) of this policy, the decision must be made public in accordance with Section 21A of the Municipal Systems Act, together with –

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

36.4. The Accounting Officer must submit all written comments received pursuant to Sub-Section (3), including any responses from the unsolicited bidder, to the National Treasury and the relevant provincial treasury for comment.

36.5. 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.

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

35.7. 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 Provincial Treasury.

36.8. 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 Provincial Treasury and the National Treasury the reasons for rejecting or not following those recommendations. Such submission must be made within seven days after the decision on the award of the unsolicited bid is taken, but no contract committing the municipality to the bid may be entered into or signed within 30 days of the submission.





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

#### 37.1. 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) take cognizance of the provisions of Chapter 2 of the Competition Act no 89 of 1998, with specific reference to:
  - (i) restrictive practices;
  - (ii) abuse of a dominant position; and
  - (iii) exemption from application of Chapter 2 of the Act.
- (e) 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.
- (f) 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;
- (g) 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
- (h) reject the bid of any bidder if that bidder or any of its directors –
  - (i) has abused the supply chain management system of the municipality or has committed any improper conduct in relation to such system;
  - (ii) has been convicted for fraud or corruption during the past five years;
  - (iii) has willfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or has been listed in the Register for Tender Defaulters in terms of Section 29 of the Prevention and has been in contravention of the Competition Act no 89 of 1998.
- (i) No person placing a procurement requisition for goods or Services shall knowingly understate the requirements of the estimated value with the intention of avoiding a more stringent procurement process. This includes the deliberate splitting of requirements to reduce individual order values.

Procurement is limited to R200 000 per commodity type per month unless a competitive bidding process has been undertaken. The Accounting Officer shall promptly institute disciplinary action against any person infringing this requirement.

(j) No official shall engage in contact with a prospective supplier in respect of a quotation or tender which the supplier intends to submit except where clarification of requirements is required from either party, or where the Accounting Officer may negotiate with identified preferred bidders. Any such communication must be recorded and appropriately filed with the bid documentation.

(k) The Accounting Officer may, where a bidder has contravened the prescriptions of the Competition Act no 89 of 1998 –

- (i) recover all costs, losses or damages the Municipality suffered as a result of the bidder's conduct;
- (ii) cancel the contract and claim any damages which the Municipality has suffered as a result of having to make less favourable arrangements due to such cancellation;
- (iii) restrict the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis; and
- (iv) forward the matter for criminal prosecution.

37.1. The Accounting Officer must inform the National Treasury and relevant Provincial Treasury in writing of any actions taken in terms of Sub-Sections (1)(b) (ii), (e)(f) or 2 of this policy.

## **38. LOGISTICS MANAGEMENT**

38.1. The Accounting Officer must establish and implement an effective system of logistics management, which must include -

- (a) the monitoring of spending patterns on types or classes of goods and services incorporating, where practical, the coding of items to ensure that each item has a unique number;
- (b) the setting of inventory levels that includes minimum and maximum levels and lead times wherever goods are placed in stock;
- (c) the placing of manual or electronic orders for all acquisitions other than those from petty cash;
- (d) before payment is approved, certification by the responsible officer that the goods and services are received or rendered on time and is in accordance with the order, the general conditions of contract and specifications where applicable and that the price charged is as quoted in terms of a contract;
- (e) appropriate standards of internal control and warehouse management to ensure that goods placed in stores are secure and only used for the purpose for which they were purchased;
- (f) regular checking to ensure that all assets including official vehicles are properly managed, appropriately maintained and only used for official purposes; and
- (g) monitoring and review of the supply vendor performance to ensure compliance with specifications and contract conditions for particular goods or services.

- (h) monitoring and review of the distribution of items,
- (i) monitoring and review of losses and surpluses.

38.2. The primary function of a store is the receiving, storing, preserving as well as the issuing of store items.

38.3. It is essential that equipment or stock be stored in such a way that the possibility of loss, damage, exposure, deterioration or perishing thereof is minimized or eliminated. By lack of a physical store, the function must still be performed.

38.4. Duplicate keys of all lockers, cabinets, padlocks and other storage areas should be readily available and shall be controlled by a responsible delegated official.

38.5. 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.
- 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 specification 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.
- g) Monitoring and review of the supply vendor performance to ensure compliance with specifications and contract conditions for particular goods or services.

38.6. Inventory management

- a) In cases where storage space is very expensive or not available, the just-in-time delivery principle must be used.
- b) Minimum and maximum order levels for all store items shall be determined based on the usage, the lead and delivery times.

38.7. **Requisition**

- a) Stock items must be systematically replenished using the re-order point planning strategy in conjunction with minimum and maximum levels.
- b) Procurement processes may differ between goods and services and in some cases a process for emergency procurement may be necessary.

38.8. Placing of orders

a) Purchase orders must be in reference to the requisitions where the supply source is either –

- Contract; or
- Quotations.

b) Purchase orders for imported goods and which are subjected to rate and exchange adjustments must specify that the vendor must take out a forward exchange contract in order to fix the Rand based price in the purchase order.

38.9. Receiving goods

a) Goods are received on the logistical system with reference to purchase orders.

38.10. Returning goods

a) Manage the return of goods and related third party claims.

38.11. Warehouse management

a) Warehousing must be provided for and located in areas appropriate to where depots are situated.

b) The Supply Chain must ensure for-:

- Proper financial and budgetary control.
- Uphold the principle of effective administration.
- Proper stock holding and control.
- Product standardization.
- Quality of products.
- A high standard of service levels.

38.12. Matching documents

a) Manage the payment voucher matching process.

i. Preparation for payment/account payable

b) After documented records were received, the payment process can be initiated as prescribed through the MFMA processes and delegations

i. Inventory stock count, verification and reconciliation

ii. Stock count and verification procedures

c) Planning phase

1) Most important part when undertaking an inventory stock count is the planning phase. The phase must set out all the steps to be taken securing the accurate count and verification is undertaken.

2) Stock count should at least be done once in a financial year but could also be done on a monthly basis.

d. Reconciliation procedures

1. The reconciliation process commences once the count and verification phase has been completed and complete count reports are available from Stock Take Team. The control report must be printed and compared with the count report.

2. Discrepancies must be listed from above mentioned process.

e. Treatment of discrepancies

1. Discrepancies are the result of shortages and or surplus stock found not equal to the quantity that appears on the control report.

### **39. DISPOSAL MANAGEMENT**

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

39.2 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.

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

39.4 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.

39.5 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;

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

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

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

## 40. RISK MANAGEMENT

40.1. The criteria for the identification, consideration and avoidance of potential risks in the supply chain management system, must be identified.

40.2. Risk management must include –

- (i) the identification of risks on a case-by-case basis;
- (ii) the allocation of risks to the party best suited to manage such risks;
- (iii) acceptance of the cost of the risk where the cost of transferring the risk is greater than that of retaining it;
- (iv) the management of risks in a pro-active manner and the provision of adequate cover for residual risks; and
- (v) the assignment of relative risks to the contracting parties through clear and unambiguous contract documentation.

40.3. The Accounting Officer must ensure that risks are identified utilizing the following methods –

- (i) Focus group sessions;
- (ii) Personal interviews;
- (iii) Questionnaires;
- (iv) Audit reports analysis;
- (v) Statistical analysis of related risk data;
- (vi) Trend analysis;
- (vii) Scenario analysis; and
- (viii) Forecasting methodologies.

40.4. The Accounting Officer must ensure that a risk register is implemented consisting of the following–

- (i) Each risks identified with a unique number;
- (ii) Description of the risk;
- (iii) Assessment of occurrence or likelihood and its impact if it does;
- (iv) Grading of risk;
- (v) Responsibility for managing the risk; and
- (vi) Proposed mitigation processes.

40.5. The Accounting Officer must ensure that all risks are assessed and indicating the magnitude of the risk as well as the probability of occurrence;

40.6. The Accounting Officer must ensure that a risk strategy is implemented which may include the following-

- (i) avoiding the risk by eliminating the action;
- (ii) treating the risk, how the risk can be prevented and if it were to occur how the impact can be minimized;
- (iii) transfer or outsource the risk;
- (iv) tolerate the risk.

40.7. The Accounting Officer must ensure that all risk related matters are reported and that a communication plan which may consist of the following is implemented –

- (i) responsibility for the communication;
- (ii) frequency of communication;
- (iii) format of communication;
- (iv) record of communication.



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

#### **41. PERFORMANCE: SUPPLY CHAIN MANAGEMENT**

41.1. 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;

41.2. The Accounting Officer must ensure that the following issues are reported on a quarterly basis –

- (i) Achievement of preferential procurement goals and objectives;
- (ii) Implementation of the Supply Chain Management Policy of the municipality;
- (iii) Compliance to SCM norms and standards such as the municipal supply chain management regulations, National Treasury's model policy, standard bid documents and the general conditions of contract;
- (iv) Savings generated, amongst others, by arranging contracts for the purpose of developing economies of scale;
- (v) Stores efficiency, (the proper layout of stores through clear bin locations and bin numbering, promptly satisfying the users requirements, etc.)
- (vi) Contract breach either by the municipality or contractors;
- (vii) Cost efficiency of the procurement process;
- (viii) That the supply chain objectives are consistent with Government's broader policy focus on trade, small business development, anti-corruption measures and the proudly South African.

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

42.1 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.

42.2 Before making an award, the Municipality must verify the bidders tax compliance status prior to the finalization of the award of the bid or price quotation. In a case a recommended bidder is not tax compliant, the bidder should be notified of their status and the bidder must be requested to submit written proof from SARS of their tax compliance status or proof from SARS that necessary arrangements have been made to meet outstanding tax obligations within 7 working days. Failure by the bidder to provide proof of tax compliance status within the stipulated time as stated above, the Accounting Officer should reject the bid.

42.3. Circular 90 procedures relating to tax matters to be followed.

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

43.1. 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 –
  - (i) a member of any municipal council, any provincial legislature or the National Assembly or the National Council of Provinces;
  - (ii) an official of any municipality;
  - (iii) 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);
  - (iv) a member of the board of directors of any municipal entity;
  - (v) an executive member of the accounting authority of any national or provincial public entity;
- (c) a person who is an advisor or consultant contracted with the municipality.
- (d) Declaration should be done on MBD4 form

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

44.1. All officials involved in supply chain management for the municipality must comply with the Code of Conduct prescribed in the Municipal Systems Act, the Supply Chain Management Framework and the Code of Conduct for Supply Chain Management role players as prescribed.

44.2. A code of ethical standards is hereby established for officials and other role players in the Supply Chain Management System 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.

44.3. An official or other role player involved in the implementation of the Supply Chain Management Policy:

- (a) must treat all providers and potential providers equitably;
- (b) may not use his or her position for private gain or to improperly benefit another person;
- (c) may not accept any rewards, gift, favour, hospitality or other benefit directly, including to any close family member, partner or associate of that person, of a value more than R350;
- (d) notwithstanding Sub-Section 48(2)(c), must declare to the Accounting Officer details of any reward, gift, favour, hospitality or other benefit promised, offered or granted to that person or to any close family member, partner or associate of that person;
- (e) must declare to the Accounting Officer details of any private or business interest which that person, or any close family member, partner or associate, may have in any proposed procurement or disposal process of, or in any award of a contract by, the Municipality;
- (f) must immediately withdraw from participating in any manner whatsoever in a procurement or disposal process or in the award of a contract in which that person, or any close family member, partner or associate, has any private or business interest;
- (g) must be scrupulous in his or her use of property belonging to the Municipality;
- (h) must assist the Accounting Officer in combination fraud, corruption, favouritism and unfair and irregular practices in the supply chain management system; and
- (i) must report to the Accounting Officer any 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 Section 49(1) of this Policy; or
  - (iii) any alleged breach of this of this code of ethical standards.

(j) Declarations in terms of Sub-Sections 49 (2) (d) and (e)-

- (i) must be recorded in a register which the Accounting Officer must keep for this purpose;
- (ii) by the Accounting Officer must be made to the Mayor of the Municipality who must ensure that such declarations are recorded in the register.

(k) The National Treasury Code of Conduct must also be taken into account by supply chain management practitioners and other role players involved in supply chain management.

(l) The National Treasury Code of Conduct for Supply Management Practitioners, attached as Annexure A, is adopted by the Municipality, and shall apply mutatis mutandis to and be binding on supply chain management of the Municipality.

(m) A breach of the code of conduct adopted by the Municipality must be dealt with in accordance with Schedule 1 (code of Conduct for Councilors) and Schedule 2 (Code of Conduct for Municipal Staff Members) of the Municipal Systems Act, No 32 of 2000.

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

45.1 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.

45.2 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.

45.3 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.

45.4 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;

45.5 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.

45.6 An official or role player must be scrupulous in his or her use of property belonging to the municipality.

45.7 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-

- a) any alleged fraud, corruption, favouritism or unfair conduct:
- b) any alleged contravention of treasury regulations; or
- c) any alleged breach of the code of ethical standards

45.8 All declarations must be recorded in a register which the accounting officer must keep for this purpose.

45.9 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.

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

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

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

46.1 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-
- c) any official of the municipality; or
- d) any other role player involved in the implementation of the supply chain
- e) management policy of the municipality

46.2. 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.

## **47.SPONSORSHIPS**

47.1 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.

## **48.BIDDERS COMMITMENTS**

48.1. 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) ensure and promote good relations with all structures established in terms of the municipal processes, the Municipal Systems Act, and the Municipal Structures Act;
- c) 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.
- d) Collusive tendering -Any submissions made by a respondent or tenderer who fails to declare in the Compulsory Declaration that the tendering entity:
- e) is not associated, linked or involved with any other tendering entity submitting tender offers; or
- f) has not engaged in any prohibited restrictive horizontal practices including consultation, communication, agreement, or arrangement with any competing or potential tendering
- g) 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 reject.

## **48.OBJECTIONS AND COMPLAINTS**

48.1. 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.

### **48.2. Right of Appeal**

48.2.1. 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. 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.

48.2.2. 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.

48.2.3. The Provincial Treasury may refer the query to the National Treasury for resolution.

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

48.2.5. Appeals

- (1) A person whose rights are affected by a decision taken to award a tender by a municipality, in terms of a power or duty delegated or sub-delegated by a delegating authority, may appeal against that decision, by giving written notice of the appeal and reasons to the Accounting Officer within 21 days of the date of the notification of the decision.
- (2) When the appeal is against a decision taken by a staff member or committee other than the Accounting Officer, the Accounting Officer must consider the appeal or refer it to the appeal authority when appropriate;
- (3) The Accounting Officer must promptly submit the appeal to the appropriate appeal authority.
- (4) Suppliers must provide details of the reasons for their appeal including any non-compliance with this Policy, the MFMA and related legislation. The Accounting Officer shall provide written acknowledgement of the receipt of appeals to the appellant.
- (5) The Accounting Officer must promptly submit the appeal to the appropriate appeal authority.
- (6) The Accounting Officer will decide if an appeal constitutes sufficient grounds for delay of procurement from the approved supplier, and if a delay is practical. If the Accounting Officer determines there are grounds for delay, the approved supplier will be advised in writing of the reasons for the delay.
- (7) If the appeal is based on a technically complex matter, the Accounting Officer may engage an impartial external advisor, provided that their engagement is compliant with

this policy and sufficient budgetary provision exists. The Accounting Officer is not bound by any opinion provided.

(8) The appeal authority must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.

(9) An appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable period.

(10) When a ruling on an appeal has been made the Accounting Officer will advise the appellant in writing of the outcome.

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

(12) The appeal authority must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.

(13) An appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable period.

#### **48.4. Cancellation of Bids**

- a) 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.
- b) If bids have been cancelled, then all bidders must be notified in writing.
- c) It is not necessary to notify original bidders when calling for new bids,
- d) No bid may be re-advertised before the expiry of the validity period of the original bid, or any extended validity period.
- e) 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.
- f) 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.
- g) Placing of contractors under restrictions
- h) If any tenderer which has submitted a tender offer or a contractor which has concluded a contract has, as relevant:
  - i. offered, promised or given a bribe in relation to the obtaining or the execution of such contract.
  - ii. acted in a fraudulent, collusive or anti-competitive or improper manner or in bad



- faith towards Moretele Local Municipality; or
- iii. 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, 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.

- a) 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.

**48.5. Supply Chain Management Unit shall:**

- a) 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
- b) notify the National Treasury and the Northwest provincial treasury and, if relevant, the Construction Industry Development Board, of such decision and provide them with the details associated therewith

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

49.1. 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.
  - ii. of its supply chain management system; or
- b) any matter arising from a contract awarded in the course of its 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.

49.2. 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.

49.3. 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.

49.4. 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.

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

49.6. 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.

49.7. 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

## **50. CONTRACTS ON COMPENSATION BASED ON TURNOVER**

50.1. 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.

## **51. CONTRACTS HAVING FUTURE BUDGETARY IMPLICATIONS**

51.1. A municipality may enter into a contract which will impose financial obligations on the municipality beyond a financial year, but if the contract will impose financial obligations on the municipality beyond the three years covered in the annual budget for that financial year, it may do so only if—

(a) the Accounting Officer, at least 60 days before the meeting of the municipal council at which the contract is to be approved—

(i) has, in accordance with section 21A of the Municipal Systems Act—

(aa) made public the draft contract and an information statement summarising the municipality's obligations in terms of the proposed contract; and

(bb) invited the local community and other interested persons to submit to the municipality comments or representations in respect of the proposed contract; and

(ii) has solicited the views and recommendations of—

(aa) the National Treasury and the relevant provincial treasury;

(bb) the national department responsible for local government; and

(cc) if the contract involves the provision of water, sanitation, electricity, or any other service as may be prescribed, the responsible national department;

(b) the municipal council has taken into account—

(i) the municipality's projected financial obligations in terms of the proposed contract for each financial year covered by the contract;

(ii) the impact of those financial obligations on the municipality's future municipal tariffs and revenue;

(iii) any comments or representations on the proposed contract received from the local community and other interested persons; and

(iv) any written views and recommendations on the proposed contract by the National Treasury, the relevant provincial treasury, the national department responsible for local government and any national department referred to in paragraph (a)(ii)(cc); and

(c) the municipal council has adopted a resolution in which—

(i) it determines that the municipality will secure a significant capital investment or will derive a significant financial economic or financial benefit from the contract;

(ii) it approves the entire contract exactly as it is to be executed; and

(iii) it authorises the Accounting Officer to sign the contract on behalf of the municipality.

51.2. The process set out in subsection (1) does not apply to—

- (a) contracts for long-term debt regulated in terms of section 46(3);
- (b) employment contracts; or
- (c) contracts—

- (i) for categories of goods as may be prescribed; or
- (ii) in terms of which the financial obligation on the municipality is below—
  - (aa) a prescribed value; or
  - (bb) prescribed percentage of the municipality's approved budget for the year in which the contract is concluded.

51.3. (a) All contracts referred to in subsection (1) and all other contracts that impose a financial obligation on a municipality—

- (i) must be made available in their entirety to the municipal council; and
- (ii) may not be withheld from public scrutiny except as provided for in terms of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000).

(c) Sub-Section (a) (i) does not apply to contracts in respect of which the financial obligation on the municipality is below a prescribed value.

## 52.COMPLIANCE WITH CIRCULARS

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

## 53. SUPPLY CHAIN MANAGEMENT DELEGATIONS

<b>DELEGATION OF POWERS AND DUTIES of the ACCOUNTING OFFICER in terms of SECTION 79 of the MUNICIPAL FINANCE MANAGEMENT ACT, 56 OF 2003 from 1 July 2021</b>		
<b>DELEGATED BY THE ACCOUNTING OFFICER TO ALL DIRECTORS</b>		
<b>These powers and duties may be sub-delegated to officials to be nominated in writing by the Accounting Officer or Directors, subject to the under-mentioned criteria, and further subject to the Council's Supply Chain Management Policy, financial regulations and council resolutions where applicable.</b>		
<b>VALUE (Including VAT)</b>	<b>QUOTATIONS / TENDERS</b>	<b>LOWEST LEVEL OF APPROVAL With due regard to proper segregation of duties</b>
From R1 to R10,000.00	A formal written one (1) quote can be sourced.	Requestor: Sub-unit Manager 1 <sup>st</sup> Approval : Divisional Managers 2 <sup>nd</sup> Approval: Supply Chain Manager
From 10 000 to R30 000	A formal three (3) written quotation can be sources	Requestor: Sub-unit Managers 1 <sup>st</sup> Approval : Divisional Managers 2 <sup>nd</sup> Approval: Chief Financial Officer
From R30 000 to R300 000	Seven days advert to source quotation	Requestor: Sub-unit Managers 1 <sup>st</sup> Approval : Divisional Managers

		2 <sup>nd</sup> Approval: Chief Financial Officer 3 <sup>rd</sup> Approval: Municipal Manager
Above R300,000.00	Competitive Bidding to be awarded by a Bid Adjudication Committee	<b>Recommendation:</b> BID evaluation <b>Approval:</b> BID adjudication
<b>Approval of Advert With due regard to proper segregation of duties</b>		
Advertising of and approving of all specifications With due regard to proper segregation of duties	Range from R1 to R300,000.00	Chief Financial Officer
Advertising of and approving of all specifications With due regard to proper segregation of duties.	Range above R300,000.00	Municipal Manager <b>(Accounting Officer)</b>

#### 54.COMMENCEMENT OF THE POLICY

This policy takes effect after council approve

