

# PHUMELELA LOCAL MUNICIPALITY



## SUPPLY CHAIN MANAGEMENT POLICY

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

**Date of adoption: 25 march 2008**

**Phumelela local Municipality** resolved in terms of section 111 of the local Government Municipal Finance Management Act (No.56 of 2003), to adopt the following proposal as the Supply Chain Management Policy of the Phumelela Local Municipality.

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## Definitions

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

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

**“accounting officer”** means the Municipal Manager of the Phumelela Local Municipality

**“chief financial officer (CFO)”** means the Manager Financial Services who is directly accountable to the accounting officer and is appointed in terms of Section 56 of The Systems Act.

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

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

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

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

**“fronting”** occurs when a supplier conceals the true nature of ownership of control as per the tender or supplier application forms and where the –

- equity holder is not involved in the day-to-day running of the business;
- equity holder is the owner of shares bearing no dividends;
- equity holder is not adding value to business;
- equity holder is the owner of shares without the stated economic and voting rights and benefits

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

(a) a member of –

- (i) any municipal council;
- (ii) any provincial legislature; or
- (iii) the National Assembly or the National Council of Provinces;

(b) a member of the board of directors of any municipal entity;

(c) an official of any municipality or municipal entity;

(d) an employee of any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No.1 of 1999);

- (e) a member of the accounting authority of any national or provincial public entity; or
- (f) an employee of Parliament or a provincial legislature;

**“joint venture or consortium”** means an association of persons and/or partnership in which –

- the senior partner is a prime contractor and the junior partner, although a person lacking skills in certain functional areas, is able, through the joint venture to participate at prime contract level; or
- all partners being prime contractors in their own right however lack the necessary resources and capacities to perform contracts individually and who elect to work in a joint venture in order to pool resources of capital and experience;
- a target group partner holds no less than 40% of the economic and voting rights of the joint venture;

**“list of accredited prospective providers”** means the list of accredited prospective providers which the Phumelela Local Municipality must keep in terms of paragraph 14 of this policy;

**“local business”** means a business and/or contractor based in the area of jurisdiction of the Phumelela Local Municipality in the first place and then in the Free State

**“long term contract”** means a contract with a duration period exceeding one year;

**“manager”** means an executive manager directly accountable to the accounting officer and appointed in terms of section 56 of the Systems Act.

**“municipality (PLM)”** means the Phumelela Local Municipality

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

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

**“policy”** means the Supply Chain Management Policy of Phumelela Local Municipality

**“professional service provider (PSP)”** means a partnership or a legal person providing on a fiduciary basis, labour, intellectual and/or other expertise and who adheres to statutory labour and other practices.

**“procurement policy”** means the procurement policy of the Phumelela Local Municipality

**“procurement unit (PU)”** means the unit which is under the management of the chief financial officer and which is responsible for the implementation and management of the supply chain management policy and the procurement policy.

**“the regulation”** means the Local Government: Municipal Finance Management Act No. (56 of 2003);Municipal Supply Chain Management Regulations published by Government Notice 868 of 2005;

**“service provider”** means a supplier, manufacturer, contractor, vendor, agent or professional service provider.

**“structures act”** means the Local Government: Municipal Structures Act 1998, (Act no. 117 of 1998)

**“sub-contracting”** means the assigning or leasing or employing of any person by the primary contractor to support the said contractor in the execution of the whole or part of a project in terms of a contract

**“systems act”** means the Local Government: Municipal Systems Act, 2000 (Act no. 32 of 2000)

**“treasury guidelines”** means any guidelines on supply chain management issued by the Minister in terms of section 168 of the Act;

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

## CHAPTER 1

### ESTABLISHMENT AND IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY

#### Supply chain management policy

2. (1) The Phumelela Local Municipality resolves in terms of section 111 of the Act to have and implement a supply chain management policy that –
  - (a) gives effect to –
    - (i) section 217 of the Constitution; and
    - (ii) Part 1 of Chapter 11 and other applicable provisions of the Act;
  - (b) is fair, equitable, transparent, competitive and cost effective;
  - (c) complies with –
    - (i) the regulatory framework prescribed in Chapter 2 of the Regulations; and
    - (ii) any minimum norms and standards that may be prescribed in terms of section 168 of the Act;
  - (d) is consistent with other applicable legislation;
  - (e) does not undermine the objective for uniformity in supply chain management systems between organs of state in all spheres; and
  - (f) is consistent with national economic policy concerning the promotion of investments and doing business with the public sector.
- (2) The PLM may not act otherwise than in accordance with this supply chain management policy when –
  - (a) procuring goods or services;
  - (b) disposing of goods no longer needed;
  - (c) selecting contractors to provide assistance in the provision of municipal services otherwise than in circumstances where Chapter 8 of the Municipal Systems Act applies; or
  - (d) in the case of a municipality, selecting external mechanisms referred to in section 80 (1) (b) of the Municipal Systems Act for the provision of municipal services in circumstances contemplated in section 83 of that Act.
- (3) Subparagraphs (1) and (2) of this policy do not apply in the circumstances described in section 110 (2) of the Act except where specifically provided otherwise in this policy.

#### Adoption and amendment of the supply chain management policy

3. (1) The accounting officer must –

- (a) at least annually review the implementation of this policy; and
  - (b) when the accounting officer considers it necessary, submit proposals for the amendment of this policy to the council.
- (2) If the accounting officer submits the proposed amendments to the council that differs from this policy, the accounting officer must ensure that such draft policy complies with the Regulations. The accounting officer must report any deviation from the policy to the National Treasury and the relevant provincial treasury.
- (3) When amending this supply chain management policy the need for uniformity in supply chain practices, procedures and forms between organs of state in all spheres, particularly to promote accessibility of supply chain management systems for small businesses must be taken into account.
- (4) The accounting officer of the PLM must in terms of section 62(1)(f)(iv) of the Act, take all reasonable steps to ensure that the municipality has and implements this supply chain management policy.

#### **Delegation of supply chain management powers and duties**

- 4. (1) The PLM council hereby delegates such additional powers and duties to the accounting officer so as to enable the accounting officer –
  - (a) to discharge the supply chain management responsibilities conferred on accounting officers in terms of –
    - (i) Chapter 8 or 10 of the Act; and
    - (ii) the supply chain management policy;
  - (b) to maximise administrative and operational efficiency in the implementation of the supply chain management policy;
  - (c) to enforce reasonable cost-effective measures for the prevention of fraud, corruption, favouritism and unfair and irregular practices in the implementation of the supply chain management policy; and
  - (d) to comply with his or her responsibilities in terms of section 115 and other applicable provisions of the Act.
- (2) Sections 79 and 106 of the Act apply to the sub delegation of powers and duties delegated to an accounting officer in terms of subparagraph(1) of this policy.
- (3) The council or accounting officer may not delegate or sub delegate any supply chain management powers or duties to a person who is not an official of the PLM or to a committee which is not exclusively composed of officials of the PLM;
- (4) This paragraph may not be read as permitting an official to whom the power to make final awards has been delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in paragraph 26 of this policy.



## Sub Delegations

5. (1) The accounting officer may in terms of section 79 or 106 of the Act sub delegate any supply chain management powers and duties, including those delegated to the accounting officer in terms of this policy, but any such sub delegation must be consistent with subparagraph (2) and paragraph 4 of this policy.
- (2) The power to make a final award –
- (a) above R1 million (VAT included) may not be sub delegated by the accounting officer;
  - (b) above R 500 000 (VAT included), but not exceeding R1 million (VAT included), may be sub delegated but only to –
    - (i) the chief financial officer;
    - (ii) a manager; or
    - (iii) a bid adjudication committee of which the chief financial officer or a manager is a member; or
  - (c) not exceeding R 200 000 (VAT included) may be sub delegated but only to –
    - (i) the chief financial officer;
    - (ii) a manager;
    - (iii) an official directly accountable to the chief financial officer or a manager; or
    - (iv) a bid adjudication committee.
- (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 five days of the end of each month submit to the official referred to in subparagraph (4) of this policy a written report containing particulars of each final award made by such official or committee during that month, including–
- (a) the amount of the award;
  - (b) the name of the person to whom the award was made; and
  - (c) the reason why the award was made to that person.
- (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 manager; or
    - (iii) a bid adjudication committee of which the chief financial officer or

- a manager is a member; or
  - (b) to the chief financial officer or the manager responsible for the relevant bid, in the case of an award by –
    - (i) a manager referred to in subparagraph (2)(c)(iii) of this policy; or
    - (ii) a bid adjudication committee of which the chief financial officer or a manager is not a member.
- (5) Subparagraphs (3) and (4) of this policy do not apply to procurements out of petty cash.
- (6) This paragraph may not be interpreted as permitting an official to whom the power to make final awards has been sub delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in paragraph 26 of this policy.
- (7) No supply chain management decision-making powers may be delegated to an advisor or consultant.
- (8)

#### **Oversight role of council**

- 6. (1) The council must maintain oversight over the implementation of this supply chain Management policy.
- (2) For the purposes of such oversight the accounting officer must –
  - (a) within 30 days of the end of each financial year, submit a report on the implementation of the supply chain management policy of the municipality to the council of the municipality
  - (b) whenever there are serious and material problems in the implementation of the supply chain management policy, immediately submit a report to the council.
- (3) The accounting officer must, within 10 days of the end of each quarter, submit a report on the implementation of the supply chain management policy to the mayor.
- (4) The reports must be made public in accordance with section 21A of the Municipal Systems Act.

#### **Supply chain management unit**

- 7. (1) The accounting officer must establish a supply chain management unit to implement this supply chain management policy.
- (2) The supply chain management unit must, where possible, operate under the direct supervision of the chief financial officer or an official to whom this duty has been delegated in terms of section 82 of the Act.

### **Training of supply chain management officials**

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

## **CHAPTER 2 FRAMEWORK FOR SUPPLY CHAIN MANAGEMENT**

### **Format of supply chain management**

9. This supply chain management policy provides systems for –
  - (i) demand management;
  - (ii) acquisition management;
  - (iii) logistics management;
  - (iv) disposal management;
  - (v) risk management; and
  - (vi) performance management.

#### ***Part 1: Demand management***

##### **System of demand management**

10.
  - (1) The demand for services and/or goods must comply with the following:
    - (a) the prescriptions of the budget of the PLM;
    - (b) the Local Economic Development Strategies of the PLM ;
  - (2) The different departments must identify the demand for services and/or goods. The Procurement Unit (PU) must coordinate all demands for services and/or goods.
  - (3) The Managers of the different departments are responsible for the management of the demands i.e. ensuring that operational commitments are delivered at the correct time, at the right price and at the right location, and that the quantity and quality satisfy the needs of the PLM.

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

##### **System of acquisition management**

11.
  - (1) Goods and services may only be procured by the PLM in accordance with

- authorised processes.
- (2) Departments must determine functions and needs to be performed and services to be delivered by each department. These acquisitions must then be included in the annual budget of the PLM and approved by Council before it can be performed.
  - (3) Each department is responsible for the management of commitments in terms of the above Demand Policy and in accordance with the provisions of the **Regulations** and the **Act**
  - (4) Procurement Unit
    - (a) the PU is responsible for the implementation and proper management of the Policy;
    - (b) the CFO must ensure that officials responsible for the management are properly trained;
  - (5) Threshold values and Approval Authorities  
Threshold values and approval authorities as stipulated in this policy must be adhered to.
  - (6) Bid documentation, evaluation, and adjudication criteria and general conditions of contract shall be in accordance with applicable legislation.
  - (7) Treasury guidelines on acquisition management shall be properly taken into account.
  - (8) This supply chain management policy, except where provided otherwise in the policy, does not apply in respect of the procurement of goods and services contemplated in section 110(2) of the Act, including –
    - (a) water from the Department of Water Affairs or a public entity, another municipality or municipal entity; and
    - (b) electricity from Eskom or another public entity, another municipality or a municipal entity.
  - (9) The following information must be made public wherever goods or services contemplated in section 110(2) of the Act are procured otherwise than through PLM's supply chain management system -
    - (a) the kind of goods or services; and
    - (b) the name of the supplier.

### **Range of procurement processes**

12. (1) The following threshold values (VAT included) shall apply in respect of all acquisitions either by way of quotations or through competitive bidding:
  - (a) Transaction value up to R 2 000 (petty cash purchases)  
At least three verbal quotations must be obtained from, where

applicable and a list of service providers. The names of service providers and their quoted prices must be recorded. The order must be placed against written confirmation from the provider concerned.

- (b) Transaction value over R 2 000 up to R 10 000  
At least three written or verbal quotations must be obtained from, where applicable, a list of service providers. The names of the providers and their quoted prices must be recorded. The order must be placed against written confirmation from the provider concerned.
- (c) Transaction value over R 10 000 up to R200 000  
At least three written quotations must be obtained from, where applicable, a list of service providers. The names of the providers and their quoted prices must be recorded. The order must be placed against written confirmation from the provider concerned.
- (d) Transaction value over R200 000  
Competitive bids must be invited by means of public advertisement.
- (e) Long term contracts  
Competitive bids must be invited by means of public advertisement.
- (f) Approval Authorities
  - (i) the following approval authorities shall apply for acquisitions in respect of quotations/bids:

Amount (VAT inclusive)	Delegating Authority
Up to R 2 000	Managers
Above R 2 000 to R10 000	Managers in consultation with the CFO
Above R 10 000 to R 200 000	The Accounting Officer
Above R 200 000	The Accounting Officer after receiving report from Bid-Adjudication Committee

- (ii) the following approval authorities shall apply for acquisitions in respect of the appointment of PSP's:

Amount (VAT inclusive)	Delegating Authority
For all amounts above R200 000, after receipt of a report from The Bid Adjudication Committee	The Accounting Officer

- (iii) The following approval authorities shall apply in respect of the appointment of PSP's:

Amount (VAT inclusive)	Delegating Authority
Up to R 10 000	Managers
Above R10 000 up to R200 000	Accounting Officer
Above R200 000	The Accounting Officer after receiving report from Bid-Adjudication Committee

- (2) The accounting officer may, in writing; -
- (a) lower, but not increase, the different threshold values specified in subparagraph (1); or
  - (b) direct that –
    - (i) written or verbal quotations be obtained for any specific procurement of a transaction value lower than R 2 000;
    - (ii) formal written price quotations be obtained for any specific procurement of a transaction value lower than R10 000; or
    - (iii) a competitive bidding process be followed for any specific procurement of a transaction value lower than R200 000.
- (3) Goods or services may not deliberately be split into parts or items of a lesser value merely to avoid complying with the requirements of the policy. When determining transaction values, a requirement for goods or services consisting of different parts or items must as far as possible be treated and dealt with as a single transaction.

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

13. A written quotation or bid may not be considered unless the provider who submitted the quotation or bid –
- (a) has furnished that provider's –
    - (i) full name;
    - (ii) identification number or company or other registration number; and
    - (iii) tax reference number and VAT registration number, if any;
  - (b) has authorised the PLM to obtain a tax clearance from the South African Revenue Services that the provider's tax matters are in order; and

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

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

- 14. (1) The accounting officer must –
  - (a) keep a list of accredited prospective providers of goods and services that must be used for the procurement requirements of the PLM through written or verbal quotations and formal written price quotations; and
  - (b) at least once a year through newspapers commonly circulating locally, the website and any other appropriate ways, invite prospective providers of goods or services to apply for evaluation and listing as accredited prospective providers;
  - (c) specify the listing criteria for accredited prospective providers; and
  - (d) disallow the listing of any prospective provider whose name appears on the National Treasury's database as a person prohibited from doing business with the public sector.
- (2) The list must be updated at least quarterly to include any additional prospective providers and any new commodities or types of services. Prospective providers must be allowed to submit applications for listing at any time.
- (3) The list must be compiled per commodity and per type of service.
- (4) The CFO must, on a monthly basis, be notified of all verbal and written quotations accepted to ensure that all acquisitions are properly performed

### **Petty cash purchases**

- 15. The accounting officer must establish the conditions for the procurement of goods by means of petty cash purchases referred to in paragraph 12 (1) (a) of this policy, which will include the following conditions –
  - (a) the terms on which a manager may delegate responsibility for petty cash to an

- official reporting to the manager;
- (b) limiting the maximum amounts of petty cash purchases per month for the CFO to R2 000;
- (b) the following expenditure will be excluded from petty cash purchases:
  - travelling expenses
  - entertainment expenses; and
- (d) a monthly reconciliation report must be prepared by the CFO, which will include –
  - (i) the total amount of petty cash purchases for that month; and
  - (ii) receipts and appropriate documents for each purchase.

### **Written or verbal quotations**

The accounting officer must establish the conditions for the procurement of goods or services through written or verbal quotations, which will include the following conditions –

- (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 PLM, provided that if quotations are obtained from providers who are not listed, such providers must meet the listing criteria in the supply chain management policy required by 14(1)(b) and (c) of this policy; (b) that, to the extent feasible, providers must be requested to submit such quotations in writing;
- (b) if it is not possible to obtain three quotations, the reason should be recorded and approved by the CFO or an official designated by the CFO. This official must within three days of the end of each month report to the CFO on any approval given by him during that month.
- (c) the accounting officer must record the names of the potential providers requested to provide such quotations with their quoted prices; and
- (d) if a quotation was submitted verbally, the order may be placed only against written confirmation by the selected provider.
- (e) the PU is responsible for obtaining all quotations.

### **Formal written price quotations**

17. (1) The accounting officer must establish the conditions for the procurement of goods or services through formal written price quotations, which must include conditions stating –
- (a) that quotations must be obtained in writing from at least three different providers whose names appear on the list of accredited prospective



- providers of the PLM ;
  - (b) that quotations may be obtained from providers who are not listed, provided that such providers meet the listing criteria in the supply chain management policy required by paragraph 14(1)(b) and (c);
  - (c) that if it is not possible to obtain at least three quotations, the reasons must be recorded and approved by the CFO or an official designated by the CFO, and
  - (d) that the accounting officer must record the names of the potential providers and details of their written quotations.
- (2) A designated official referred to in subparagraph (1)(c) must within three days of the end of each month report to the CFO on any approvals given during that month by that official in terms of that subparagraph.

#### **Procedures for procuring goods or services through written or verbal quotations and formal written price quotations**

18. The accounting officer must determine the operational procedure for the procurement of goods or services through written or verbal quotations or formal written price quotations, which must stipulate –
- (a) that all requirements in excess of R30 000 (VAT included) that are to be procured by means of formal written price quotations must, in addition to the requirements of paragraph 17, be advertised for at least seven days on the website and an official notice board of the PLM;
  - (b) that when using the list of accredited prospective providers the accounting officer must promote ongoing competition amongst providers, including by inviting providers to submit quotations on a rotation basis;
  - (c) that the accounting officer must take all reasonable steps to ensure that the procurement of goods and services through written or verbal quotations or formal written price quotations is not abused;
  - (d) that the accounting officer or CFO must on a monthly basis be notified in writing of all written or verbal quotations and formal written price quotations accepted by an official acting in terms of a sub delegation, and;
  - (e) requirements for proper record keeping.

#### **Competitive bidding process**

19. (1) Goods or services above a transaction value of R200 000 (VAT included) and long term contracts may only be procured through a competitive bidding process, subject to paragraph 11(2) of this policy; and

- (2) No requirement for goods or services above an estimated transaction value of R200 000 (VAT included), may deliberately be split into parts or items of lesser value merely for the sake of procuring the goods or services otherwise than through a competitive bidding process.

### **Process for competitive bidding**

**20.** The accounting officer must establish procedures for a competitive bidding process for each of the following stages and which shall include the following:

- (1) Compilation of bidding documentation;
  - (a) specifications, evaluation criteria and procedures
    - (i) bidding documents shall clearly indicate the terms and conditions of the transaction, the specification criteria for evaluation and procedures to be followed where applicable.
    - (ii) specifications and evaluation criteria shall be aimed at ensuring fair, equitable, transparent, competitive and cost-effective bidding as well as the protection and/or advancement of persons, or categories of persons.
    - (iii) specifications shall not mention trade names or particular processes of manufacture unless these are the only acceptable products, however, where the use of trade names, trade marks or origin is the only known way of accurately describing the products required, the words "or other equal and approved "shall be included in the specifications mentioned in the quotation document.
    - (iv) where the specifications are based on standard documents available to bidders, a reference to those documents is sufficient.
    - (v) the PLM may, if necessary, communicate with bidders prior to the submission of quotations in order to supply additional information or to clarify vague points in the quotation documents
  - (b) documentation
    - (i) documents pertaining to bidding (including the quotation) shall be issued and received by the PU.
    - (ii) bidding documents shall clearly state the place where such documents must be submitted and if necessary, a return date and time.
    - (iii) late submissions shall not be considered.
    - (iv) all prices submitted shall remain confidential until after the closing date of submissions

- (c) quotation or bidding prices
  - (i) Unless otherwise stated, all prices shall be deemed to be fixed.
- (2) Public invitation of bids;
  - the public will be invited to the bidding process as stipulated in this policy (Public Invitation for Competitive Bids)
- (3) Site meetings or briefing sessions, if applicable;
  - site meetings and/or briefing sessions will be held as advertised.
- (4) Handling of bids submitted in response to public invitation;
  - bids will be handled in accordance with this policy (Procedure for handling, opening and recording of bids)
- (5) Evaluation of bids;
  - bids will be evaluated in accordance with this policy (Bid evaluation Committee)
- (6) Award of contracts;
  - contracts will be awarded in accordance with this policy (Bid Adjudication Committee)
- (7) Administration of contracts; and
  - the Department of Technical Services in conjunction with the Department of Finance will administer the contracts.
- (8) Proper record keeping.
  - the Department of Technical Services in conjunction with the Department of Finance will keep proper records of all contracts.

**Bid documentation for competitive bids**

- 21. (1) The accounting officer must establish the criteria to which bid documentation for a competitive bidding process must comply, which in addition to paragraph 13 of this policy, the bid documentation must –
  - (a) take into account –
    - (i) the general conditions of contract;
    - (ii) any Treasury guidelines on bid documentation and supply chain management; 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 evaluation and adjudication criteria, including any criteria required by other applicable legislation;
  - (c) compel bidders to declare any conflict of interest they may have in the transaction for which the bid is submitted;

- (d) if the value of the transaction is expected to exceed R2 million (VAT included)(or such lower value as council from time to time may direct), 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 the PLM or other service provider in respect of which payment is overdue for more than 30 days;
    - (iii) particulars of any contracts awarded to the bidder by an organ of state during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract;
    - (iv) a statement indicating whether any portion of the goods or services are expected to be sourced from outside the Republic, and, if so, what portion and whether any portion of payment from the PLM is expected to be transferred out of the Republic; and
  - (e) stipulate that disputes must be settled by means of mutual consultation, mediation (with or without legal representation), or, when unsuccessful, in a South African court of law.
- (2) Only the PU may issue bid documentation and subsequent notices.
  - (3) A non-refundable bid charge for bid documentation may be raised by the PLM
  - (4) Specifications shall not mention trade names or particular processes of manufacture unless these are the only acceptable products, however, where the use of trade names, trade marks or origin is the only known way of accurately describing the products required, the words “or other equal and approved ”shall be included in the specifications mentioned in the quotation document
  - (5) Where the specifications are based on standard documents available to bidders, a reference to these documents will suffice.
  - (6) The PLM may, if necessary, communicate with bidders prior to bid closing in order to supply additional information or for clarification purposes. Communication shall be on a prescribed form and shall, where possible, be issued at least seven (7) days prior to the bid closing date.

**Public invitation for competitive bids**

- 22. The accounting officer must determine the procedure for the invitation of

competitive bids, which must stipulate that:

- (1)
  - (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 PLM 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 R2 million (VAT included), or which are of a long term nature, or 14 days in any other case, from the date on which the advertisement is placed in a newspaper, subject to subparagraph (2) of this policy; and
    - (ii) a statement that bids may only be submitted on the bid documentation provided by the PLM.
- (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.
- (4) Where bids are requested in electronic format, such bids must be supplemented by sealed hard copies.
- (5) Validity periods
  - (a) bids will remain valid and binding for the periods as indicated in the bid documents. The period will run from the closing time of the bids and shall remain in force and binding until the end of the final day of the period.
  - (b) the period of validity may be extended in writing by mutual consent between PLM and all the bidders, provided that such an extension must be negotiated before the period has expired.
- (6) Submission of bids
  - (a) bids shall be submitted before the closing time, at the address and in accordance with the specifications in the bid documents.
  - (b) bids shall be in writing and shall be submitted on the official Form of Bid.
  - (c) any bids not received in a sealed envelope will not be considered. The bidder must place the sealed envelope in the official marked locked bid box provided for this purpose, at the designated venue, not later than the closing date and time specified in the bid notice.
  - (d) postal bids will be accepted for consideration only if they are received prior to the closing time for such bids. The PLM however, do not accept any responsibility for the timeous lodgement of such bids. Proof of posting of a bid will not be accepted

as proof of delivery and lodging of the bids.

- (e) no bids, other than in writing as above, will be considered. However, photo – copies of bids or facsimiles, which are submitted in the prescribed manner, will be considered, provided that it can be confirmed that the original bid form has been posted or couriered prior to the close of bids.

(7) Closing of bids

- (a) bids shall close on the date and at the time stipulated in the bid notice.
- (b) the bid closing date may be extended. The closing date may only be extended if there is ample time to publish the prescribed amendment.

(8) Late Bids

- (a) bids will be considered late if received after the closing time.
- (b) a late bid shall not be considered and if necessary be returned unopened to the bidder.

(9) Invalid Bids

Bids shall be considered invalid and shall be endorsed and recorded as such (in the bid opening record) by the responsible Official at the following instances:

- (a) where the bid is not submitted on the official bid form,
- (b) where the bid is not completed in non-erasable ink or typed;
- (c) where the bid form has not been signed;
- (d) where the bid form is signed, but the name of the bidder is not stated;
- (e) or is indecipherable;
- (f) where the bid is not submitted in a sealed envelop
- (g) at the instance of invalid bids,
  - the bid sum will not be announced;
  - the reason for the bid being declared invalid shall be announced.

(10) Bid Sum

At the instance where the amount in words differ from the amount in figures, the bid will be accepted as valid and the amount in words will be accepted as being the true amount.

(11) Confidentiality

All information regarding the calculations and personal information shall be treated as confidential and shall not be disclosed.

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

**23.** The accounting officer must determine the procedures for the handling, opening and recording of bids, which must stipulate that:

- (a) Bids–
  - must be placed in an applicable bid box which shall be closed and sealed on the date and time as specified in the bid.

- (ii) must be opened only in public; and
- (iii) must be opened at the same time and as soon as possible after the period for the submission of bids has expired;
- (iv) found to be inadvertently placed in an incorrect bid box shall be redirected provided that the applicable bids either closed on the same day at the same time, or are still open (in which case PLM does not accept any responsibility for misplacing of the bid).
- (v) as soon as a bid has been opened:
  - (aa) the bid document shall be stamped with the official stamps, and where necessary, endorsed with the opening Official's signature;
  - (bb) the name of the bidder shall be recorded in a bid opening record kept for this purpose;
  - (cc) the responsible Official shall forthwith sign the bid opening record.
- (vi) after being recorded in the bid opening record, the bids shall be handed over to the Official responsible for the supervision of the processing thereof who shall acknowledge receipt thereof by affixing his signature to the bid opening record.
- (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; and
- (c) The accounting officer must –
  - (i) record in a register all bids received in time;
  - (ii) make the register available for public inspection; and
  - (iii) publish the entries in the register and the bid results on the website.

#### **Negotiations with preferred bidders**

- 24.** (1) The accounting officer may negotiate the final terms of a contract with bidders identified through a competitive bidding process as preferred bidders, provided that such negotiation –
- (a) does not allow any preferred bidder a second or unfair opportunity;
  - (b) is not to the detriment of any other bidder; 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.

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

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

26. (1) The accounting officer is required to –
- (a) establish a committee system for competitive bids consisting of at least –
    - (i) a bid specification committee;
    - (ii) a bid evaluation committee; and
    - (iii) a bid adjudication committee;
  - (b) appoint the members of each committee, taking into account section 117 of the Act; and
  - (c) provide for an attendance or oversight process by a neutral or independent observer, appointed by the accounting officer, when this is appropriate for ensuring fairness and promoting transparency.
- (2) The committee system must be consistent with –
- (a) paragraph 27, 28 and 29 of this policy; and
  - (b) any other applicable legislation.
- (3) The accounting officer may apply the committee system to formal written price quotations.

### **Bid specification committees**

27. (1) The bid specification committee must compile the specifications for each procurement of goods or services by the PLM.
- (2) Specifications –
- (a) must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services;
  - (b) must take account of any accepted standards such as those issued by Standards South Africa, the International Standards Organisation, or an authority accredited or recognised by the South African National Accreditation System with which the equipment or material or



- workmanship should comply;
- (c) where possible, be described in terms of performance required rather than in terms of descriptive characteristics for design;
  - (d) may not create trade barriers in contract requirements in the forms of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labelling of conformity certification;
  - (e) may not make reference to any particular trade mark, name, patent, design, type, specific origin or producer unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the words "equivalent";
  - (f) must indicate each specific goal for which points may be awarded in terms of the points system set out in the Preferential Procurement Regulations 2001; and
  - (g) must be approved by the accounting officer prior to publication of the invitation for bids in terms of paragraph 22 of this policy.
- (3) The bid specification committee shall be composed of the following officials:
- (a) an official from the department of the function involved
  - (b) a representative of the Department of Finance;
  - (c) technical representatives nominated by the manager of the function involved
- (4) No person, advisor or corporate entity involved with the bid specification committee, or director of such a corporate entity, may bid for any resulting contracts.

### **Bid evaluation committees**

28. (1) 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 paragraph 27(2)(f).
  - (b) evaluate each bidder's ability to execute the contract and to provide the necessary guarantees;
  - (c) check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not in arrears, and;
  - (d) submit to the adjudication committee a report and recommendations regarding the award of the bid or any other related matter.
- (2) The bid evaluation committee shall be composed of the following officials –
- (a) an official of the function involved

- (a) a representative of the Department of Finance;
  - (c) technical representatives nominated by the manager of the function involved
- (3) No person, advisor or corporate entity involved with the bid evaluation committee, or director of such a corporate entity, may bid for any resulting contracts.

### **Bid adjudication committees**

- 29.** (1) 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.
- (2) The bid adjudication committee shall be composed of the following officials
- (a) the managers of the PLM
  - (b) a representative of the Department of Finance;
  - (c) a technical expert in the relevant field who is an official of the PLM if such an expert exists
- (3) The accounting officer must appoint the chairperson of the committee. If the chairperson is absent from a meeting, the members of the committee who are present must elect one of them to preside at the meeting.
- (4) Neither a member of a bid evaluation committee, nor an advisor or person assisting the evaluation committee, may be a member of a bid adjudication committee.
- (5) (a) If the bid adjudication committee decides to award a bid other than the one recommended by the bid evaluation committee, the bid adjudication committee must prior to awarding the bid –
- (i) check in respect of the preferred bidder whether that bidder's municipal rates and taxes and municipal service charges are not in arrears, and;
  - (ii) notify the accounting officer.
- (b) The accounting officer may –
- (i) after due consideration of the reasons for the deviation, ratify or reject the decision of the bid adjudication committee referred to

- in paragraph (a); and
- (ii) if the decision of the bid adjudication committee is rejected, refer the decision of the adjudication committee back to that committee for reconsideration.
- (6) The accounting officer may at any stage of a bidding process, refer any recommendation made by the evaluation committee or the adjudication committee back to that committee for reconsideration of the recommendation.
  - (7) The accounting officer must comply with section 114 of the Act within 10 working days
  - (8) No person, advisor or corporate entity involved with the bid adjudication committee, or director of such a corporate entity, may bid for any resulting contracts.
  - (9) The accounting officer may attend the meetings of the bid adjudication committee as an observer and in order to familiarise him-/herself with the details of the bid.

#### **Procurement of banking services**

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

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

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

- financial year will exceed R1 million (VAT included); or
- (b) the transaction value of a contract to be procured whether for one or more years exceeds R1 million (VAT included).
- (4) If SITA comments on the submission and the PLM disagrees with such comments, the comments and the reasons for rejecting or not following such comments must be submitted to the council, the National Treasury, the relevant provincial treasury and the Auditor General.

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

32. (1) The accounting officer may procure goods or services under a contract secured by another organ of state, but only if –
- (a) the contract has been secured by that other organ of state by means of a competitive bidding process applicable to that organ of state;
  - (b) there is no reason to believe that such 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.
- (2) Subparagraph (1)(c) and (d) do not apply if
- the PLM procures goods or services through a contract secured by a municipal entity of which it is the parent district municipality.

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

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

### **Proudly SA Campaign**

34. The accounting officer must determine internal operating procedures supporting the Proudly SA Campaign to the extent that, all things being equal, preference is given to procuring local goods and services from:
- Firstly –suppliers and businesses within the area of jurisdiction of the PLM;
  - Secondly – suppliers and businesses within the Free State Province;
  - Thirdly – suppliers and businesses within the Republic of South Africa

### **Appointment of consultants**

35. (1) The accounting officer may procure consulting services provided that any Treasury guidelines in respect of consulting services are taken into account when such procurements are made.
- (2) Consultancy services must be procured through competitive bids if –
- (a) the value of the contract exceeds R200 000 (VAT included); or
  - (b) the duration period of the contract exceeds one year.
- (3) In addition to any requirements prescribed by this policy for competitive bids, bidders must furnish particulars of –
- (a) all consultancy services provided to an organ of state in the last five years; and
  - (b) any similar consultancy services provided to an organ of state in the last five years.
- (4) The accounting officer must ensure that copyright in any document produced, and the patent rights or ownership in any plant, machinery, thing, system or process designed or devised, by a consultant in the course of the consultancy service is vested in the PLM.

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

36. (1) The accounting officer may –
- (a) dispense with the official procurement processes established by this policy and to procure any required goods or services through any convenient process, which may include direct negotiations, but only –
    - (i) in an emergency;
    - (ii) if such goods or services are produced or available from a single provider only;
    - (iii) for the acquisition of special works of art or historical objects where specifications are difficult to compile;
    - (iv) acquisition of animals for zoos and/or nature and game reserves; or
    - (v) in any other exceptional case where it is impractical or impossible to follow the official procurement processes; and
  - (b) ratify any minor breaches of the procurement processes by an official or committee acting in terms of delegated powers or duties which are purely of a technical nature.
- (2) The accounting officer must record the reasons for any deviations

in terms of subparagraphs (1)(a) and (b) of this policy and report them to the next meeting of the council and include as a note to the annual financial statements.

- (3) Subparagraph (2) does not apply to the procurement of goods and services contemplated in paragraph 11(2) of this policy.

### **Urgent and emergency cases**

37. In urgent and emergency cases, a municipality may dispense with the invitation of Bids and may obtain required goods, works or services by means of quotations by preferably making use of the database of prospective suppliers, or otherwise in any manner to the best interest of the municipality .

Urgent cases are cases where early delivery is of critically important and the Invitation of competitive bids is either impossible or impractical .However, a lack of Proper planning should not be constituted as an urgent case.

Emergency cases are cases where immediate action are necessary in order to avoid a dangerous or risky situation or misery.

The reasons for the urgency/emergency and dispensing of competitive bids should be Clearly recorded and approved by the accounting officer.

### **Unsolicited bids**

38. (1) In accordance with section 113 of the Act there is no obligation to consider unsolicited bids received outside a normal bidding process.
- (2) The accounting officer may decide in terms of section 113(2) of the Act to consider an unsolicited bid, only if –
- (a) the product or service offered in terms of the bid is a demonstrably or proven unique innovative concept;
  - (b) the product or service will be exceptionally beneficial to, or have exceptional cost advantages;
  - (c) the person who made the bid is the sole provider of the product or service; and
  - (d) the reasons for not going through the normal bidding processes are found to be sound by the accounting officer.
- (3) If the accounting officer decides to consider an unsolicited bid that complies with subparagraph (2) of this policy, the decision must be made public in accordance with section 21A of the Municipal Systems Act, together with –
- (a) reasons as to why the bid should not be open to other competitors;
  - (b) an explanation of the potential benefits if the unsolicited bid were

- accepted; and
  - (c) an invitation to the public or other potential suppliers to submit their comments within 30 days of the notice.
- (4) All written comments received pursuant to subparagraph (3), including any responses from the unsolicited bidder, must be submitted to the National Treasury and the relevant provincial treasury for comment.
- (5) The adjudication committee must consider the unsolicited bid and may award the bid or make a recommendation to the accounting officer, depending on its delegations.
- (6) A meeting of the adjudication committee to consider an unsolicited bid must be open to the public.
- (7) When considering the matter, the adjudication committee must take into account
  - (a) any comments submitted by the public; and
  - (b) any written comments and recommendations of the National Treasury or the relevant provincial treasury.
- (8) If any recommendations of the National Treasury or provincial treasury are rejected or not followed, the accounting officer must submit to the Auditor General, the relevant provincial treasury and the National Treasury the reasons for rejecting or not following those recommendations.
- (9) Such submission must be made within seven days after the decision on the award of the unsolicited bid is taken, but no contract committing the PLM to the bid may be entered into or signed within 30 days of the submission.

### **Combating of abuse of supply chain management system**

- 39.** The accounting officer must establish measures for the combating of abuse of the supply chain management system, which must stipulate the following:
- (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 supply chain management policy, and when justified –
      - (i) take appropriate steps against such official or other role player; or
      - (ii) report any alleged criminal conduct to the South African Police Service;
    - (c) check the National Treasury's database prior to awarding any contract to ensure that no recommended bidder, or any of its directors, is listed as a

- person prohibited from doing business with the public sector;
- (d) reject any bid from a bidder–
    - (i) if any municipal rates and taxes or municipal service charges owed by that bidder or any of its directors to the PLM, or to any other PLM 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 PLM or any other organ of state after written notice was given to that bidder that performance was unsatisfactory;
  - (e) reject a recommendation for the award of a contract if the recommended bidder, or any of its directors, has committed a corrupt or fraudulent act in competing for the particular contract;
  - (f) cancel a contract awarded to a person if –
    - (i) the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract; or
    - (ii) an official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of the contract that benefited that person; and
  - (g) reject the bid of any bidder if that bidder or any of its directors –
    - (i) has abused the supply chain management system of the PLM or has committed any improper conduct in relation to such system;
    - (ii) has been convicted for fraud or corruption during the past five years;
    - (iii) has wilfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
    - (iv) has been listed in the Register for Tender Defaulters In terms section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004).
- (2) The accounting officer must inform the National Treasury and relevant provincial treasury in writing of any actions taken in terms of subparagraphs (1)(b)(ii), (e) or (f) of this policy.

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

#### **Logistics management**

40. The accounting officer must establish an effective system of logistics management in order to provide for the setting of inventory levels, placing of orders, receiving and



distribution of goods, stores and warehouse management, expediting orders, transport management, vendor performance, maintenance and contract administration.

### **Disposal management**

41. (1) The accounting officer must establish an effective system of disposal management for the disposal or letting of assets, including unserviceable, redundant or obsolete assets, subject to sections 14 and 90 of the Act, which must stipulate the following:
- (2) The disposal of assets must–
- (a) be by one of the following methods –
    - (i) transferring the asset to another organ of state in terms of a provision of the Act enabling the transfer of assets;
    - (ii) transferring the asset to another organ of state at market related value or, when appropriate, free of charge;
    - (iii) selling the asset; or
    - (iv) destroying the asset;
  - (b) provided that –
    - (i) immovable property may be sold only at market related prices except when the public interest or the plight of the poor demands otherwise;
    - (ii) movable assets may be sold either by way of written price quotations, a competitive bidding process, auction or at market related prices, whichever is the most advantageous;
    - (iii) 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; and
    - (iv) in the case of the disposal of firearms, the National Conventional Arms Control Committee has approved any sale or donation of firearms to any person or institution within or outside the Republic;
  - (c) furthermore ensure that –
    - (i) immovable property is let at market related rates except when the public interest or the plight of the poor demands otherwise; and
    - (ii) all fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property are annually

- reviewed; and
- (iii) ensure that where assets are traded in for other assets, the highest possible trade-in price is negotiated.

### **Risk management**

42. (1) The accounting officer must establish an effective system of risk management for the identification, consideration and avoidance of potential risks in the supply chain management system.
- (2) Risk management must include –
- (a) the identification of risks on a case-by-case basis;
  - (b) the allocation of risks to the party best suited to manage such risks;
  - (c) acceptance of the cost of the risk where the cost of transferring the risk is greater than that of retaining it;
  - (d) the management of risks in a pro-active manner and the provision of adequate cover for residual risks; and
  - (e) the assignment of relative risks to the contracting parties through clear and unambiguous contract documentation.

### **Performance management**

43. The accounting officer must establish an effective 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 desired objectives were achieved.

### **Part 4: Other matters**

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

44. (1) The accounting officer must ensure that, irrespective of the procurement process followed, no award above R30 000 is given to a person whose tax matters have not been declared by the South African Revenue Service to be in order.
- (2) Before making an award to a person the accounting person must first check with SARS whether that person's tax matters are in order.
- (3) If SARS does not respond within 7 days such person's tax matters may for purposes of subparagraph (1) be presumed to be in order.

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

45. The accounting officer must ensure that irrespective of the procurement process followed, no award may be given to a person –
- (a) who is in the service of the state; or
  - (b) if that person is not a natural person, of which any director, manager, principal shareholder or stakeholder is a person in the service of the state; or
  - (c) a person who is an advisor or consultant contracted with the PLM.

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

46. The notes to the annual financial statements must disclose particulars of any award of more than R2000 to a person who is a spouse, child or parent of a person in the service of the state, or has been in the service of the state in the previous twelve months, including –
- (a) the name of that person;
  - (b) the capacity in which that person is in the service of the state; and
  - (c) the amount of the award.

#### **Ethical standards**

47. (1) A code of ethical standards is hereby established, in accordance with subparagraph (2), 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.
- (2) 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 reward, gift, favour, hospitality or other benefit directly or indirectly, including to any close family member, partner or associate of that person, of a value more than R350;
  - (d) notwithstanding subparagraph (2)(c), must declare to the accounting officer details of any reward, gift, favour, hospitality or other benefit promised, offered or granted to that person or to any close family

- member, partner or associate of that person;
  - (e) must declare to the accounting officer details of any private or business interest which that person, or any close family member, partner or associate, may have in any proposed procurement or disposal process of, or in any award of a contract by, the PLM;
  - (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 PLM;
  - (h) must assist the accounting officer in combating fraud, corruption, favouritism and unfair and irregular practices in the supply chain management system; and
  - (i) must report to the accounting officer any alleged irregular conduct in the supply chain management system which that person may become aware of, including –
    - (i) any alleged fraud, corruption, favouritism or unfair conduct;
    - (ii) any alleged contravention of paragraph 47(1) of this policy; or
    - (iii) any alleged breach of this code of ethical standards.
- (3) Declarations in terms of subparagraphs (2)(d) and (e) -
- (a) must be recorded in a register which the accounting officer must keep for this purpose;
  - (b) by the accounting officer must be made to the mayor of the PLM who must ensure that such declarations are recorded in the register.
- (4) The National Treasury's code of conduct must also be taken into account by supply chain management practitioners and other role players involved in supply chain management.
- (5) The PLM must adopt the National Treasury's code of conduct for supply chain management practitioners and other role players involved in supply chain management. When adopted, such code of conduct becomes binding on all officials and other role players involved in the implementation of the supply chain management policy of the PLM.
- (6) A breach of the code of conduct adopted by the PLM must be dealt with in accordance with schedule 2 of the Systems Act.

#### **Inducements, rewards, gifts and favours to municipalities officials and other role players**

48. (1) No person who is a provider or prospective provider of goods or services, or a recipient or prospective recipient of goods disposed or to be disposed of may

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

### **Sponsorships**

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

### **Objections and complaints**

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

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

51. (1) The accounting officer must appoint an independent and impartial person, not directly involved in the supply chain management processes –
- (a) to assist in the resolution of disputes between the PLM and other persons regarding –
    - (i) any decisions or actions taken in the implementation of the supply chain management system; or
    - (ii) any matter arising from a contract awarded in the course of the supply chain management system; or
  - (b) to deal with objections, complaints or queries regarding any such

decisions or actions or any matters arising from such contract.

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

#### **Contracts providing for compensation based on turnover**

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

#### **Preference for procurement**

53. (a) Prioritisation of procurement from designated groups
  - (i) Black owned/ controlled - 50% of all procurements
  - (ii) Youth - 20% of all procurements
  - (iii) Women - 10% of all procurements
  - (iv) Co –Operatives - 30% of all procurements

#### **Commencement**

- 53.** This policy takes effect on the date on which it is adopted by the council.  
Policy Reviewed date 30<sup>th</sup> May 2017