

# PORT ST JOHNS MUNICIPALITY SUPPLY CHAIN MANAGEMENT POLICY (Incorporating Preferential Procurement)



**PORT ST JOHNS**  
• MUNICIPALITY •  
OUR HERITAGE, OUR PEOPLE

**Date of Review** \_\_\_\_\_

Council has resolved in terms of section 111 of the Local Government Municipal Finance Management Act (No. 56 of 2003) and the Preferential Procurement Policy Framework Act (Act 5 of 2000), to adopt the following proposal as the Supply Chain Management Policy of the Municipality

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## **Purpose of this policy**

The purpose of this policy on **Supply Chain Management (SCM)** is to give effect to the five pillars of procurement, i.e., it must be fair, equitable, transparent, competitive and cost effective, as well as to give effect to the enabling legislation, regulations and strategies to modernize procurement, provisioning and related functions.

## **Legislative Background**

- **Section 217 of the Constitution**
- **In terms of section 111 of the Municipal Finance Management Act, No 56 of 2003, and the Preferential Procurement Policy Framework Act (Act 5 of 2000).**
- **Other applicable legislation including but not limited to :**
  1. The Preferential Procurement Policy Framework Act No. 5 of 2000;
  2. The Broad-Based Black Economic Empowerment Act No. 53 of 2003;
  3. The Construction Industry Development Board Act No. 38 of 2000;
  4. The Local Government: Municipal Systems Act No. 32 of 2000 (Municipal Systems Act)
  5. the Promotion of Administrative Justice Act No. 3 of 2000;
  6. the Promotion of Access to Information Act No. 2 of 2000;
  7. the Protected Disclosures Act No. 26 of 2000;
  8. the Competition Act No. 89 of 1998;
  9. The Prevention and Combating of Corrupt Activities Act No. 12 of 2004;

## DEFINITIONS

In this policy and any bid documentation or directive issued in terms thereof, the singular includes the plural and vice versa, any one gender includes both genders and, unless the context otherwise indicates, a word or expression to which a meaning has been assigned in the Municipal Finance Management Act has the same meaning as in this Act and

<b>“Accounting Officer”</b>	means the manager of the municipal administration and accounting officer of the municipality appointed by the council in terms of section 54A of the Local Government: Municipal Systems Act No. 32 of 2000 and includes any employee of the municipality who acts in his stead and, in the event of the municipality being subject to an intervention in terms of section 139 of the Constitution or any other applicable law, includes the “Administrator” appointed as a consequence of such intervention or in terms of the conditions pertaining thereto;
<b>"All applicable taxes"</b>	includes value-added tax, pay as you earn, income tax, skills development levies and unemployment insurance fund contributions.
<b>"B-BBEE"</b>	means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;
<b>“Bid Committees”</b>	means the committees established in terms of this policy to prepare bid specifications, bid documentation, evaluate responsive bids and, where so authorized, to adjudicate responsive bids

and any reference in section 117 of the Municipal Finance Management Act to municipal tender committees shall be construed as a reference to the aforesaid committees.

**“Bid documentation”**

means all documentation relating to or necessary in order to complete a procurement or disposal including but not limited to such specification, bidding, certification and contractual documentation as may be prescribed by National Treasury or the Construction Industry Development Board, as the case may be, for municipal supply chain management purposes and the implementation of this policy.

**“Bidder”**

means any person who submits a bid or quotation to the municipality in response to an invitation to bid or quote and includes a **“tenderer”**.

**“Bid rigging”**

means a prohibited collusive bidding practice in terms of which bidders that would normally be expected to compete in a procurement process either singularly or by association with other persons or firms in a horizontal relationship, secretly conspire to raise prices or lower the quality of goods and/or services or agree not to compete against each other in such process.

**"Black people"**

is a generic term which means Africans, Colored's and Indians.



<b>"Broad-Based Black Economic Empowerment Act"</b>	means the Broad-Based Black Economic Empowerment Act No. 53 of 2003.
<b>"Chief Financial Officer"</b>	means the official of the municipality designated as such in terms of section 80(2)(a) of the Municipal Finance Management Act.
<b>"CIDB"</b>	means the Construction Industry Development Board.
<b>"CIDB regulations"</b>	means any regulations issued in terms of the Construction Industry Development Board Act No. 38 of 2000.
<b>"Codes of Good Practice"</b>	means the Codes of Good Practice on Black Economic Empowerment issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act and contained in General Notice 12 of 9 February 2007.
<b>"Comparative price"</b>	means the price after the factors of a non-firm price and all unconditional discounts that can be utilized, have been taken into consideration.
<b>"Competitive bidding process"</b>	means a transparent procurement method in which bids from competing contractors, suppliers or

vendors are invited by openly advertising the scope, specifications, terms and conditions of the proposed contract as well as the criteria by which responsive bids received will be evaluated.

- “Competitive bid”** means a bid in terms of a competitive bidding process.
- "Consortium or joint venture"** means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract.
- "Contract"** means the agreement that results from the acceptance of a bid by the municipality in accordance with this policy.
- “Council”** means the council of Port St Johns Local Municipality;
- “Co-operative”** means a co-operative registered in terms of section 7 of the Cooperatives Act, 2005 (Act No. 14 of 2005);
- “Day”** unless expressly otherwise provided in this policy, means a calendar day, provided that when any particular number of days is prescribed for the

doing of any act, or for any other purpose, the same shall be reckoned exclusively of the first and inclusively of the last day, unless the last day happens to fall on a Sunday or on any public holiday, in which case the time shall be reckoned exclusively of the first day and exclusively also of every such Sunday or public holiday;

**“Delegating authority”**

means the council, a duly authorized political structure or office bearer thereof, the Accounting Officer or other employee to whom original powers are assigned in terms of legislation and, in relation to a sub-delegation of a power, that delegated body.

**“Delegation”**

means the issuing of a written authorization by a delegating authority to a delegated body to act in his stead and, in relation to a duty, includes an instruction or request to perform or to assist in performing the duty and “delegate” and sub-delegate has a corresponding meaning.

**“Delegated body”**

in relation to the delegation of a power means the person to whom a power has been delegated by the delegating authority in writing.

**“Designated Official”**

means the official of the municipality to whom the accounting officer or the chief financial officer, as the case may be, have, in accordance with sections

79 and 82 of the Municipal Finance Management Act No. 56 of 2003 delegated or sub-delegated powers, functions and duties in connection with the application and implementation of this policy provided that a sub-delegation by the chief financial officer to an official that has not been allocated to him by the accounting officer or to a person contracted by the municipality for the work of its budget and treasury office may only be so authorized with the concurrence of the accounting officer and provided further that the said chief financial officer is satisfied that effective systems and procedures are in place to ensure control and accountability by the person concerned;

**"Designated sector"**

means a sector, sub-sector or industry or product designated in terms of regulation 8(1) (a);

**"Designated group"**

means: (a) black designated groups;

(b) Black people;

(c) Women;

(d) People with disabilities; or

(e) Small enterprises, as defined in section 1 of the National Small Enterprise Act, 1996 (Act No. 102 of 1996);

**"Disposal"**

means a process of preparing, negotiating and concluding a written contract relating to the alienation or a capital asset whether movable or immovable owned by or under the control of the municipality or rights in respect thereof, by means

of a sale, lease, donation or cession and **“dispose of”** has a similar meaning;

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

**“Final award”** in relation to bids or quotations submitted for a contract, means the final decision on which a bid or quote was accepted.

**"Firm price"** means the price that is only subject to adjustments in accordance with the actual increase or decrease resulting from the change, imposition, or abolition of customs or excise duty and any other duty, levy or tax which, in terms of any applicable law or regulation, is binding on the contractor and demonstrably has an influence on the price of any supplies or the rendering costs of any service, for the execution of a contract;

**“Formal written price quotations”** means quotations referred to in paragraph 21 of this policy.

**“Fronting”** means a deliberate circumvention or attempted circumvention of the "Broad-Based Black Economic Empowerment Act and the Codes of Good Practice;

**“Head of Department”** means a senior manager as defined in the Municipal Finance Management Act and who is responsible for a vote as assigned by the accounting officer;

**“highest acceptable tender”**

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

**"Imported content"**

means that portion of the bid or tender price represented by the cost of components, parts or materials which have been or are still to be imported (whether by the supplier or its sub-contractors) and which costs are inclusive of the costs abroad, plus freight and other direct importation costs, such as landing costs, dock dues, import duty, sales duty or other similar tax or duty at the South African port of entry;

**“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 Act and 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;

**“Line manager”**

means a manager reporting directly to a senior manager and who is responsible for a cost center as assigned by the relevant senior manager;

**"Local content"**

means that portion of the bid or tender price which is not included in the imported content, provided that local manufacture does take place;

**“Long term contract”**

means a contract with a duration period exceeding one year;

**“lowest acceptable tender”**

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

**“List of accredited prospective providers”**

means the list of accredited prospective providers which the municipality must keep in terms of paragraph 15 of this policy;

**"Mayor"**

means, in relation to-

a) a municipality with an executive mayor, means the councilor elected as the executive mayor of the municipality in terms of section 55 of the Municipal Structures Act; or

b) a municipality with an executive committee, means the councilor elected as the mayor of the municipality in terms of section 48 of that Act;

<b>“Municipality”</b>	means the Port St Johns Local Municipality;
<b>“Municipal Finance Management Act”</b>	means the Local Government: Municipal Finance Management Act No. 56 of 2003 and, unless otherwise stated in this policy, any reference to “the Act” shall mean a reference to this Act;
<b>“Municipal Systems Act”</b>	means the Local Government: Municipal Systems Act No. 32 of 2000 and includes the regulations under this Act;
<b>“Military veteran”</b>	has the meaning assigned to it in section 1 of the Military Veterans Act, 2011 (Act No. 18 of 2011);
<b>"Non-firm prices"</b>	means all prices other than "firm" prices;
<b>“Other applicable legislation”</b>	means any other legislation applicable to municipal supply chain management, including but not limited to: <ul style="list-style-type: none"> <li><b>(a)</b> the Preferential Procurement Policy Framework Act No. 5 of 2000;</li> <li><b>(b)</b> the Broad-Based Black Economic Empowerment Act No. 53 of 2003;</li> <li><b>(c)</b> the Construction Industry Development Board Act No. 38 of 2000;</li> <li><b>(d)</b> the Local Government: Municipal Systems Act No. 32 of 2000 (Municipal Systems Act);</li> </ul>



- (e) the Promotion of Administrative Justice Act No. 3 of 2000;
- (f) the Promotion of Access to Information Act No. 2 of 2000;
- (g) the Protected Disclosures Act No. 26 of 2000;
- (h) the Competition Act No. 89 of 1998;
- (i) the Prevention and Combating of Corrupt Activities Act No. 12 of 2004;

**"Person"** includes an enterprise, partnership, trust, association, consortium, joint venture or a juristic person;

**"Petty cash"** means a relatively small amount of cash kept at hand for making immediate payment for miscellaneous small expenses incurred by the municipality.

**"Preferential Procurement Regulations"** means the Preferential Procurement Regulations, 2022 contained in Government Notice 2721 of 4 November 2022 promulgated in Government Gazette No. 47452 of this date;

**"People with disabilities"** has the meaning assigned to it in section 1 of the Employment Equity Act, 1998 (Act No. 55 of 1998);

**"Procurement"** means the processes leading to the negotiation and conclusion of contracts for the acquisition of goods, services or any combination thereof or the disposal of assets whether movable or immovable or any

rights in such assets by means of purchase, sale, lease or donation and includes the preparation of all associated bid and contractual documentation and **“procured”** or **“procuring”** has a similar meaning;

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

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

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

**“Rural area”** means: (a) a sparsely populated area in which people farm or depend on natural resources, including villages and small towns that are dispersed through the area; or

(b) an area including a large settlement which depends on migratory labour and remittances and government social grants for survival, and may have a traditional land tenure system;

**“Responsive bid”** means a bid that complies in all material aspects with the requirements set out in or contained in an invitation to bid including the applicable specification;

## **“Reconstruction and Development**

**Programme”**

the Reconstruction and Development Programme as published in Government Gazette No. 16085 dated 23 November 1994.

**"Small enterprise"**

means a separate and distinct business entity, together with its branches or subsidiaries, if any, including cooperative enterprises, managed by one owner or more predominantly carried on in any sector or sub-sector of the economy mentioned in column 1 of the Schedule to the National Small Business Act No. 102 of 1996 which is contained in Annexure B to this policy and classified as a micro-, a very small, a small or a medium enterprise by satisfying the criteria mentioned in columns 3, 4 and 5 of the said schedule;

**“specific goals”**

means specific goals as contemplated in section 2(1)(d) of the Act which may include contracting with persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of race, gender and disability including the implementation of programmes of the Reconstruction and Development Programme as published in Government Gazette No. 16085 dated 23 November 1994;

**"Sub-contract"**

means the primary contractor's assigning, leasing, making out work to, or employing, another person to support such primary contractor in the execution of part of a project in terms of a contract;

**"Rand value"**

means the total estimated value of a contract in South African currency calculated at the time of bid

invitations, and includes all applicable taxes and excise duties;

**“SANAS”**

means the South African National Accreditation System;

**“tender”**

means a written offer in the form determined by an organ of state in response to an invitation to provide goods or services through price quotations, competitive tendering process or any other method envisaged in legislation and “bid” has a corresponding meaning

**“tender for income-generating contracts”**

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

**"Total revenue"**

bears the same meaning assigned to this expression in the Codes of Good Practice;

**"Trust"**

means the arrangement through which the property of one person is made over or bequeathed to a trustee to administer such property for the benefit of another person;

**"Trustee"**

means any person, including the founder of a trust, to whom property is bequeathed in order for such

property to be administered for the benefit of another person;

**“Treasury guidelines”**

means any guidelines on supply chain management issued by the Minister of Finance in terms of section 168 of the Municipal Finance Management Act;

**“The Regulations”**

means the Local Government: Municipal Finance Management Act, 2003: Municipal Supply Chain Management Regulations published by Government Notice 868 of 2005;

**“Township”**

means an urban living area that any time from the late 19th century until 27 April 1994, was reserved for black people, including areas developed for historically disadvantaged individuals post 27 April 1994;

**“Written quotations”**

means quotations referred to in paragraph 15.1.2 of this policy.

**“Youth”**

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

## **CHAPTER 1 – Implementation of supply chain management policy**

### **1. Supply chain management policy**

- (1) All officials and other role players in the supply chain management system of the municipality must implement this policy in a way that: –
- (a) gives effect to: –
    - (i) section 217 of the Constitution; and
    - (ii) Part 1 of Chapter 11 and other applicable provisions of the MFMA.
  - (b) is fair, equitable, transparent, competitive and cost effective.
  - (c) complies with: –
    - (i) the regulations; and
    - (ii) any minimum norms and standards that may be prescribed in terms of section 168 of the MFMA.
  - (d) is consistent with other applicable legislation.
  - (e) does not undermine the objective for uniformity in supply chain management systems between organs of state in all spheres; and
  - (f) is consistent with national economic policy concerning the promotion of investments and doing business with the public sector.
- (2) This policy applies when the municipality: –
- (a) procures goods or services;
  - (b) disposes goods no longer needed;
  - (c) selects contractors to provide assistance in the provision of municipal services otherwise than in circumstances where Chapter 8 of the Municipal Systems Act, 2000, Act No. 32 of 2000, applies;

- (d) Selects external mechanisms referred to in section 80 (1) (b) of the Municipal Systems Act for the provision of municipal services in circumstances contemplated in section 83 of that Act.
- (3) This policy, except where provided otherwise, does not apply in respect of the procurement of goods and services contemplated in section 110(2) of the MFMA, including: –
  - (a) water from the Department of Water Affairs or a public entity, another municipality or a municipal entity; and
  - (b) electricity from Eskom or another public entity, another municipality or a municipal entity.

## **2. Amendment of the supply chain management policy**

- (1) The accounting officer must: –
  - (a) at least annually review the implementation of this policy; and
  - (b) when the accounting officer considers it necessary, submit proposals for the amendment of this policy to the council.
- (2) If the accounting officer submits proposed amendments to the council that differs from the model policy issued by the National Treasury, the accounting officer must: -
  - (a) ensure that such proposed amendments comply with the regulations; and
  - (b) report any deviation from the model policy to the National Treasury and the relevant provincial treasury.
- (3) When amending this supply chain management policy, the need for uniformity in supply chain practices, procedures and forms between organs of state in all spheres, particularly to promote accessibility of supply chain management systems for small businesses must be taken into account.

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

- (1) The council hereby delegate all powers and duties to the accounting officer which are necessary to enable the accounting officer: –

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

#### **4. Sub delegations**

- (1) The accounting officer may in terms of section 79 of the MFMA sub delegate any supply chain management powers and duties, including those delegated to the accounting officer in terms of this policy, but any such sub delegation must be consistent with subparagraph (2) of this paragraph and paragraph 4 of this policy.



- (2) The power to make a final award: –
- (a) above R10 million (VAT included) may not be sub delegated by the accounting officer;
  - (b) above R 300 000 (VAT included), but not exceeding R10 million (VAT included), may be sub-delegated but only to: –
    - (i) the chief financial officer.
    - (ii) a senior manager; or
    - (iii) a bid adjudication committee of which the chief financial officer or a Senior Manager is a member;
  - (c) Above R1 (VAT included), but not exceeding R300 000 (VAT included), may be sub-delegated but only to: –
    - (i) the chief financial officer;
    - (iii) a manager directly accountable to the chief financial officer or a senior 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) must within five days of the end of each month submit to the official referred to in subparagraph (4) a written report containing particulars of each final award made by such official or committee during that month, including: –
- (a) the amount of the award;
  - (b) the name of the person to whom the award was made; and
  - (c) the reason why the award was made to that person.
- (4) A written report referred to in subparagraph (3) must be submitted: –

- (a) to the accounting officer, in the case of an award by: –
  - (i) the chief financial officer;
  - (ii) a senior manager; or
  - (iii) a bid adjudication committee of which the chief financial officer or a senior manager is a member; or
- (b) to the chief financial officer or the senior manager responsible for the relevant bid, in the case of an award by: –
  - (i) a manager referred to in subparagraph (2)(c)(iii); or
  - (ii) a bid adjudication committee of which the chief financial officer or a senior manager is not a member.

Accounting Officer of the Port St Johns Municipality make the final award of threshold value from above R300 000 upwards by approving the appointment letter of the Service Provider.

- (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.

## **5. Oversight role of council**

- (1) The council reserves its right to maintain oversight over the implementation of this policy.
- (2) For the purposes of such oversight the accounting officer must: -
  - (a) within 30 days of the end of each financial year, submit a report on the implementation of this policy and the supply chain management policy of any municipal

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

(b) Whenever there are serious and material problems in the implementation of this policy, immediately submit a report to the council.

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

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

## **6. Supply chain management unit**

(1) A supply chain management unit is hereby established to implement this policy.

(2) The supply chain management unit operates under the direct supervision of the Chief Financial Officer or Official to whom this duty has been delegated in terms of section 82 of the MFMA or any official Acting as the CFO.

(2) Wherever possible, all supply chain management functions and activities are to be performed by the supply chain management unit under the Supply Chain Management Unit Head.

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

The training of officials involved in implementing this policy should be in accordance with MFMA section 119 and the Government Gazette 29967: National Treasury: Local Government: Municipal Regulations on Minimum Competency Levels.

## **CHAPTER 2 – Supply chain management system**

### **8. Format of supply chain management system**

This Policy provides systems for: –

- (1) Demand management;
- (2) Acquisition management;
- (3) Logistics management;
- (4) Disposal management;
- (5) Risk management; and
- (6) Performance management.

### **PART 1: Demand management**

#### **9. System of demand management**

- (1) The accounting officer must establish and implement an appropriate demand management system in order to ensure that the resources required by the municipality support its operational commitments and its strategic goals outlined in the integrated development plan.
- (2) The demand management system must: –
  - (a) include timely planning and management processes to ensure that all goods and services required by the municipality are quantified, budgeted for and timely and effectively delivered at the right locations and at the critical delivery dates, and are of the appropriate quality and quantity at a fair cost;
  - (b) take into account any benefits of economies of scale that may be derived in the case of acquisitions of a repetitive nature; and
  - (c) provide for the compilation of the required specifications to ensure that its needs are met;

- (d) to undertake appropriate industry analysis and research to ensure that innovations and technological benefits are maximized.
- (3) The accounting officer must, prior to issuing an invitation to bid:
  - (a) properly plan for, and, as far as possible, accurately estimate the costs for the provision of goods and/or services for which an invitation to bid is to be issued;
  - (b) determine the appropriate preference point system to be utilized in the evaluation and adjudication of bids to be received in response to the contemplated invitation to bid; and
  - (c) The accounting officer must indicate in an invitation to submit a bid and in the applicable bid specification or terms of reference:
    - (d) that such bid will be evaluated on conditions of the bid and, in such event, the following shall be clearly stated:
      - (e) the specific goals to be measured on;
      - (f) the points to be awarded for each specific goal which should not be generic but be determined separately for each bid on a case by case basis;
      - (g) the applicable values that will be utilized when scoring each specific goal must be objective and consider the specific programmed stipulated in the Reconstruction and Development Programme as published in Government Gazette No. 16085 dated 23 November 1994;
        - (i) Meeting basic needs
        - (ii) Developing our Human Resources
        - (iii) Building the Economy
        - (iv) Democratizing the State and Society
        - (v) Implementing the RDP
- (3) the points to be awarded for specific goals should not be prescribed so low that it may jeopardize the quality of the service required nor be so high that it may be restrictive to the extent that it jeopardizes the fairness of the supply chain management system;
- (4) bidder's competence to be assessed as an evaluation criterion, such criterion must be

- objective and measurable;
- (5) the evidence required to determine bidder's competence must be specified; and
  - (6) no award will be made to any persons whose tax matters have not been cleared by the South African Revenue Service as to be in order.
  - (7) Any system designed in terms of this paragraph shall take cognizance of the provisions of this policy.

## **PART 2: Acquisition management**

### **10. System of acquisition management**

- (1) The accounting officer must implement the system of acquisition management set out in this part in order to ensure: –
  - (a) that goods and services are procured by the municipality in accordance with authorised processes only;
  - (b) that expenditure on goods and services is incurred in terms of an approved budget in terms of section 15 of the MFMA;
  - (c) that the threshold values for the different procurement processes are complied with;
  - (d) that bid documentation, evaluation and adjudication criteria, and general conditions of a contract, are in accordance with any applicable legislation; and
  - (e) that any Treasury guidelines on acquisition management are properly taken into account.

1.1.1 A supply chain management policy, except where provided otherwise in these Regulations, does not apply in respect of the procurement of goods and services contemplated in section 110 (2) of the Act, including -

- a) water from the Department of Water Affairs or a public entity, another municipality or a municipal entity; and
- a) electricity from Eskom or another public entity, another municipality or a municipal entity
- b) Membership Fees to professional bodies

- c) Subscription fees
- d) Payment for and renewal of license fees
- e) Tuition or enrollment fees payable through bursaries
- f) Procurement of goods and services from government institutions i.e. Home affairs – Government Printing Works)
- g) Procurement through transversal tender by National Treasury and ICT SETA

(2) When procuring goods or services contemplated in section 110(2) of the MFMA, the accounting officer must make public the fact that such goods or services are procured otherwise than through the municipality's supply chain management system, including: -

- (a) the kind of goods or services; and
- (b) the name of the supplier.

#### **11. Range of procurement processes**

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

- (a) petty cash purchases, up to a transaction value of R2 000 by one quotation (VAT included);
- (b) obtain at least three (3) written price quotations for procurements of a transaction value over R2 000 up R10 000 and R10 000 to R30 000(VAT included) service provider must be registered with CSD before an official purchase order is issued.
- (c) formal written price quotations for procurements of a transactions of value above R30 000 up to R300 000 (VAT included); must be advertised for at least 7 days on the Municipal Designated Notice Boards and Municipal Website.
- (d) a competitive bidding process for: –
  - (i) procurements above a transaction value of above R300 000 (VAT included); and
  - (ii) the procurement of long term contracts.

(2) The accounting officer may, in writing: -

- (a) lower, but not increase, the different threshold values specified in subparagraph (1); or
- (b) direct that: –
- (i) one written quotations be obtained for any specific procurement of a transaction value equal or lower than R2 000;
  - (ii) three written price quotations be obtained for any specific procurement of a transaction value R 2001 lower than R30 000; or
  - (iii) a competitive bidding process be followed for any specific procurement of a transaction value more than R300 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.
- (4) When determining transaction values, a requirement for goods or services consisting of different parts or items must as far as possible be treated and dealt with as a single transaction.

<b>STRUCTURE OF APPROVAL</b>		
<b>GOODS/SERVICE VALUE</b>	<b>PROCUREMENT METHOD MINIMUM</b>	<b>APPROVAL AUTHORITY</b>
R0 – R2 000	One Quotation	Chief Financial Officer
R2 001 – R30 000	Three Quotations	Chief Financial Officer
R30 001 – R300 000	7 days Bulletin Notice and Advertisement via Website : Three Quotations	Chief Financial Officer
R300 001 – R50 Million	Competitive Bidding Process	Accounting Officer
Above R50 Million	Competitive Bidding Process	Accounting Officer



## **SPECIAL CONSIDERATIONS FOR PROCUREMENT OF CERTAIN GOODS AND SERVICES**

### **11.1 Procurement of catering services,**

11.1.1 The municipality is situated in a rural area and seeks to empower and develop SMME's in the region. As a result, Port St Johns Municipality has standardized the services provided by the catering companies and the rate charged for each meal per person.

(1) The standardized rates are as follows

- (a) Ordinary Lunch/Dinner with soft drink or juice at R120.00 – R150 per person
- (b) Breakfast Platter with Tea/coffee at R85.00 - R100 per person
- (c) VIP Lunch/Dinner with soft drink or juice at R140.00 – 170 per person
- (d) Lunch packages between R85-R 100
- (e) Mixed Platter each R 850.00 (Eight Hundred and fifty rands only)

(2) Catering service must be on rotational basis, Monitoring will be undertaken by the Supply Chain Management Unit by means of a consolidated register. The maximum number of people to be catered for per caterer in an event is 150 to ensure spread of opportunities to the service providers.

### **11.2 Procurement for Transportation Services**

(3) Car hire, accommodation and conference facilities/venue hire are procured by means of a Travelling agent if there is one Contracted.

(4) The municipality runs programs and events often that require the use of external transport services which will be charged as follows

- a. Taxi will charge R2500 around Port St Johns Local Municipality
- b. Per km outside Port St Johns

Where the quoted price is the same for all bidders, a bidder shall be selected on a rotation basis

(5)

**a. Servicing and repairing of municipal machinery, equipment and vehicles:**

- i. Machinery and equipment of a specialized nature will be serviced and

repaired by the manufacturer, or an agent appointed by the manufacturer. Therefore, one quotation will be obtained in this regard.

- ii. Vehicles will be serviced by the manufacturer as this might affect the validity of the warranty and might compromise useful life of the vehicle. Therefore, one quotation will be obtained in this regard.
- iii. Parts and other consumables relating to vehicles, machinery and equipment of specialized nature will be sourced from the manufacturer or an agent appointed by the manufacturer. Therefore, one quotation will be obtained in this regard.
- iv. In the event where a municipal vehicle, machinery and/or equipment needs to be repaired as a result of an accident or a similar event, the appointed municipal insurance company will appoint an approved panel beater to which the insurance excess will be paid directly to the panel beater by the municipality, therefore one quotation will be sourced in this regard.

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

- (1) A written quotation or bid may not be considered unless the provider who submitted the quotation or bid: –
  - (a) has furnished 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 municipality to obtain a tax pin from the South African Revenue Services that the provider's tax matters are in order OR are showing as such on CSD Report; 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.
- (iv) has submitted certificate of good standing for municipal service charges and levies with Port St Johns Municipality or other municipality under which jurisdiction the provider falls; or alternatively, a business premises lease agreement.
- (v) Submitted a certificate issued by a municipality that the bidder being a company, also any of its directors, is not indebted to the municipality or to any other municipality or municipal entity for rates, taxes and/or municipal service charges which are in arrear for a period of more than three months and that no dispute exists between such bidder and municipality or municipal entity concerned in respect of any such arrear amounts;

Sub-paragraph 13(1)(a)(v) is applicable only to bids.

(a) 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 stakeholders are in the service of the state, or have 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) above, is in the service of the state, or has been in the service of the state in the previous twelve months.

(b) has submitted the written quotation or bid on time as prescribed in the quotation or bid document.

(c) has submitted proof that the signatory to the bid or quotation is duly authorized.

2. The following documentation submitted by a bidder in response to a written quotation or competitive bid, will be verified by the municipality on the National Treasury Central Supplier Database prior to acceptance of the quote or bid –

(a) business registration documents;

(b) tax compliance status;

(c) identity documentation of directors, members or shareholders of the provider;

(d) proof of bank account registration;

(e) whether any bidder has members in the service of the state as defined in the SCM Regulations; and

(f) tender defaulters and restrictions status.

### **13. Lists of accredited prospective providers**

(1) The accounting officer must: –

(a) Use CSD from National Treasury for the procurement of goods and services requirements through written quotations and

(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.

In terms of Circular 81

With effect from 1 July 2016, Municipalities and Municipal Entities must use the CSD supplier number stating with (MAAA), which is auto generated by the Central Database System, after successful registration and validation of the prospective provider as

mandatory requirements and as part of listing criteria for accrediting prospective provider in line with Section (14) (1) (b) of the Municipal Supply Chain Management Regulations.

## **PPPFA REGULATIONS 2022**

All Procurement above R 30 000 will be done according the Specific Goals as per the PPPFA Regulations of 2022 Which are the following: -

- Disabled
- Women
- Local SMMEs
- Youth
- Local Cooperatives

### **14. Petty cash purchases**

- (1) The conditions for the procurement of goods by means of petty cash purchases referred to in paragraph 11 of this policy, are as follows: –
  - (a) all petty cash acquisitions must be arranged through the revenue accountant in the finance department;
  - (b) the Revenue Accountant is to approve all petty cash acquisitions;
  - (c) requests for petty cash acquisitions are at the discretion of the Revenue Accountant; and
  - (d) a monthly reconciliation report from the Revenue Accountant must be provided to the Revenue accountant, including: -
    - (i) the total amount of petty cash purchases for that month; and
    - (ii) receipts and appropriate documents for each purchase;

- (e) all documentation is to be filed and stored in a secure location under the control of the finance department.

## **15. Written quotations**

- (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 Central Supplier Database provided that if quotations are obtained from providers who are not listed, such providers must meet the listing criteria and be registered to the CSD prior to any appointment set out in paragraph 13 of this policy;
  - (b) 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;
  - (d) the accounting officer must record the names of the potential providers requested to provide such quotations with their quoted prices; and
  - (e) verbal quotations are permitted by this policy but appointment may only be issued upon receipt of written price Quotation

Procurement will be done and restricted in terms of cost containment measures as per circular 82

## **16. General precondition for consideration of formal written price quotations**

- (1) The conditions for the procurement of goods or services through formal written price quotations, are as follows: -
  - (a) quotations must be obtained in writing from at least three different providers whose names appear on the National Treasury Central Supplier Database;
  - (b) quotations may be obtained from providers who are not listed, provided that such providers meet the listing criteria set out in paragraph 13 of this policy;

- (c) if it is not possible to obtain at least three quotations, the reasons must be recorded and approved by the chief financial officer.
- (3) 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 municipality 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 of a provider who is a company or closed corporation is in the service of the state, or has been in the service of the state in the previous twelve months.

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

- (1) The procedure for the procurement of goods or services through formal written price quotations is as follows: -
- (a) when using the list of National Treasury Central Supplier Data Base, the accounting officer must promote ongoing competition amongst providers.

- (b) all requirements in excess of R30 000 (VAT included) that are to be procured by means of formal written price quotations may in addition to the requirements of paragraph 16, be advertised for at least seven days on the website and an official designated notice board of the municipality;
- (c) offers received must be evaluated on a comparative basis taking into account unconditional discounts by the officials at the Supply Chain office, recommended by the Supply chain manager and approved by the Chief Financial Officer and Accounting officer approves the appointment letter.

### **FRAME WORK**

- (1) Formal Quotes received will be stored at the Supply Chain Office
- (2) Formal Quotes will be evaluated by SCM officials on a competitive basis, report be approved by CFO
- (3) Award will be done by the Chief Financial Officer by means of an Appointment letter.
- (4) the accounting officer or chief financial officer must on a monthly basis be notified in writing of all formal written price quotations accepted by an official acting in terms of a sub delegation;
- (5) Offers below R30 000 (VAT included) must be awarded based on compliance to specifications and conditions of contract and ability and capability if applicable to deliver the goods and services and lowest price and all service Provider must be registered with central supplier database before any appointment

Acceptable Bids must be evaluated on comparative basis taking into account unconditional discounts.

- (6) Acceptable offers, which are subject to the preference points system (PPPFA and associated regulations), must be awarded to the bidder who scored the highest points;
- (7) all written quotes are to be filed and held in a secure location under the control of the Supply Chain Office.



The Accounting officer must on monthly basis be notified in writing of all written and formal written price quotation accepted by an official acting in terms of a sub-delegation.

## **18. Competitive bids**

- (1) Goods or services above a transaction value of R300 000 above and (VAT included), long term contracts may only be procured through a competitive bidding process, subject to paragraph 19 of this policy.
- (2) No requirement for goods or services above an estimated transaction value of R300 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.

## **19. Process for competitive bidding**

- (1) The procedures for the following stages of a competitive bidding process are as follows: -
  - (a) compilation of bidding documentation as detailed in paragraph 20;
  - (b) public invitation of bids as detailed in paragraph 21;
  - (c) site meetings or briefing sessions if applicable as detailed in paragraph 21;
  - (d) handling of bids submitted in response to public invitation as detailed in paragraph 22;
  - (e) evaluation of bids as detailed in paragraph 28;
  - (f) award of contracts as detailed in paragraph 29;
  - (g) administration of contracts: -
    - (i) after approval of a bid, the accounting officer and the bidder must enter into a written agreement;
  - (h) proper record keeping: -
    - (i) original/legal copies of written contracts agreements should be kept in a secure place for reference purposes.

## **20. Bid documentation for competitive bids**

- (1) The criteria to which bid documentation for a competitive bidding process must: -
- (a) take into account: -
    - (i) the general conditions of contract and any special conditions of contract, if specified;
    - (ii) any Treasury guidelines on bid documentation; and
    - (iii) the requirements of the Construction Industry Development Board, in the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure;
  - (b) include the preference points system to be used, goals as contemplated in the preferential procurement regulations and evaluation and adjudication criteria, including any criteria required by other applicable legislation;
  - (c) compel bidders to declare any conflict as per MBD 4 form of interest they may have in the transaction for which the bid is submitted;
  - (d) if the value of the transaction is expected to exceed R10 million (VAT included), require bidders to furnish: –
    - (i) if the bidder is required by law to prepare annual financial statements for auditing, their audited annual financial statements: -
      - (aa) for the past three years and it must have signed by both parties for validity or
      - (bb) since their establishment if established during the past three years;
    - (ii) a certificate signed by the bidder certifying that the bidder has no undisputed commitments for municipal services towards a municipality or other service provider in respect of which payment is overdue for more than 30 days;
    - (iii) particulars of any contracts awarded to the bidder by an organ of state during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract;

- (iv) a statement indicating whether any portion of the goods or services are expected to be sourced from outside the Republic, and, if so, what portion and whether any portion of payment from the municipality is expected to be transferred out of the Republic; and
- (e) stipulate that disputes must be settled by means of mutual consultation, mediation (with or without legal representation), or, when unsuccessful, in a South African court of law.
- (f) Sureties and guarantees for the procurement of goods and services (including consultant services) will not generally be called for, but in exceptional circumstances, where required, will be in accordance with the limits set below.

<b>AMOUNT (Incl. VAT)</b>	<b>PERCENTAGE</b>
Up to R1 000 000	Nil
R1 000 001 to R10 000 000	5%
Above R10 000 000	10%

## **21. 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 and can be Nationality the website of the municipality or any other appropriate ways (which may include an advertisement in the E-tender portal of the National Treasury) and CIDB for Infrastructure Project.
  - (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 and Infrastructure Projects (VAT included), which are of a long-term nature, or 14 days in any other case, from the date on which the advertisement is placed in a newspaper, subject to subparagraph (2) of this policy;

- (ii) a statement that bids may only be submitted on the bid documentation provided by the municipality; and
- (iii) date, time and venue of any proposed site meetings or briefing sessions.

(8) 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 submitted in a sealed enveloped marked the bid number and description failing to adhere will render a bid to be disqualified.

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

## **22. 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) Bids received after the closing time should not be considered and returned unopened immediately\_unless its only for the purpose on sourcing contact details

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

- (c) no information, except the provisions in subparagraph (b), relating to the bid should be disclosed to bidders or other persons until the successful bidder is notified of the award; and
- (d) the accounting officer must: –
  - (i) record in a register all bids received in time;
  - (ii) make the register available for public inspection; and
  - (iii) publish the entries in the register and the bid results on the website within 10 days.

### **23. Negotiations with preferred bidders**

- (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.

Approval or mandate to negotiate with the supplier must be obtained in writing from the Accounting officer for Delegate/d official in the absence of the Accounting officer.

Records of all negotiations must be kept and be approved by accounting officer before the award is granted

### **24. Two-stage bidding process**

- (1) A two-stage bidding process is allowed for: -
  - (a) large complex projects;
  - (b) projects where it may be undesirable to prepare complete detailed technical specifications; or

- (c) long-term projects with a duration period exceeding three years.
- (2) In the first stage technical proposals on conceptual design or performance specifications should be invited, subject to technical as well as commercial clarifications and adjustments.
- (3) In the second stage final technical proposals and priced bids should be invited.

#### Panel of contractors

A panel contract may be appropriate when:

- there are a number of suppliers who can provide the good or service
- there is a strong and ongoing demand for the good or service
- the volume of work may be too large for one supplier to undertake

### **25. Committee system for competitive bids**

- (1) A committee system for competitive bids is hereby established, consisting of the following committees for each procurement or cluster of procurements as the accounting officer may determine: -
  - (a) a bid specification committee;
  - (b) a bid evaluation committee; and
  - (c) a bid adjudication committee.
- (2) The accounting officer appoints the members of each committee, taking into account the restrictions under section 117 of the MFMA.
- (3) A neutral or independent observer, appointed by the accounting officer, must attend or oversee a committee when this is appropriate for ensuring fairness and promoting transparency.
- (4) The committee system must be consistent with: –
  - (a) paragraph 27, 28 and 29 of this policy; and

- (b) any other applicable legislation

## **26. Bid specification committees**

- (1) A bid specification committee must compile the specifications for each procurement of goods or services by the municipality.
- (2) Specifications: –
  - (a) must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services;
  - (b) must take account of any accepted standards such as those issued by 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) must, where possible, be described in terms of performance required rather than in terms of descriptive characteristics for design;
  - (d) may not create trade barriers in contract requirements in the forms of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labelling of conformity certification;
  - (e) may not make reference to any particular trade mark, name, patent, design, type, specific origin or producer unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the word “equivalent”;
  - (f) must indicate each specific goal for which points may be awarded in terms of the points system set out in the Preferential Procurement Regulations 2011; and
  - (g) must be approved by the accounting officer prior to publication of the invitation for bids in terms of paragraph 21 of this policy.
- (f) One or two official can form bid Specification committee on which supplier chain official can be an advisor on scum matters.

- (g) An official serving on the Bid Adjudication committee may sit on the Bid Specification committee as an advisor
- (3) A bid specification committee must be composed of one or more officials of the municipality preferably the official responsible for the function involved and one official from supply chain management unit, and may, when appropriate, include external specialist advisors and User Department for guidance.
- (4) No person, advisor or corporate entity involved with the bid specification committee, or director of such a corporate entity, may bid for any resulting contracts.

## **27. Bid evaluation committees**

- (1) The accounting officer should appoint a bid evaluation committee for the evaluation of bids received for goods/works/services: -
- (a) an ad-hoc bid evaluation committee shall/ May be constituted for each project or procurement activity to evaluate bids received;
- (b) the accounting officer, or his delegated authority, shall, taking into account section 117 of the MFMA, appoint the members of the bid evaluation committees;
- (c) the bid evaluation committee shall be comprised of at least three municipality officials, an appointed chairperson, who may be the same person as the chairperson of the bid specification committee, a responsible official and at least one supply chain management practitioner of the municipality and an official from User Department.
- (d) a representative of internal audit and/or legal services may form part of this committee where necessary as well as other internal/external experts/specialists. As relevant to the content of the tender, relevant internal/external specialists may be included in an advisory capacity to the bid evaluation committee;



- (e) where the scoring of functionality forms part of the bid evaluation process, the Accounting officer must Appoints bid evaluation committee comprised of at least three members of the bid evaluation committee, to score such functionality. Notwithstanding the functionality scoring being undertaken by a panel, each member of the bid evaluation committee must apply their mind to and only where not possible, the bid specification committee and the bid adjudication committee may have the same membership.
- (3) Bids should only be evaluated in terms of the criteria stipulated in the bidding documents. Amending the evaluation criteria after closure of the bids should not be allowed, as this would jeopardise the fairness of the system.
- (4) The evaluation of bids must be conducted in the following two stages: -
- (a) firstly, the assessment of functionality must be done in terms of the evaluation criteria and the minimum threshold. A bid must be disqualified if it fails to meet the minimum threshold for functionality as per the bid invitation.
- (b) thereafter, only the qualifying bids are evaluated in terms of the 80 with a maximum of two special goal as listed on Bid Speciation or 90 qualifying bids are evaluated in terms of the 80 with a maximum of two special goal as listed on Bid Speciation The point scored must be added to the points for Specific Goals must be added to obtain the bidder's total points scored out of 100.

Bid Evaluation Committee must evaluate bidder's ability to execute the contract

Ensure in respect of the recommended bidder that his or he Municipal rates and taxes and Municipal Services charges are not in arrears, Bidders must attach proof of rates invoice /clearance not older than 90 days. If a Bidder is exempted must attach an exemption letter from the office that resides with the Municipal Valuation Roll and the letter be approved by CFO or a BTO delegated official and the letter must state as such or attached a valid lease agreement signed by lesser and lessor.

- (5) The bid evaluation committee shall submit a report, including recommendations regarding the award of the bid or any other related matter, to the bid adjudication committee for consideration

A member of the bid Evaluation committee may present report to the Bid Adjudication Committee, but only as a presenter and leave the committee after presentation and questions posed by Adjudication members,

## **28. Bid adjudication committees**

- (1) The bid adjudication committee shall consider the report and recommendations of the bid evaluation committee and make another recommendation to the accounting officer on how to proceed with the relevant procurement.
- (2) For goods and services bids, the municipality shall have the right to accept the whole bid or part of a bid or any item or part of an item or accept more than one bid. The municipality shall not be obliged to accept any bid.
- (3) A bid adjudication committee must: -
  - (a) consider the report and recommendations of the bid evaluation committee; and
  - (b) either: -
    - (i) recommends 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.
- (4) A 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, CFO

- (b) Head of Supply chain as the Senior Supply Chain Practitioner as an official of the municipality; and
  - (c) a technical expert in the relevant field who is an official of the municipality, if such an expert exists
  - (d) A technical expert may be sourced externally
- (5) 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.
- (6) A bid evaluation committee member may NOT be a member of a bid adjudication committee unless as a presenter of the Bid Evaluation Report and may leave after the presentation of the Evaluation Report.
- (7) The bid adjudication committee may make a recommendation to the Accounting Officer who awards by means of signing the appointment letter.
- (8) The accounting officer may, at any stage of the bidding process, refer any recommendation made by the bid evaluation or bid adjudication committee back to that committee for reconsideration of their recommendation.

## **29. Approval of bid not recommended**

- (1) If a bid adjudication committee decides to award a bid other than the one recommended by the bid evaluation committee, the bid adjudication committee must, prior to recommending the bid:
- (a) establish, in respect of the preferred bidder, whether that bidder's municipal rates and taxes and municipal service charges are not in arrears;
  - (b) establish, in respect of the preferred bidder, that it has the necessary resources and skills required to fulfil its obligations in terms of the bid document;

- (c) notify the accounting officer.
- (2) The accounting officer may: -
  - (a) after due consideration of the reasons for the deviation ratify or reject the decision of the bid adjudication committee referred to above.
- (3) If the decision of the bid adjudication committee is rejected, refer the decision of the adjudication committee back to that committee for consideration.
- (4) If a bid other than the one recommended in the normal course of implementing this policy is approved, then the accounting officer must, in writing and within ten working days, notify the Auditor-General, the Provincial Treasury and the National Treasury of the reasons for deviating from such recommendation.

### **30. Right of appeal**

- (1) In terms of Section 62 of the Municipal Systems Act, a person whose rights are affected by a decision taken by the municipality, in terms of a delegated authority, in the implementation of its supply chain management system, may appeal against that decision by giving written notice of the appeal and reasons to the Accounting Officer within 14 days of the date of receipt of the notification of the decision.
- (2) Bid documents must state that any appeal must be submitted to the accounting officer at the address stated, and must contain the following: -
  - (a) reasons and/or grounds for the appeal;
  - (b) the way in which the appellants' rights have been affected; and
  - (c) the remedy sought by the appellant.

- (3) No bid shall be formally accepted until either the expiry of the 14-day appeal period, or confirmation in writing before the expiry of the 14-day appeal period that none of the affected parties intend to appeal, or confirmation of the satisfactory resolution of any appeals.

### **31. Notification of decision**

- (1) The successful bidders shall be notified in writing once a final award has been made.
- (2) A rejection letter must be submitted via email or other ways of communication to the unsuccessful bidders or Notice of Intention to Appoint be posted on the Municipal Website.
- (3) The successful bidder shall, in addition, be advised of the 14-day appeal period, and be notified that no rights accrue to him/her until the bid is formally accommodation
- (4) accepted in writing.
- (5) Where a preferred bidder has been identified and is referred to the accounting officer by the bid adjudication committee in order to authorize the negotiation of the final terms of a contract, the preferred bidder shall be notified of its preferred bidder status.
- (6) Every notification of decision shall be faxed or sent via electronic mail to the address chosen by the bidder, with a copy of proof of transmission kept for record purposes, or shall be delivered by hand, in which case acknowledgement of receipt must be signed and dated on a copy of such notification and kept for record purposes.

### **32. Negotiations with preferred bidders**

- (1) A report, setting out the preferred bidders identified through a competitive bidding process, shall be approved by accounting officer.

- (2) The accounting officer may authorise the negotiation of the final terms of a contract with bidders identified through a competitive bidding process as preferred bidders provided that such negotiation: -
- (a) does not allow any preferred bidder a second or unfair opportunity;
  - (b) is not to the detriment of any other bidder;
  - (c) does not lead to a higher price than the bid as submitted; and
  - (d) minutes of such negotiations must be kept for record purposes.
- (3) If negotiations fail to result in acceptable contract terms, the accounting officer, or his delegated authority, may terminate the negotiations and invite the next ranked bidder for negotiations. The original preferred bidder should be informed of the reasons for termination of the negotiations. Once negotiations are commenced with the next ranked bidder, the accounting officer may not reopen earlier negotiations.

### **33. Cancellation and re-invitation of bids**

- (1) An organ of state may, before the award of a tender, cancel a tender invitation if-
- (a) due to changed circumstances, there is no longer a need for the goods or services specified in the invitation.
  - (b) funds are no longer available to cover the total envisaged expenditure.
  - (c) no acceptable tender is received; or
  - (d) there is a material irregularity in the tender process.
- (2) The decision to cancel a tender invitation in terms of sub-regulation (1) must be published in the same manner in which the original tender invitation was advertised.
- (3) It is a requirement that in the event of:
- (a) an 80 with specific goals system having been stipulated in the bid documents, and all bids received exceed a value of R50 000 000; or

- (b) a 90 with specific goals system having been stipulated in the bid documents, and all bids received are equal to, or below a value of R50 000 000, then the bid must be cancelled, and new bids must be invited.
- (4) Bids cancelled must be re-advertised, with the correct preference point system clearly stipulated in the bid documents.
- (5) 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.
- (6) If a bid has been cancelled, then all bidders must be notified through Publication Circulating Locally or in a Municipality Website
- (7) A decision to cancel a bid such decision must be published in the media in which the original bid invitation was advertised.
- (8) It is not necessary to notify original bidders when calling for new bids, which will be advertised.
- (9) Unless no acceptable bids have been received, no bid may be re-advertised before the bid adjudication committee has resolved to cancel the original bid, and all bidders have been notified accordingly.
- (10) In the case of bids for construction related works, and where the bid adjudication committee resolved that there were no responsive bids received, then the bid may be re-advertised forthwith.

#### **34. Increase in contract period or contract sum**

- (1) Any adjustment in the contract period or contract sum that may become necessary as a result of exceptional circumstances which are considered to be in the public's interest, may be approved by the bid the Accounting Officer Such approval must be obtained prior to the contract period expiring or contract sum being exceeded.

- (2) Any unapproved increases in the contract sum that have become necessary as a result of exceptional circumstances, or which have been considered to be in the public's interest, must be approved by the Accounting Officer.

### **35. Procurement of banking services**

- (1) A contract for banking services: -
- (a) must be procured through competitive bids;
  - (b) must be consistent with section 7 or 85 of the MFMA; 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. Bids must be restricted to banks registered in terms of the Banks Act, 1990 (Act No. 94 of 1990).

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

- (1) The accounting officer may request the State Information Technology Agency (SITA) to assist with the acquisition of Information Technology (IT) related goods or services through a competitive bidding process.
- (2) Both parties must enter into a written agreement to regulate the services rendered by, and the payments to be made to, SITA.
- (3) The accounting officer must notify SITA together with a motivation of the IT needs if: -
- (a) the transaction value of IT related goods or services required in any financial year will exceed R50 million (VAT included); or
  - (b) the transaction value of a contract to be procured whether for one or more years exceeds R50 million (VAT included).



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

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

- (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) Subparagraphs (1) (c) and (d) do not apply if: -
- (a) a municipal entity procures goods or services through a contract secured by its parent municipality; or
  - (b) a municipality procures goods or services through a contract secured by a municipal entity of which it is the parent municipality.

**38. Procurement of goods necessitating special safety arrangements**

- (1) The acquisition and storage of goods in bulk (other than water), which necessitate special safety arrangements, including gasses and fuel, should be avoided wherever possible.

- (2) Where the storage of goods in bulk is justified, such justification must be based on sound reasons, including the total cost of ownership, cost advantages and environmental impact and must be approved by the accounting officer.

### **39. Public private partnerships**

Part 2 of chapter 11 of the MFMA applies to the procurement of public private partnership agreements. Section 33 also applies if the agreement will have multi-year budgetary implications for the municipality within the meaning of that section.

40. As part of the above submission tenderer's must provide a proposal on the economic transformation strategies that the will employ to meet the set economic transformation goals.

### **41. Proudly South African campaign**

- (1) The municipality supports the Proudly South African Campaign to the extent that, all things being equal, preference is given to procuring local goods and services from: -
  - (a) Suppliers and businesses within the municipality or district;
  - (b) suppliers and businesses within the relevant province;
  - (c) suppliers and businesses within the Republic.

### **42. Appointment of consultants**

- (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 R300 000 (VAT included); or
  - (b) the duration period of the contract exceeds one year.
- (3) Consultancy services must be procured on rotational basis if: -
- (a) The consultancy firm is registered in the municipal data base.
- (4) 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.
- (5) 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.

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

- (1) The accounting officer may: -
- (a) dispense with the official procurement processes established by this policy and to procure any required goods or services through any convenient process, which may include direct negotiations, but only: -
    - (i) in an emergency;
    - (ii) if such goods or services are produced or available from a single provider only;
    - (iii) for the acquisition of special works of art or historical objects where specifications are difficult to compile;
    - (iv) Acquisition of animals for zoos 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

Any purchase made at a public Auction

(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 10(2) of this policy

Publication of legal notices and advertisement may not require three Quotations

### **Extension of Contracts**

Request for extension of Contract must be considered by the Municipal manager or the delegated authority as per MFMA Circular 62 which allows the Accounting Officer to effect variation of Contract of 20 % for Infrastructure related procurement from the Original Amount and 15% of other goods and service from the Original amount.

Extension of Contract must be done in accordance with the provision of the contract itself

The requirements of sec 33 and 116 of the MFMA

The extension of contract does not amount to the provision of new goods or services, such that the purpose of this policy are defeated

The extension of contract must be finalised before the contract expires

Extension, Variations and Price Adjustments must be approved by the Accounting Officer at exclusion of requirements of Sec 33.

#### **44. Unsolicited bids**

- (1) In accordance with section 113 of the MFMA 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 MFMA to consider an unsolicited bid, only if: –
  - (a) the product or service offered in terms of the bid is a demonstrably or proven unique innovative concept;
  - (b) the product or service will be exceptionally beneficial to, or have exceptional cost advantages;
  - (c) the person who made the bid is the sole provider of the product or service; and
  - (d) the reasons for not going through the normal bidding processes are found to be sound by the accounting officer.
- (3) If the accounting officer decides to consider an unsolicited bid that complies with subparagraph (2) of this policy, the decision must be made public in accordance with section 21A of the Municipal Systems Act, together with: -
  - (a) reasons as to why the bid should not be open to other competitors;
  - (b) an explanation of the potential benefits if the unsolicited bid were accepted; and
  - (c) an invitation to the public or other potential suppliers to submit their comments within 30 days of the notice.
- (4) The accounting officer must submit all written comments received pursuant to subparagraph (3), including any responses from the unsolicited bidder, to the National Treasury and the relevant provincial treasury for comment.
- (5) The adjudication committee must consider the unsolicited bid and may award the bid or make a recommendation to the accounting officer, depending on its delegations.

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

#### **45. Direct negotiations with suppliers**

- (1) Direct negotiations with suppliers will only be permitted if: -
  - (a) there is an urgent need for the goods, works or services, and engaging in bidding proceedings would be impractical, provided that the circumstances giving rise to the urgency were neither foreseeable by the procuring entity nor the result of dilatory conduct on its part;
  - (b) owing to a catastrophic event, there is an urgent need for the goods, works or services, making it impractical to use other methods of procurement because of the time involved in using those methods; or
  - (c.) bidders have been identified as preferred bidders through a competitive bidding process.

#### **46. Combatting the abuse of supply chain management system**

(1) The accounting officer must: -

- (a) take all reasonable steps to prevent abuse of the supply chain management system;
- (b) investigate any allegations against an official or other role player of fraud, corruption, favouritism, unfair or irregular practices or failure to comply with this policy, and when justified: -
  - (i) take appropriate steps against such official or other role player; or
  - (ii) report any alleged criminal conduct to the South African Police Service;
- (c) check the National Treasury's database prior to awarding any contract to ensure that no recommended bidder, or any of its directors, is listed as a person prohibited from doing business with the public sector as per the CSD report;
- (d) reject any bid from a bidder: -
  - (i) if any municipal rates and taxes or municipal service charges owed by that bidder or any of its directors to the municipality, or to any other municipality or municipal entity, are in arrears; or Attach Valid lease contract agreement, for exempted a letter from the Municipality must be provided from the office of the BTO that resides with the Valuation Roll and be signed by the CFO or delegated person or a Valid Lease agreement signed by lessor and lesser (ward councillor confirmation letter will not acceptable)
  - (ii) who during the last five years has failed to perform satisfactorily on a previous contract with the municipality or any other organ of state after written notice was given to that bidder that performance was unsatisfactory;
- (e) reject a recommendation for the award of a contract if the recommended bidder, or any of its directors, has committed a corrupt or fraudulent act in competing for the particular contract;
- (f) cancel a contract awarded to a person if: -

- (i) the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract; or
  - (ii) an official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of the contract that benefited that person; and
- (g) reject the bid of any bidder if that bidder or any of its directors: -
- (i) has abused the supply chain management system of the municipality or has committed any improper conduct in relation to such system;
  - (ii) has been convicted for fraud or corruption during the past five years;
  - (iii) has wilfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
  - (iv) has been listed in the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004).
- (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**

#### **47. Logistics management**

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

#### **48. Disposal management**

- (1) The criteria for the disposal or letting of assets, including unserviceable, redundant or obsolete assets, subject to sections 14 and 90 of the MFMA, are by public tender in all cases.
- (2) Assets may be disposed of by: -
  - (a) transferring the asset to another organ of state in terms of a provision of the MFMA enabling the transfer of assets;
  - (b) transferring the asset to another organ of state at market related value or, when appropriate, free of charge;
  - (c) selling the asset; or
  - (d) destroying the asset.
- (3) The accounting officer must ensure that: -

- (a) immovable property is sold only at market related prices except when the public interest or the plight of the poor demands otherwise;
- (b) movable assets are sold either by way of written price quotations, a competitive bidding process, auction or at market related prices, whichever is the most advantageous;
- (c) fire arms are not sold or donated to any person or institution within or outside the Republic unless approved by the national conventional arms control committee;
- (d) immovable property is let at market related rates except when the public interest or the plight of the poor demands otherwise;
- (e) all fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property are annually reviewed;
- (f) where assets are traded in for other assets, the highest possible trade-in price is negotiated; and
- (g) in the case of the free disposal of computer equipment, the provincial department of education is first approached to indicate within 30 days whether any of the local schools are interested in the equipment.

#### **49. Risk management**

- (1) The criteria for the identification, consideration and avoidance of potential risks in the supply chain management system, are as follows: -
  - (a) The Internal Audit Unit is to review annually all systems including the internal controls employed and to provide a written report to council no later than 30 days after the end of the financial year.
- (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.

## **50. Performance management**

The accounting officer has developed 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 through developing of Checklist form reviewed by SCM Manager and approved by the CFO or a delegated person.

Officials are expected to monitor and evaluate the contractor's performance, this is essentially in determining whether the requirements are being met and to avoid any future conflict over unsatisfactory performance by using the developed.

Contractors should be required to report to the project manager on progress in accordance with the agreed timeframes and review schedules. The project manager must inform the contractor in writing where there is evidence that the contractor's performance is inadequate or behind schedule. If there is continuing concern that obligation is not being met, advise should be sought immediately. Reports must be submitted to the Supply Chain office of the Contract Performance.

Dispute must be resolved promptly and not be allowed to escalate into costly legal battles

A copy of all performance reports should be forwarded to Supply Chain Unit. The SCM Unit ensure these reports are available for reference purposes to staff inquiring about a contractor's performance.

## **PART 4: Other matters**

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

- (1) No award will be made in terms of this policy to a service provider whose tax matters have not been declared by the CSD report as Compliant on Tax Status or the South African Revenue Service verification to be in order.

MFMA Circular 90 will apply that a service provider will be verified on the SARS Website of the Tax status.

If the Tax status is non-compliant the Service Provider will be granted 7 days to rectify the Tax Status or submit communication from SARS failing to sort the non-compliance Status within the stipulated time frame the Municipality will automatically appoint the Second Highest Bidder.

A bidder must be verified on the Website and a printout be provided which indicates that a bidder is Tax Compliant or is still active OR attach Central Supplier Database report which confirms the Tax Status of service providers is Compliant.

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

- (1) Irrespective of the procurement process followed, no award may be made to a person in terms of this policy: -
  - (a) who is in the service of the state;
  - (b) if that person is not a natural person, of which any director, manager, principal /shareholder or stakeholder is a person in the service of the state; or
  - (c) a person who is an advisor or consultant contracted with the municipality.

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

- (1) The accounting officer must ensure that the notes to the annual financial statements disclose particulars of any award of more than R2 000 to a person who is a spouse, child or parent of a person in the service of the state, or has been in the service of the state in the previous 12 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.

#### **54. Ethical standards**

- (1) A code of ethical standards as set out in the “National Treasury’s code of conduct for supply chain management practitioners and other role players involved in supply chain management” is hereby established for officials and other role players in the supply chain management system of the municipality in order to promote: -
  - (a) mutual trust and respect; and
  - (b) an environment where business can be conducted with integrity and in a fair and reasonable manner.
- (2) A breach of the code of ethics must be dealt with as follows: -
  - (a) in the case of an employee, in terms of the disciplinary procedures of the municipality envisaged in section 67(1)(h) of the Municipal Systems Act;
  - (b) in the case a role player who is not an employee, through other appropriate means in recognition of the severity of the breach.
  - (c) In all cases, financial misconduct must be dealt with in terms of chapter 15 of the MFMA.

#### **55. Inducements, rewards, gifts and favours to the municipality’s officials and other role players**

- (1) No person who is a provider or prospective provider of goods or services, or a recipient or prospective recipient of goods disposed or to be disposed of may either directly or through a representative or intermediary promise, offer or grant: -
  - (a) any inducement or reward to the municipality for or in connection with the award of a contract; or
  - (b) any reward, gift, favour or hospitality to: -
    - (i) any official; or
    - (ii) any other role player involved in the implementation of this policy.

(2) The accounting officer must promptly report any alleged contravention of subparagraph (1) to the National Treasury for considering whether the offending person, and any representative or intermediary through which such person is alleged to have acted, should be listed in the National Treasury's database of persons prohibited from doing business with the public sector.

(2) Subparagraph (1) does not apply to gifts less than R350 in value.

## **Declarations**

For Purpose of Establishing control measures to eliminate fraud and corruption:

A declaration schedule must form an integral part of all the Municipality's bid documentation

Bidders must be required to complete schedule as a prerequisite to submission of any bid

Employees of any of state will be required to complete the schedule as a prerequisite to bid

Declarations of Interest by officials, suppliers, service Providers and consultants

In order to obtain the disclosure of any bid, the declaration of interest schedule must be completed prior to the award of Bid

The declaration of interest must be completed by the following persons:

All officials involved in the evaluation of a bid

All suppliers, services or consultants who are involved in the preparation of bid documentation and Bid reporting

Any other person who played a role in the preparation, specification, evaluation and approval of a bid and who has an interest in the award therefor

Any member who has declare conflict of interest during the Evaluation or Adjudication of bids must excuse him or herself from the processes of the two committees.

## **Retention**

- A percentage of the cost in respect of construction contract must be set aside as retention funds

### **Release of Retention Funds:**

Retention funds shall be released upon the issue of a completion certified Certificate and up on completion of defects liability period.

## **Cessions**

A cession agreement may be concluded by the Municipality for financial assistance only from the State owned Entities in order to assist emerging and HDI entrepreneurs it will be signed by the Accounting Officer or a delegated person in terms of the Delegation Policy

The municipality will allow the State owned financial institution to assist a contractor, supplier, or service provider to implement projects on behalf of the employer

## **CONTRACT MANAGEMENT**

### **Legal sound written contracts or service level agreements**

Accounting officers must ensure that all written contracts or service level agreements that are entered into by their respective institutions are legally sound. This measure is aimed at avoiding potential litigation and minimizing possible fraud and corruption.

Such contracts or agreements must be actively managed in order to ensure that both parties (the municipality or municipal entity and the contractors) meet their respective obligations.

The accounting officer must develop and implement mechanism to effectively manage important aspects relating to contracts awarded through the supply chain management system of council. A municipality cannot operate at all without entering into a contract / SLA on a regular basis and

the obligation and rights created by the conclusion of these contracts should be managed in order to protect the interest of both the municipality and other contracting party.

### **The Concept of contract management**

Contract management consists of the process that enable the municipality, as a party to a contract, to protect its own interest and to ensure that it complies with its duties, as agreed upon in the contract. Non –performance of these will compromise the municipality’s legal position and will have a detrimental impact on the effectiveness of the municipality, with related financial losses.

Centralised registered point

All contracts must be recorded in a register. The contract register should preferable contain the following information:

- Name of party
- Type of contract
- Date concluded

The contract register must be kept electronically, all new contracts entered into must be immediately be recorded in the register.

### **Termination /Expiry of Contract**

The following action is required when a contract is terminated:

- The municipality must ensure that it notifies the other contracting party in writing of the imminent expiry of the contract due to breach of contract e.g. non-performance of the suppliers.

### **Variation order**

Process for (VO) Approved by Accounting officer

Project Manager must prepare a report reflecting comprehensive detail for the VO



All VO must be approved by the Accounting Officer in accordance with MFMA Circular 62 and MFMA Sec 116

## **56. Sponsorships**

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

## **57. Objections and complaints**

- (1) 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: -
  - (a) if the objection or complaint is against the procurement process, submit a written objection or complaint against the decision or action to the accounting officer of the municipality
  - (b) if such complaint or objection is against the award of a bid, lodge a written appeal with the municipal bid appeals tribunal.

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

- (1) The accounting officer must appoint an independent and impartial person, not directly involved in the supply chain management processes: -
  - (a) to assist in the resolution of disputes between the municipality and other persons regarding: -
    - (i) any decisions or actions taken in the implementation of the supply chain management system; or

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

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

- (1) If a service provider acts on behalf of a municipality to provide any service or act as a collector of fees, service charges or taxes and the compensation payable to the service provider is fixed as an agreed percentage of turnover for the service or the amount collected, the contract between the service provider and the municipality must stipulate: -

- (a) a cap on the compensation payable to the service provider; and
- (b) that such compensation must be performance based.

#### **60. Municipal Bid Appeals Tribunal**

- (1) The council shall establish a municipal bid appeals tribunal for its area of jurisdiction to hear and determine an appeal against the award of a bid.
- (2) The accounting officer of the municipality, in consultation with the Provincial Treasury shall appoint the chairperson, deputy chairperson and members of the municipal bid appeals tribunal.
- (3) The powers, duties and functions of the municipal bid appeals tribunal and matters incidental thereto, are set out in the rules which are appended to this supply chain management policy.
- (4) The administrative and secretarial work involved in the performance of the duties and functions of the Provincial Treasury as set out in the rules.
- (5) There shall be no further appeal against a decision of the municipal bid appeals tribunal.

#### **61. Bidder Competence**

- 1. Where competence is utilized as an evaluation criterion, tender documents, bid specifications or terms of reference, as the case may be, must clearly specify:
  - (a) the evaluation criteria for measuring bidder competence which criteria must be objective and measurable;
  - (b) the evidence required to determine the bidder's competence;

(c) the fact that no bid will be regarded as an acceptable bid if full compliance with the required bidder's competence is not met as indicated in the bid specification or terms of reference concerned; and

(d) that bids or bidders that are compliant with the bidder's competence will be evaluated further in terms of the preference point systems referred to in subparagraphs 21C and 21D below and any objective criteria envisaged in regulation

2. The required bidder's competence for a tender to be considered further:

(a) must be determined separately for each tender; and

(b) may not be so low that it may jeopardise the quality of the required goods or services; or

(c) high that it is unreasonably restrictive.

### **Identification of preference points system**

21B. (1) The municipality must, in the tender documents, stipulate—

(a) the applicable preference point system as envisaged in regulations 4, 5, 6 or 7 of the Preferential Procurement Regulations 2022;

(b) the specific goal in the invitation to submit the tender 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.

(2) If it is unclear whether the 80/20 or 90/10 preference point system applies, an organ of state must, in the tender documents, stipulate in the case of—

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

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

## 80/20 Preference Points System

21C. (1) The following formula must be used to calculate the points out of 80 for price in respect of a tender with a Rand value equal to or below R50 million, inclusive of all applicable taxes:

$$Ps = 80 \left( 1 + \frac{Pt - Pmin}{Pmin} \right)$$

Where: Ps = Points scored for comparative price of bid or offer under consideration; Pt = Comparative price of bid or offer under consideration; and Pmin = Comparative price of lowest acceptable bid or offer.

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:

$$Ps = 80 \left( 1 + \frac{Pt - Pmax}{Pmax} \right)$$

Where: Ps = Points scored for comparative price of bid or offer Pt = Comparative price of bid or offer under consideration; and Pmax = Comparative price of highest acceptable bid or offer.

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

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.

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

If the price offered by a tenderer scoring the highest points is not market related, the municipality may not award the contract to that tenderer.

The municipality may:

(a) negotiate a market-related price with the tenderer scoring the highest points or cancel the tender;

(b) if the tenderer does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the second highest points or cancel the tender;

(c) if the tenderer scoring the second highest points does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the third highest points or cancel the tender.

(d) if a market-related price is not agreed as envisaged in (6)(C), the municipality must cancel the tender.

## 1.2 **Specific Goals**

Means specific goals as contemplated in section 2(1)(d) of the Act which may include contracting in with persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of race, gender and disability including the implementation or programme of the Reconstruction and Development Programme as published in Government Gazette No. 16085 dated 23 November 1994;

### **Programmed of the Reconstruction and Development Programme (RDP)**

The programmed stipulated in the Reconstruction and Development Programme as published in Government Gazette No. 16085 dated 23 November 1994 that should be utilized when determining each specific goal;

#### **(i) Meeting basic needs;**

The basic needs of people extend from job creation, land and agrarian reform to housing, water and sanitation, energy supplies, transport, nutrition, health care, the environment, social welfare and security.

#### **(ii) Developing our Human Resources**

In developing our human resources, our people will be involved in the decision-making process, and implementation of the programmed of the RDP. This will empower them, but can only succeed if there is also an appropriate education

and training programme. Proper recognition for previously disregarded skills and an integrated approach to education and training will make it possible to achieve maximum capacity. Discrimination on grounds of race, class and gender will be abolished and the creative capacity of the society will be unlocked.

### **(iii) Building the Economy**

The economy is in bad condition. The benefits of its strengths in mining, manufacturing and agriculture are delivered mainly to the small wealthy sector. Its weaknesses are seen in the low levels of investment in productive enterprises, in low productivity and high costs. The poor majority of the people carry the burden of unemployment, bad housing, poor health — in short of the poor performance of the economy. The RDP is committed to reversing the distortions of the economy.

### **(iv) Democratizing the State and Society**

Democratic institutions and practices are the cornerstone on which the new society is being built. Proper development is not possible without them. The establishment of a single Public Service in South Africa is a major challenge to the economy and the GNU. The size of the civil service will have to be reduced; equitable and common conditions of service must be guaranteed; increasing efficiency, productivity and accountability are essential preconditions for the success of the RDP

### **(v) Implementing the RDP**

The implementation objectives of the RDP are bold and innovative. They set out the procedures and the indicators through which the programme will mobilise the participation of the fullest range of social organisations and institutions. The details of implementation are examined and specified in the White Paper.

The following preferential goals will contribute to the RDP Goals;

- (a) The promotion of South African owned enterprises;
- (b) The promotion of locally produced goods;
- (c) The promotion of SMMEs;
- (d) The creation of new jobs or the intensification of labour absorption;
- (e) The promotion of enterprises located in a specific province for work to be done or service to be rendered in that province;
- (f) The promotion of enterprises located in a specific region for work to be done or service to be rendered in that region;
- (g) The promotion of enterprise located in a specific municipal area for work to be done or services to be rendered;
- (h) The promotion of enterprise located in rural areas;
- (i) The empowerment of the workforce by standardizing the level of skill and knowledge of workers;
- (j) The development of human resources, including by assisting in the tertiary and other advanced training programmes, in line with key indicators such as percentage of wage bill spent on education and training and improvement of management skills and
- (k) The upliftment of communities through the provision of transport infrastructure.

**Historical disadvantaged groups**

33.6.3.1 The following preferential goals will contribute to the advancement of designated groups.

33.6.3.1.1 An EME or QSE which is at least 51% owned by

- (a) black people;
- (b) black people who are youth;
- (c) black people who are women;
- (d) black people with disabilities;
- (e) black people living in rural or underdeveloped areas or townships;
- (f) a cooperative owned by black people and
- (g) black people who are military veterans.

33.6.3.1.2 The municipality may sub-contract part of the tender to an EME or QSE. The



percentage to sub-contract on a particular tender will be determined uniquely for each tender.

33.6.4 The municipality may use a single or a combination of the preferential goals as defined in 33.6.2 and 33.6.3.

33.6.5 If there is a combination of preferential goals, the weighting of each goal must be specified in the document.

33.6.6 The allocation of points for each preferential goal must be clearly specified in the invitation to submit a tender.

33.6.7 Any goal contemplated in 33.6.6 must be measurable, quantifiable and monitored for compliance.

33.6.8 The specific goal in the invitation to submit the tender must indicate the proof of that is required to substantiate the claim for such goal.

33.6.9 A tender that fails to meet any criteria stipulated in the tender document is an unacceptable tender.

### **33.7 Additional Conditions**

Bid documentation must include a reference to the following additional conditions, where applicable:

#### **33.7.3 Criteria for Breaking Deadlock**

33.7.3.1 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

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

#### **33.7.4 Award of Contracts to Tenderers Not Scoring Highest Points**

33.7.4.1 A contract may be awarded to a tenderer that did not score the highest points only in accordance with section 2(1) (f) of the Act.

33.7.4.2 If the municipality intends to apply objective criteria in terms of section 2(1)(f) of the Act, the organ of state must stipulate the objective criteria in the tender documents.

## **62. Cancellation and re-invitation of bids**

- (1) In the application of the 80/20 preference point system, if all bids received exceed R50 000 000, the bid must be cancelled. If one or more of the acceptable bid(s) received are within the R50 000 000 threshold, all bids received must be evaluated on the 80/20 preference point system.
- (2) In the application of the 90/10 preference point system, if all bids received are equal to or below R50 000 000, the bid must be cancelled. If one or more of the acceptable bid(s) received are above the R50 000 000 threshold, all bids received must be evaluated on the 90/10 preference point system.
- (3) If a bid was cancelled the correct preference point system must be stipulated in the bid documents of the re-invited bid.
- (4) An accounting officer may, prior to the award of a bid, cancel the bid if: -
  - (a) due to changed circumstances, there is no longer a need for the services, works or goods requested. The accounting officer must ensure that only goods, services or works that are required to fulfil the needs of the institution are procured]; or
  - (b) funds are no longer available to cover the total envisaged expenditure. The accounting officer must ensure that the budgetary provisions exist; or
  - (c) no acceptable bids are received. [If all bids received are rejected, the institution must review the reasons justifying the rejection and consider making revisions to the specific conditions of contract, design and specifications, scope of the contract, or a combination of these, before inviting new bids].

## **63. Award of contracts**

A contract must be awarded to the bidder who scored the highest total number of points in terms of the preference point systems.

In exceptional circumstances a contract may, on reasonable and justifiable grounds, be awarded to a bidder that did not score the highest number of points. The reasons for such a decision must be approved and recorded for audit purposes and must be defensible in a court of law.

#### **64. Broad-Based Black Economic Empowerment (B-BBEE) status level certificates**

- (1) Bidders are required to submit original and valid B-BBEE which is approved by SANNAS OR Sworn Affidavit status level verification certificates with original signatures and certified original copies thereof together with their bids, to substantiate their B-BBEE rating claims.
- (2) Bidders who do not submit B-BBEE status level verification certificates or are non-compliant contributors to B-BBEE do not qualify for preference points for B-BBEE but should not be disqualified from the bidding process. They will score points out of 90 or 80 for price only and zero (0) points out of 10 or 20 for B-BBEE.
- (3) A trust, consortium or joint venture must submit a consolidated B-BBEE status level verification certificate for every separate bid.
- (4) Public entities and tertiary institutions must also submit B-BBEE status level verification certificates together with their bids.
- (5) If an institution is already in possession of a valid and original or certified copy of a bidder's B-BBEE status level verification certificate that was obtained for the purpose of establishing the database of possible suppliers for price quotations or that was submitted together with another bid, it is not necessary to obtain a new B-BBEE status level verification certificate each time a bid is submitted from the specific bidder: -

- (a) such a certificate may be used to substantiate B-BBEE rating claims provided that the closing date of the bid falls within the expiry date of the certificate that is in the institution's possession;
  - (b) each time this provision is applied; cross-reference must be made to the B-BBEE status level verification certificate already in possession for audit purposes.
- (6) The accounting officer must ensure that the B-BBEE status level verification certificates submitted are issued by the following agencies: -
- (a) bidders other than EMEs: -
    - (i) verification agencies accredited by South African National Accreditation System (SANAS); or Sworn Affidavit commissioned
  - (b) bidders who qualify as EMEs: -
    - (i) accounting officers as contemplated in the Closed Corporations Act, Act No 69 of 1984; or
    - (iii) verification agencies accredited by SANAS; or Sworn Affidavit Commissioned
    - (iii) registered auditors. (Registered auditors do not need to meet the prerequisite for IRBA's approval for the purpose of conducting verification and issuing EMEs with B-BBEE Status Level Certificates).

#### **65. Verification certificates in respect of Exempted Micro Enterprises (EMEs)**

- (1) In terms of the generic codes of good practice, an enterprise including a sole propriety with annual total revenue of R10 million or less qualifies as an EME.
- (2) In instances where sector charters are developed to address the transformation challenges of specific sectors or industries, the threshold for qualification as an EME may be different from the generic threshold of R10 million. The relevant sector charter thresholds will

therefore be used as a basis for a potential bidder to qualify as an EME. For example, the approved thresholds for EMEs for the Tourism and Construction Sector Charters are R2.5 million and R1.5 million respectively.

- (3) EMEs are deemed to have a B-BBEE status of “level four (4) contributor”. In instances where EMEs are more than 50% owned by black people, such EMEs qualify as “B-BBEE status level three (3) contributors”.
  
- (4) Sufficient evidence to confirm a qualifying EME is a certificate issued by an accounting officer (as contemplated in the CCA), a similar certificate issued by a registered auditor or a verification agency.
  
- (5) When confirming the validity of a certificate in respect of an EME, the following should be detailed on the face of the certificate: -
  - (a) the accounting officer’s or registered auditor’s letter head with full contact details;
  - (b) the accounting officer’s or registered auditor’s practice numbers;
  - (c) the name and the physical location of the measured entity;
  - (d) the registration number and, where applicable, the VAT number of the measured entity;
  - (e) the date of issue and date of black female shareholding.

## **NEW AMENDMENTS PPPFA 2022**

### **1. PURPOSE**

To submit the amended PSJLM policy

- (f) the B-BBEE status level of contribution obtained by the measured entity; and
- (g) the total black shareholding and total

SCM Policy for consideration and recommendation for approval by the Council.

## 1 **PROPOSED CHANGES ON SUPPLY CHAIN MANAGEMENT POLICY**

New regulations PPR 2022 were gazetted on the 4<sup>th</sup> November 2022 with the following changes

- Local content and production (no longer a disqualifying requirement, bidders are encouraged to source goods locally)
- Specific goals to be determined in the Specification for each project prior to advertising from the following goals
- The Municipality will only issue two Specific Goals per Bid.

<b>SPECIFIC GOAL</b>	<b>POINTS (90/10)</b>	<b>POINTS (80/20)</b>
Disabled	5	10
Women	5	10
Local SMMES	5	10
Youth	5	10
Local Cooperatives	5	10

**N/B A maximum of two specific goals per each bid should be indicated in the specification report. Points be awarded to a bidder upon submitting proof of attainment of specific goals.**

### **66. Commencement**

This policy shall take effect.....

\_\_\_\_\_  
M. Fihlani

Municipal Manager

\_\_\_\_\_  
Cllr N. Mlombile

Hon. Mayor